

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ORDER NO. R5-2009-XXXX

AMENDING TIME SCHEDULE ORDER NO. R5-2007-0073
REQUIRING MAXWELL PUBLIC UTILITY DISTRICT
WASTEWATER TREATMENT PLANT
COLUSA COUNTY

TO COMPLY WITH WASTE DISCHARGE REQUIREMENTS R5-2009-0009
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
(NPDES PERMIT NO. CA0079987)

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

1. On 1 March 2002, the Central Valley Water Board adopted Waste Discharge Requirements (WDR) Order No. R5-2002-0022 (NPDES Permit CA0079987) for the Maxwell Public Utility District (hereafter Discharger). The NPDES Permit regulated the discharge of approximately 0.14 million gallons per day (mgd) of treated domestic wastewater to an unnamed tributary to Lurline Creek, tributary to the Colusa Basin Drain.
2. The NPDES Permit required the Discharger to comply with new tertiary effluent limitations for Biochemical Oxygen Demand (BOD), Total Suspended Solids (TSS), Total Coliform Organisms, and Turbidity by 31 January 2007.
3. Monitoring and Reporting Program No. R5-2002-0022 (MRP) required that continuous chlorine residual monitoring and continuous turbidity monitoring systems, or functional equivalents, be operational no later than 1 January 2007.
4. The Discharger did not complete plant and monitoring upgrades as needed to comply with the NPDES permit and MRP and was in violation of Effluent Limitations and the MRP requirements.
5. On 22 June 2007, Time Schedule Order No. R5-2007-0073 was adopted by the Central Valley Water Board in accordance with Section 13300 of the California Water Code and established a new time schedule for full compliance with effluent limitations by 18 May 2010.
6. On 18 September 2008, the Executive Officer issued Administrative Civil Liability Order (ACLO) R5-2008-0561 to the Discharger. The ACLO rescinded Administrative Civil Liability Complaint R5-2003-0505 and assessed \$1,617,000 in mandatory minimum penalties pursuant to California Water Code (CWC) Section 13385 (h) and (i) for the period from 1 January 2000 through 30 April 2008. The ACLO allows the Discharger to complete a compliance project in lieu of paying the penalties, as long as the Discharger complies with the following time schedule:

- a. Complete construction of the land application treatment plant by 31 January 2010.
 - b. Fully operate the land application treatment plant by 18 May 2010.
 - c. Submit the final documentation of the compliance project costs by 31 August 2010.
7. On 5 February 2009, the Central Valley Water Board adopted WDR Order No. R5-2009-0009 (2009 NPDES Permit), renewing the NPDES permit and rescinding WDR Order No. R5-2002-0022. The 2009 NPDES Permit requires the Discharger to comply with the following Effluent Limitations and Special Provisions, and reads in part as follows:

“IV.A.1.a. The Discharger shall maintain compliance with the effluent limitations specified in Table 6:

Table 6 Effluent Limitations (in part)

Parameter	Units	Effluent Limitations			
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
Biochemical Oxygen Demand (5-day @ 20 °C)	mg/L	10	15	20	--
	lbs/day ¹	17	25	33	--
Total Suspended Solids	mg/L	10	15	20	--
	lbs/day ¹	17	25	33	--
Total Coliform Organisms	MPN/100 ml	--	--	--	240

¹ Based on an average dry weather flow of 0.2 mgd.

IV.A.1.b. **Percent Removal.** The average monthly percent removal of BOD₅ and TSS shall not be less than 85 percent.

IV.A.1.e. **Total Coliform Organisms.** Effluent total Coliform organisms shall not exceed:

- i. 2.2 most probable number (MPN) per 100 mL, as a 7-day median; and
- ii. 23 MPN/100mL, more than once in any 30-day period.”

VI.C.4.b. **Turbidity.** The Discharger shall operate the treatment system to insure that turbidity shall not exceed 2 NTU as a daily average; 5 NTU more than 5 percent of the time within a 24-hour period; and 10 NTU, at any time.”

