

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
COLORADO RIVER BASIN REGION**

TIME SCHEDULE ORDER NO. R7-2009-0031
ISSUED TO
PETER ORMOND, OWNER/OPERATOR
ROCKY VANDERGRUFF WATER TREATMENT SERVICES, OPERATOR
DATE GARDENS MOBILE HOME PARK
WASTEWATER TREATMENT PLANT
West of El Centro – Imperial County

The California Regional Water Quality Control Board, Colorado River Basin Region (Regional Board) finds that:

1. California Water Code (CWC) Section 13223 states, in part, that:

“(a) Each regional board may delegate any of its powers and duties vested in it by this division to its executive officer ...”
2. Consistent with CWC Section 13223, the Regional Board has delegated authority to its Executive Officer to issue the time schedule orders as provided for by CWC Section 13300. In turn, and consistent with CWC Section 13220(d), the Executive Officer has delegated to the Assistant Executive Officer the authority to issue Time Schedule Orders where deemed necessary to preserve the neutrality of the Executive Officer and the integrity of a separation of functions during an adjudicatory proceeding.
3. Peter Ormond, Date Gardens Mobile Home Park, 518 Scenic Avenue, Piedmont, CA 94611 (hereinafter referred to as the Discharger) owns and operates the Date Gardens Mobile Home Park Wastewater Treatment Plant, located at 1020 W. Evan Hewes Highway, El Centro, CA 92243. Plant operation is under contract with Rocky Vandergriff Water Treatment Services. The treatment facility has a design capacity of 0.021 million gallons-per-day (MGD).
4. The facility provides secondary treatment through two (2) activated sludge package plants that run in parallel. Wastewater from the mobile home park is pumped into the aeration chambers of the complete mix extended aeration package plants.
5. Discharge from the facility is into Rice Drain No. 3 in the SW $\frac{1}{4}$, of the SW $\frac{1}{4}$ of Section 33, T14S, R13, SBB&M. Rice Drain No. 3 flows for a distance of approximately seven (7) miles before entering the New River then 30 miles to the Salton Sea.
6. On June 25, 2008, the Regional Board adopted Board Order No. R7-2008-0010, which specified effluent limitations, prohibitions, specifications, and provisions necessary to protect the beneficial uses of the surface and ground waters within the Colorado River Basin Region.
7. The Water Quality Control Plan for the Colorado River Basin, as amended to date, designates the beneficial uses of ground and surface waters in the Region.

8. The designated beneficial uses of waters in the Imperial Valley Drains are:

- a. Fresh Water Replenishment of Salton Sea (FRSH)
- b. Industrial Service Supply (IND)¹
- c. Water Contact Recreation (REC I)²
- d. Non-Contact Water Recreation (REC II)
- e. Warm Water Habitat (WARM)
- f. Wildlife Habitat (WILD)
- g. Preservation of Rare, Threatened, or Endangered Species (RARE)³

9. Effluent Limitations No. A.1.d of Board Order R7-2008-0010 states:

The bacterial density in the wastewater effluent discharged to Rice Drain No. 3 shall not exceed the following values, as measured by the following bacterial indicators:

- i. ***E. coli***. The geometric mean bacterial density (based on a minimum of not less than five samples equally spaced over a 30-day period) shall not exceed a Most Probable Number (MPN) of 126, nor shall any sample exceed the maximum allowable bacterial density of 400.
- ii. **Enterococci**. The geometric mean bacterial density (based on a minimum of not less than five samples equally spaced over a 30-day period) shall not exceed a Most Probable Number (MPN) of 33, nor shall any sample exceed the maximum allowable bacterial density of 100.
- iii. **Fecal Coliform**. The geometric mean bacterial density (based on a minimum of not less than five samples equally spaced over a 30-day period) shall not exceed a Most Probable Number (MPN) of 200, nor shall more than ten percent of the total samples during any 30-day period exceed 400 MPN per 100 milliliters.

10. Provision VI. B. of WDR Board Order No. R7-2008-0010, Monitoring and Reporting Program (MRP) states:

“The Discharger shall comply with the MRP, and future revisions thereto, in Attachment E of this Board Order.”

11. WDR Board Order No. R7-2008-0010, Monitoring and Reporting Program (Attachment E), Section 1.C, General Monitoring Provision States:

1 Potential use

2 Although some fishing occurs in the downstream reaches, the presently contaminated water in the river makes it unfit for any recreational use. An advisory has been issued by the Imperial County Health Department warning against the consumption of any fish caught from the river and the river has been posted with advisories against any body contact with the water.

