

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

TIME SCHEDULE ORDER R5-2019-0026  
REQUIRING

CITY OF ROSEVILLE  
DRY CREEK WASTEWATER TREATMENT PLANT  
PLACER COUNTY

TO COMPLY WITH REQUIREMENTS PRESCRIBED IN ORDER R5-2014-0049,  
MUNICIPAL GENERAL ORDER NOTICE OF APPLICABILITY R5-2017-0085-004, OR  
SUBSEQUENT ORDERS  
(NPDES PERMIT CA0079502)

The California Regional Water Quality Control Board, Central Valley Region, (hereinafter Central Valley Water Board) finds that:

1. On 28 March 2014, the Central Valley Water Board adopted Waste Discharge Requirements (WDR) Order R5-2014-0049, NPDES Permit No. CA0079502, prescribing WDRs for the City of Roseville (hereinafter Discharger), Dry Creek Wastewater Treatment Plant (hereafter Facility), Placer County.
2. WDR Order R5-2014-0049 section IV.A.1.a. includes, in part, the following final effluent limitation applicable to discharges from the Facility at Discharge Point 001:

**Table 4. Effluent Limitations**

Parameter	Units	Effluent Limitations				
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
Nitrate Plus Nitrite (as N)	mg/L	10	--	--	--	--

3. On 28 March 2014, the Central Valley Water Board adopted Time Schedule Order (TSO) R5-2014-0050, requiring compliance with the final effluent limitation for nitrate plus nitrite contained in WDR Order R5-2014-0049 by 27 March 2019.
4. TSO R5-2014-0050 also prescribed the following performance-based interim average monthly effluent limitation for nitrate plus nitrite:

Parameter	Units	Interim Average Monthly Effluent Limit
Nitrate Plus Nitrite (as N)	mg/L	20

**Need for Time Schedule and Legal Basis**

5. On 12 December 2018, the Discharger submitted a revised infeasibility analysis and a request to extend the time for compliance with the final effluent limitations for nitrate plus nitrite.
6. In order to achieve compliance, the Discharger determined that construction of a Facility upgrade was necessary. The construction compliance project includes Facility upgrades to the fine-bubble aeration basins, surface aerations basins, filtrate return pumps, and chemical storage tanks. The Discharger has been diligently working toward completion of the compliance project; however, major equipment for the upgrade project arrived later than expected due to issues with shipping the

equipment from Europe. Thus, delaying the startup and testing of the new facilities. The Discharger submitted an updated schedule for completion of the project and has requested additional time to complete the Facility upgrades. The Discharger indicated they will need until 31 December 2019 to complete the project startup process and refine operation of the new facilities to achieve compliance with the final effluent limitations for nitrate plus nitrite.

### **Mandatory Minimum Penalties**

7. California Water Code (CWC) sections 13385(h) and (i) require the Central Valley Water Board to impose mandatory minimum penalties (MMPs) upon dischargers that violate certain effluent limitations. CWC section 13385(j)(3) exempts the discharge from mandatory minimum penalties *“where the waste discharge is in compliance with either a cease and desist order issued pursuant to Section 13301 or a time schedule order issued pursuant to Section 13300 or 13308, if all the [specified] requirements are met...for the purposes of this subdivision, the time schedule may not exceed five years in length...”*.
8. Per the requirements of CWC section 13385(j)(3), the Central Valley Water Board finds that:
  - a. This TSO specifies the actions that the Discharger is required to take in order to correct the violations that would otherwise be subject to CWC sections 13385(h) and (i).
  - b. To comply with final effluent limitations, the Discharger proposed that they will require until 31 December 2019 to complete necessary upgrades to the Facility. Due to shipping issues, equipment essential to the upgrades arrived later than expected which will delay startup, testing, and completion by the 27 March 2019 deadline. The new or modified control measures cannot be designed, installed, and put into operation as reflected in the compliance schedule prescribed in TSO R5-2014-0050. The Discharger anticipates that the construction activities, startup, testing, and operational refinement will be completed by 31 December 2019, at which time the Facility will be in compliance with the final effluent limits for nitrate plus nitrite.
  - c. This TSO establishes a time schedule to bring the waste discharge into compliance with final effluent limitations that is as short as possible, taking into account the technological, operational, and economic factors that affect the design, development, and implementation of the control measures that are necessary to comply with the final effluent limitation.
9. TSO R5-2014-0050 provided protection from MMPs for violations of the final effluent limitations for nitrate plus nitrite from 28 March 2014 to 27 March 2019. The initial compliance schedule did not exceed five years.
10. Per the requirements of 13385(j)(3)(C)(ii)(II) following a public hearing, and upon a showing that the Discharger is making diligent progress toward bringing the waste discharge into compliance with the final effluent limitations, the Central Valley Water Board may extend the time schedule for an additional five years beyond the initial five years, if the Discharger demonstrates that the additional time is necessary to comply with the final effluent limitations. The Central Valley Water Board finds, as described in previous findings in this TSO, that the Discharger has demonstrated due diligence and is making diligent progress to bring the waste discharge into compliance with final effluent limitations.
11. Compliance with this TSO exempts the Discharger from MMPs for violations of certain final effluent limitations found in WDR Order R5-2014-0049 and subsequent WDRs (including a Notice of