8. Other Special Provisions VI.C.6.a states in full:

“VI.C.6.a. **Effective 18 May 2010**, wastewater shall be oxidized, coagulated, filtered, and adequately disinfected pursuant to the California Department of Public Health (DPH, formerly known as California Department of Health Services or DHS) reclamation criteria, California Code of Regulations, Title 22, Division 4, Chapter 3 (Title 22), or equivalent.”

9. Monitoring and Reporting Program requirements in the 2009 NPDES Permit, Section IV.A.1 requires that chlorine residual and turbidity monitoring be continuous, and Reporting Requirements Section X.B.8. states that Continuous Monitoring begins on the "*Permit effective date*", which is 27 March 2009.
10. In accordance with CWC section 13385(j)(3), the Central Valley Water Board finds that the Discharger is not able to consistently comply with the Effluent Limitations for BOD, TSS, and total Coliform organisms, with the Special Provisions for turbidity, and with the monitoring requirements for continuous monitoring for chlorine residual and turbidity.
11. California Water Code (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."
12. This Order amends Time Schedule Order No. R5-2007-0073 to include a compliance schedule for continuous chlorine and turbidity monitoring, as previously established in the 2002 NPDES Permit. Additionally, because the existing time schedules for completion of action necessary to bring the waste discharge into compliance exceed 1 year, this Order includes interim requirements and dates for their achievement. The time schedules do not exceed 5 years.
13. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000, *et seq.*), in accordance with Section 15321(a)(2), Title 14, California Code of Regulations.
14. The Central Valley Water Board has notified the Discharger and interested agencies and persons of its intent to amend Time Schedule Order No. R5-2007-0073 for this discharge and has provided them with an opportunity to submit their written views and recommendations.
15. Any person adversely affected by this action of the Central Valley Water Board may petition the State Water Resources Control Board (State Board) to review the action. The petition must be received by the State Board Office of the Chief Counsel, P.O. Box 100, Sacramento, CA, 95812-0100, within 30 days of the date on which the action was taken. Copies of the law and regulations applicable to filing petitions will be provided on request.

IT IS HEREBY ORDERED THAT pursuant to CWC Section 13300 and 13267, Time Schedule Order No. R5-2007-0073 be amended as follows:

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

1. *On 1 March 2002, the Regional Water Board adopted Waste Discharge Requirements Order No. R5-2002-0022 (NPDES NO. CA0079987) (NPDES permit), for the Maxwell Public Utility District (hereafter Discharger), for the discharge of approximately 0.14 million gallons per day (mgd) of treated domestic wastewater to an unnamed tributary to Lurline Creek, which is a tributary to the Colusa Basin Drain. The design flow of the facility is 0.20 mgd.*
2. *The Regional Water Board adopted Cease and Desist Order No. R5-2002-0023 (CDO) on 1 March 2002 because the Discharger could not consistently comply with the Effluent Limitations for ammonia contained in the NPDES permit. The CDO required the Discharger to comply with the effluent limitations by 1 February 2007.*
3. *Effluent Limitations B.1b. in WDR Order No. R5-2002-0022 require the Discharger to comply with the following effluent limitations after 31 January 2007, and reads in part as follows:*

<u>Constituents</u>	<u>Units</u>	<u>Average Monthly</u>	<u>Average Weekly</u>	<u>7-Day Median</u>	<u>Average Daily</u>	<u>Instantaneous Maximum</u>
BOD ¹	mgl/	10 ²	15 ²	--	20 ²	--
	lbs/day	17	25	--	33	--
Total Suspended Solids	mg//	10 ²	15 ²	--	20 ²	--
Total Coliform Organisms	MPN/100ml			2.2		23 ⁴
Turbidity	NTU	--	--	--	2	5 ⁵

¹ 5-day, 20°C biochemical oxygen demand (BOD)

² To be ascertained by a 24-hour composite

³ Based upon design treatment capacity of 0.20 mgd (χ mg/L x 8.345 x 0.20mgd= γ lbs/day).

⁴ The total coliform organisms concentration shall not exceed 23 MPN/100ml more than once in any 30-day period. No sample shall exceed a concentration of 240 MPN/100 ml.