3 Rare, endangered, or threatened wildlife exists in or utilizes some of these waterway(s). If the RARE beneficial use may be affected by a water quality control decision, responsibility for substantiation of the existence of rare, endangered, or threatened species on a case-by-case basis upon the California Department of Fish and Game on its own initiative and/or at the request of the Regional Board; and such substantiation must be provided within a reasonable time frame as approved by the Regional Board.

“Unless otherwise approved by the Regional Water Board’s Executive Officer, all analyses shall be conducted at a laboratory certified for such analyses by the State Department of Health Services. Laboratories analyzing monitoring samples shall be certified by the Department of Health Services, in accordance with the provision of CWC Section 13176, and must include quality assurance/quality control data with their reports. All analyses shall be conducted in accordance with the latest edition of “Guidelines Establishing Test Procedures for Analysis of Pollutants”, promulgated by the USEPA.”

12. Monthly monitoring reports submitted by the Discharger pursuant to Sections 13267 and 13383 of the CWC for the months of July – December 2008 showed that the results for *E. coli* and enterococci were prepared by an uncertified laboratory.. Therefore, the Discharger is in violation and of Provision VI. B. of WDR Order No. R7-2008-0010 and Section 1.C. of the Monitoring and Reporting Program, cited in Findings No. 10 and 11, above. Attachment A, a part of this Order by reference, shows the monitoring data in question.
13. Because the Discharger is submitting effluent monitoring data for bacteria from an uncertified lab, the Regional Water Board is unable to determine whether the Discharger is in compliance with the Effluent Limitations and Discharge Specifications No. A.1.d of Board Order R7-2008-0010, cited above in Finding No. 9. Therefore, the Discharger also threatens violation of Effluent Limitations and Discharge Specifications No. A.1.d.
14. Currently, there are no commercial Labs in Imperial County that are certified by California Department of Public Health, Environmental Laboratory Accreditation Program (CDPH-ELAP) for microbiology of wastewater analysis (*E. Coli* and Enterococci). Due to the holding time constraints for samples, the samples must be delivered within six-hours to a certified lab. The nearest laboratory that has CDPH-ELAP certification for microbiology of wastewater analysis is in San Diego County, several hours by car to the west. Presently, local commercial Labs are seeking to be certified by CDPH-ELAP; this process is estimated to take several months.
15. Section 13308 of the CWC states:

”If the regional board determines there is a threatened or continuing violation of any cleanup and abatement order, cease and desist order, or any order issued under Section 13267 or 13383, the regional board may issue an order establishing a time schedule and prescribing a civil penalty which shall become due if compliance is not achieved in accordance with that time schedule.”
16. Section 13267(b) of the CWC provides that:

“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." The evidence supporting this requirement is discussed in Findings 1-12, above. Additional information may be available in the Regional Board's files. Section 13383 of the CWC also authorizes the Regional Board to establish monitoring requirements for publicly owned treatment works or other treatment works treating domestic sewage.

17. This enforcement action is exempt from the provisions of the California Environmental Quality Act (CEQA: Public Resources Code Section 21000, et. Seq.), pursuant to Section 15321, Article 19, Division 3, Title 14, California Code of Regulations (CCRs).
18. Any person aggrieved by this action of the Regional Board may petition the State Water Board to review the action in accordance with CWC Section 13320 and CCRs, Title 23, Section 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 or will be provided upon request.

IT IS HEREBY ORDERED, that in order to meet the provisions contained in Division 7 of the CWC and regulations adopted thereunder, the Discharger shall comply with the following:

1. The Discharger must be in full compliance with WDRs Board Order No. R7-2008-0010, Monitoring and Reporting Program by July 1, 2009.
2. By March 14, 2009, the Discharger shall submit a technical report specifying the steps it will take to ensure that bacteria data is collected and analyzed as specified in Board Order No. R7-2008-0010.
3. If, in the opinion of the Regional Board's Executive Officer, the Discharger fails to comply with this Time Schedule Order, the Regional Board's Executive Officer may issue a Complaint against the Discharger under Article 2.5, Chapter 5, Division 7 of the CWC, for up to \$10,000 in administrative civil liability penalties for each day in which the violation occurs.

This Order is effective upon the date of signature.

2/11/09
Date


JOSE L. ANGEL, P.E.
Assistant Executive Officer