Applicability issued under WDRs for Municipal Wastewater Dischargers That Meet Objectives/Criteria at the Point of Discharge to Surface Water [Municipal General Order]), as follows:

- a. Nitrate plus Nitrite: Previous TSO R5-2014-0050 provided protection from MMPs from 28 March 2014 to 27 March 2019. This TSO provides protection from the date of adoption below until 31 December 2019. In accordance with CWC Section 13385(j)(3)(C)(ii)(I) the total length of the compliance schedules is less than ten years.
12. This TSO provides a time schedule for completing the actions necessary to ensure compliance with the final effluent limitation for nitrate plus nitrite contained in WDR Order R5-2014-0049 and subsequent WDRs. Since this TSO extends the existing time schedule that provides five years for completion of actions necessary to bring the waste discharge into compliance and the total time schedule exceeds one year, this TSO includes interim effluent limitations and interim requirements and dates for their achievement.
13. This TSO includes new performance-based interim effluent limitations for nitrate plus nitrite.
- a. For nitrate plus nitrite, this TSO establishes an interim average monthly effluent limitation (AMEL) and an interim average weekly effluent limitation (AWEL) based on treatment plant performance. The following table shows the values used in the calculations and the resulting interim effluent limitations for nitrate plus nitrite:

Parameter	Units	MEC	Number of Data Points	Mean	Standard Deviation	Coefficient of Variation	Interim Average Monthly Effluent Limitation <sup>1</sup>	Interim Average Weekly Effluent Limitation
Nitrate plus nitrite (as N)	mg/L	15	57	9.1	2.6	0.29	20	28

<sup>1</sup> 99% confidence level upper limit value from the Technical Support Document for Water Quality-based Toxics Control used to calculate the maximum expected concentration in a dataset.

14. The Central Valley Water Board finds that the Discharger can maintain compliance with the interim effluent limitations included in this TSO. Interim effluent limitations are established when compliance with the final effluent limitations cannot be achieved by the existing Facility. Discharge of constituents in concentrations in excess of the final effluent limitations, but in compliance with the interim effluent limitations, can significantly degrade water quality and adversely affect the beneficial uses of the receiving stream on a long-term basis. The interim effluent limitation, however, establishes an enforceable ceiling concentration until compliance with the final effluent limitations can be achieved.
15. If an interim effluent limitation contained in this TSO is exceeded, then the Discharger is subject to MMPs for that particular exceedance as it will no longer meet the exemption in CWC 13385(j)(3). It is the intent of the Central Valley Water Board that a violation of an interim average monthly effluent limitation subjects the Discharger to only one MMP for that monthly averaging period. In addition, a violation of an interim average weekly effluent limit subjects the Discharger to one MMP for that weekly averaging period.