⁵ The turbidity shall not exceed 5 NTU more than 5% of the time within a 24-hour period. At no time shall the turbidity exceed 10 NTU.

4. *Order No. R5-2002-0022 also includes Effluent Limitation B.2. that requires that wastewater shall be oxidized, coagulated, and filtered, or equivalent treatment provided after 31 January 2007.*
5. *Order No. R5-2002-0022 also includes Effluent Limitations B.3. that requires the arithmetic mean of 20°C BOD (5-day) and of total suspended solids in effluent samples collected over a calendar month shall not exceed 15 percent of the arithmetic mean of the values for influent samples collected at approximately the same times during the same period (85 percent removal) after 31 January 2007.*
6. *Order No. R5-2002-0022 also includes Provision G.7. that requires the Discharger to comply with the following time schedule to assure compliance with the tertiary treatment requirements and associated Effluent Limitations of this Order:*

<u>Task</u>	<u>Compliance Date</u>	<u>Report Due Date</u>
Submit Annual Status Report		1 February, annually
Submit Workplan/Time Schedule		1 December 2002
Full Compliance	1 February 2007	

7. *Monitoring and Reporting Program No. R5-2002-0022 (MRP) requires that continuous chlorine residual monitoring and continuous turbidity monitoring systems, or functional equivalents, shall be operational no later than 1 January 2007.*
8. *On 5 August 2003 the Executive Officer issued Administrative Civil Liability Complaint No. R5-2003-0505 (ACLC) for \$588,000 in mandatory minimum penalties pursuant to California Water Code (CWC) Section 13385 (h) and (i) to the Discharger for violations of Waste Discharge Requirements Order No. 96-071 (previous NPDES permit) and Order No. R5-2002-0022 for the period 1 January 2000 through 25 March 2003. The ACLC provided that, because the Discharger is a small community with a financial hardship, that it could complete a compliance project in lieu of paying the penalty if it complied with the following:*
 - a. *Enter into a stipulated Administrative Civil Liability Order by 29 August 2003.*
 - b. *Submit the Amended Effluent Disposal Alternative Analysis by 30 September 2003.*
 - c. *Complete projects and achieve full compliance by 1 February 2007.*
9. *In response to the ACLC, the Discharger entered into a Stipulated Settlement Agreement with the Executive Officer on 22 October 2003. The Agreement allowed the Discharger to complete a compliance project in lieu of paying the penalty in accordance with the following schedule:*

- a. *Submit the signed Stipulated Settlement Agreement by 30 October 2003.*
 - b. *Submit the project report and time schedule by 30 November 2003.*
 - c. *Complete projects and achieve full compliance by 1 February 2007.*
10. On 18 September 2008, the Executive Officer issued Administrative Civil Liability Order (ACLO) R5-2008-0561 to the Discharger. This ACLO rescinds ACLC R5-2003-0505 and assesses \$1,617,000 in mandatory minimum penalties pursuant to California Water Code (CWC) Section 13385 (h) and (i) for the period from 1 January 2000 through 30 April 2008. The ACLO allows the Discharger to complete a compliance project in lieu of paying the penalties, as long as the Discharger complies with the following time schedule:
- a. Complete construction of the land application treatment plant by 31 January 2010.
 - b. Fully operate the land application treatment plant by 18 May 2010.
 - c. Submit the final documentation of the compliance project costs by 31 August 2010.
11. On 5 February 2009, the Regional Water Board adopted WDR Order No. R5-2009-0009, renewing the NPDES permit and rescinding Order No. R5-2002-0022. Similar to the previous WDR Order, WDR Order No. R5-2009-0009 continues to implement effluent limitations for BOD, TSS, and Total Coliform Organisms, a Turbidity operating requirement, and continuous monitoring requirements for Total Residual Chlorine and Turbidity, with which the Discharger is not able to comply.
12. *The Discharger proposed land disposal as its compliance project, and submitted a Wastewater Facilities Plan dated December 2005. By letter dated 14 February 2006, the Discharger requested that the compliance time schedule be extended to 31 December 2009 because of difficulties acquiring land. As of February 2007 the Discharger requested the deadline be moved to 18 May 2010, which coincides with the full compliance deadline in the California Toxics Rule. At this time the Discharger has not completed plant upgrades as needed to comply with the NPDES permit (WDR Order No. R5-2002-0022), CDO, and Stipulated Settlement Agreement, and is in violation of Effluent Limitations B.1b., B.2., and B.3., Provision G.7., and the MRP, of WDR Order No. R5-2002-0022, as discussed in Findings 2 through 7.*
13. *As a result of the events and activities described in this Order, the Regional Water Board finds that the Discharger has caused or permitted waste to be discharged in such a manner that it has created, and continues to threaten to create, a condition of pollution or nuisance. The Regional Water Board also finds that the Discharger is discharging waste in violation of Order No. R5-2002-0022.*

14. *Section 13267(b) of the California Water Code states:*

“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.”

15. *The Discharger owns and operates the facility subject to this Order. Monitoring reports and other technical reports are necessary to determine compliance with the NPDES permit and with this Order.*
16. *California Water Code (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. *This Time Schedule Order is issued in accordance with Section 13300 of the California Water Code and establishes a time schedule for compliance.*
18. *In accordance with CWC section 13385(j)(3), the Regional Water Board finds that the Discharger is not able to consistently comply with the WDR Order No. R5-2002-0022 Effluent Limitations B.1b. for BOD, total suspended solids, turbidity, and total coliform organisms, and B.2., and B.3. These limitations are new requirements that became applicable to the Order after the effective date of adoption of the waste discharge requirements, and after July 1, 2000, for which new or modified control measures are necessary in order to comply with the limitations, and the new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.*

19. *CWC section 13385(h) and (i) require the Regional Water Board to impose mandatory minimum penalties upon dischargers that violate certain effluent limitations. The Discharger has accrued significant penalties for violations of WDR Order No. R5-2002-0022 Effluent Limitations B.1b., and will continue to accrue penalties pending completion of its compliance project. However, CWC section 13385(j) exempts certain violations from the mandatory minimum penalties. 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, if all the [specified] requirements are met.”*
20. *Compliance with this Order exempts the Discharger from mandatory penalties for violations of WDR Order No. R5-2002-0022 Effluent Limitations B.1b. for BOD, total suspended solids, turbidity, and total coliform organisms, and Effluent Limitations B.2., and B.3. only, in accordance with CWC section 13385(j)(3). CWC section 13385(j)(3) requires the Discharger to prepare and implement a pollution prevention plan pursuant to section 13263.3 of the California Water Code. These constituents listed above are components of human sewage and are not feasible to be reduced by pollution prevention, but are dependent on additional control measures being placed in operation. Therefore, a pollution prevention plan is not required.*
21. *CWC section 13385(j)(3)(A) requires WDR Order No. R5-2002-0022 to specify the actions that the discharger is required to take in order to correct the violations that would otherwise be subject to mandatory minimum penalties. This Order requires the Discharger to develop and implement new or modified control measures to comply with WDR Order R5-2002-0022 effluent limitations B.1b. for BOD, total suspended solids, turbidity, and total coliform organisms, and Effluent Limitations B.2, and B.3. The Discharger has proposed changing the plant configuration to a land discharge facility in order to correct the violations.*
22. *Because Cease and Desist Order No. R5-2002-0023 provided the Discharger with five years to comply with effluent limitations for ammonia, the exemption from mandatory minimum penalties pursuant to CWC section 13385(j)(3) does not apply for this constituent after 1 February 2007.*
23. *Since the time schedules for completion of action necessary to bring the waste discharge into compliance exceed 1 year, this Order includes interim requirements and dates for their achievement. The time schedules do not exceed 5 years.*
- 22.24. *Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.), in accordance with Section 15321(a)(2), Title 14, California Code of Regulations.*

23-25. Any person adversely affected by this action of the Regional Water Board may petition the State Water Resources Control Board (State Board) to review the action. The petition must be received by the State Board Office of the Chief Counsel, P.O. Box 100, Sacramento, CA, 95812-0100, within 30 days of the date on which the action was taken. Copies of the law and regulations applicable to filing petitions will be provided on request.