**Other Regulatory Requirements**

16. CWC section 13300 states: *“Whenever a regional board finds that a discharge of waste is taking place or threatening to take place that violates or will violate requirements prescribed by the regional board, or the state board, or that the waste collection, treatment, or disposal facilities of a discharger are approaching capacity, the board may require the discharger to submit for approval of the board, with such modifications as it may deem necessary, a detailed time schedule of specific actions the discharger shall take in order to correct or prevent a violation of requirements.”*
17. CWC section 13267 states in part: *In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.*
18. The Discharger owns and operates the wastewater treatment facility which is subject to this TSO. The technical and monitoring reports required by this TSO are necessary to determine compliance with the WDRs and with this TSO.
19. Issuance of this TSO is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) pursuant to CWC section 13389, since the adoption or modification of a NPDES permit for an existing source is statutorily exempt and this TSO only serves to implement a NPDES permit. (*Pacific Water Conditioning Ass’n, Inc. v. City Council of City of Riverside* (1977) 73 Cal.App.3d 546, 555-556.).
20. On 5 April 2019, in Rancho Cordova, California, after due notice to the Discharger and all other affected persons, the Central Valley Water Board conducted a public hearing at which evidence was received to consider a TSO under Water Code section 13300 to establish a time schedule to achieve compliance with WDRs.

**IT IS HEREBY ORDERED THAT**, pursuant to CWC sections 13300 and 13267, TSO R5-2014-0050 is rescinded, except for enforcement purposes, and in order to ensure compliance with the requirements of WDR Order R5-2014-0049 and any subsequent WDRs:

1. The Discharger shall comply with the following time schedule to submit reports and ensure completion of the compliance project described in Finding 8.b, above:

Task	Compliance Date
Submit and implement a Pollution Prevention Plan (PPP) for nitrate plus nitrite that meets the requirements specified in California Water Code Section 13263.	Complete
Complete assessment of nitrate plus nitrite removal in the aeration basins by performing treatment profiles of various operational parameters to establish baseline conditions.	Complete

Submit a technical report documenting the results of the assessment of the treatment performance and work plan for future activities.	Complete
Complete operational changes and perform monitoring to confirm if compliance with the nitrate plus nitrite final effluent limits is feasible without Facility upgrades.	Complete
Submit a technical report documenting the results of the operational changes, and if necessary propose Facility upgrades including a time schedule	Complete
If necessary, complete Proposition 218 requirements and acquire funding and complete CEQA requirements, design, and bid for construction of treatment modifications	Complete
Progress Report <sup>1</sup>	31 October 2019
Comply with the final effluent limitations for nitrate plus nitrite	31 December 2019

<sup>1</sup> The progress report shall detail what steps have been implemented towards achieving compliance with waste discharge requirements, construction progress, evaluation of operation of new facilities, and recommendations for additional measures as necessary to achieve full compliance by the final date.

- Discharge from Discharge Point 001 shall not exceed the following interim effluent limitation. These interim effluent limitations for nitrate plus nitrite are effective upon adoption of this TSO and shall apply in lieu of the corresponding final effluent limitations in WDR Order R5-2014-0049 or any subsequent WDRs. The Discharger shall comply with the following interim effluent limitations through 31 December 2019, or when the Discharger is able to come into compliance, whichever is sooner.

Parameter	Units	Interim Average Monthly Effluent Limit	Interim Average Weekly Effluent Limit
Nitrate Plus Nitrite (as N)	mg/L	20	28

- Any person signing a document submitted under this TSO shall make the following certification:

*"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my knowledge and on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."*

- In accordance with California Business and Professions Code sections 6735, 7835, and 7835.1, engineering and geologic evaluations and judgments shall be performed by or under the direction of registered professionals competent and proficient in the fields pertinent to the required activities. All technical reports specified herein that contain work plans for, that describe the conduct of investigations and studies, or that contain technical conclusions and recommendations concerning engineering and geology shall be prepared by or under the direction of appropriately qualified professional(s), even if not explicitly stated. Each technical report submitted by the Discharger shall contain the professional's signature and/or stamp of the seal.

If, in the opinion of the Executive Officer, the Discharger fails to comply with the provisions of this Order, the Executive Officer may refer this matter to the Attorney General for judicial enforcement, may issue a

complaint for administrative civil liability, or may take other enforcement actions. Failure to comply with this Order or with the WDRs may result in the assessment of Administrative Civil Liability of up to \$10,000 per violation, per day, depending on the violation, pursuant to the Water Code, including sections 13268, 13350 and 13385. The Central Valley Water Board reserves its right to take any enforcement actions authorized by law.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

[http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality)

or will be provided upon request.

I, PATRICK PULUPA, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on 5 April 2019.

***Original Signed By:***

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PATRICK PULUPA, Executive Officer