IT IS HEREBY ORDERED THAT pursuant to CWC Section 13300 and 13267:

1. The Maxwell Public Utility District shall comply with the following time schedule to ensure compliance with Order No. R5-2009-0009 Effluent Limitations in Section IV.A.1. for BOD, total suspended solids, and total coliform organisms, .; a Special Provision for Turbidity in Section VI.C.4.b; and Monitoring and Reporting Program requirements to conduct continuous monitoring for chlorine and turbidity.

<u>Task</u>	<u>Compliance Date</u>
Complete Wastewater Facilities Plan	31 December 2007
Complete CEQA process for project	1 March 2008
Submit Report of Waste Discharge for land disposal project	1 October 2008
Submit documentation that adequate land has been acquired through purchase or long term lease	1 December 2008
Full compliance	18 May 2010

The Discharger shall submit to the Regional Water Board on or before each compliance date, the specified document or, if appropriate, a written report detailing compliance or noncompliance with the specific schedule date and task. If noncompliance is being reported, the reasons for such noncompliance shall be stated, and shall include an estimate of the date when the Discharger will be in compliance. The Discharger shall notify the Regional Water Board by letter when it returns to compliance with the time schedule.

2. *The following interim effluent limitations shall be effective until 18 May 2010 or when the Discharger is able to come into full compliance with Order No. R5-2009-0009, whichever is earlier:*

<u>Constituent</u>	<u>Unit</u>	<u>Average Monthly</u>	<u>Average Weekly</u>	<u>30-Day Median</u>	<u>Average Daily</u>	<u>Daily Maximum</u>
BOD ¹	mg/L	60 ²	90 ²	--	120 ²	--
	lbs/day ³	100	150	--	200	--
Total Suspended Solids	mg/l	160 ²	240 ²	--	320 ²	--
	lbs/day ³	267	401	--	534	--
Total Coliform Organisms	MPN/100 ml	--	--	23	--	500
Turbidity	NTU					320

¹ 5-day, 20°C biochemical oxygen demand (BOD)

² To be ascertained by a 24-hour composite

³ Based upon a design treatment capacity of 0.20 mgd (x mg/l X 8.345 X 0.20 mgd = y lbs/day)

3. The following interim monitoring requirement for residual chlorine and turbidity shall be effective until 18 May 2010 or when the Discharger is able to come into full compliance with Order No. R5-2009-0009, whichever is earlier:

<u>Parameter</u>	<u>Units</u>	<u>Sample Type</u>	<u>Minimum Sampling Frequency</u>
Chlorine Residual ^{1, 2}	mg/L, lbs/day	Grab	1/day
Turbidity ¹	NTU	Grab	1/day

¹ Pollutants shall be analyzed using the analytical methods described in 40 CFR 136; for priority pollutants the methods must meet the lowest minimum levels (MLs) specified in Appendix 4 of the SIP, where no methods are specified for a given pollutant, by methods approved by the California Regional Water Quality Control Board or the State Water Quality Control Board

² Total residual chlorine must be monitored with a method sensitive to and accurate at the permitted level of 0.01 mg/L

4. *If, in the opinion of the Executive Officer, the Discharger fails to comply with the provisions of this Order, the Executive Officer may apply to the Attorney General for judicial enforcement or issue a complaint for Administrative Civil Liability. If compliance with these effluent limitations is not achieved by the Full Compliance date, the discharge would not be exempt from the mandatory minimum penalties for violation of certain*

effluent limitations, and would be subject to issuance of a Cease and Desist Order in accordance with CWC section 13301.

5. *As required by the California Business and Professions Code Sections 6735, 7835, and 7835.1, all technical reports required herein shall be prepared by, or under the supervision of, a California Registered Engineer or Registered Geologist (as applicable) and shall be signed by the registered professional.*
6. *Any person signing a document submitted under this Order 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."

I, PAMELA C. CREEDON, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of Order No. R5-2009-XXXX, adopted by the California Regional Water Quality Control Board, Central Valley Region, on XX October 2009.

PAMELA C. CREEDON, Executive Officer