

California Regional Water Quality Control Board
North Coast Region

Order No. R1-2001-47
I.D. No. 1B83001OSON

CEASE AND DESIST ORDER MODIFYING ORDER NO. 97-74
REQUIRING THE OCCIDENTAL COUNTY SANITATION DISTRICT
AND
THE SONOMA COUNTY WATER AGENCY
TO CEASE AND DESIST FROM THREATENING TO DISCHARGE
IN VIOLATION OF WASTE DISCHARGE REQUIREMENTS

Sonoma County

The California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board), finds that:

1. The Occidental County Sanitation District (hereinafter OCSD), located at 2150 W. College Avenue, Santa Rosa, owns a municipal wastewater treatment facility located east of the Town of Occidental. The treatment facility serves the community of Occidental. Treated effluent is disposed of by irrigation during the summer and discharge to Dutch Bill Creek during the winter. The Sonoma County Water Agency (hereinafter SCWA) is under contract to operate and maintain the Occidental Wastewater Treatment Facility (WWTF). The OCSD and the SCWA are collectively hereinafter referred to as Discharger.
2. The Regional Water Board adopted Waste Discharge Requirements Order No. 93-42 (WDR Order No. 93-42) for the wastewater treatment facility on May 27, 1993. WDR Order No. 93-42 also serves as a NPDES Permit and allows the Discharger to discharge treated effluent at a rate of up to one percent of the flow of the receiving water during the period of October 1 through May 14 of each year and prohibits discharge to Dutch Bill Creek and its tributaries during the period of May 15 through September 30 of each year.
3. On August 27, 1997, the Regional Water Board held an evidentiary hearing and subsequently adopted Cease and Desist Order No. 97-74 (CDO No. 97-74) requiring the Discharger to cease and desist from threatening to discharge in violation of WDR Order No. 93-42. The Regional Water Board found that the Discharger violated WDR Order No. 93-42 by: 1) discharging an estimated 2.17 million gallons of commingled reservoir water and treated effluent to Dutch Bill Creek on May 21-24 and May 28, 1996, and 2) discharging an estimated 46 million gallons of treated effluent with pH and chlorine residual violations to Graham's Pond, which is considered waters of the state due to its construction and location. The Regional Water Board also found that these violations occurred and

may continue to occur due to a lack of adequate storage capacity and/or inadequate operation of storage facilities at the WWTF.

4. CDO No. 97-74 contains a time schedule of key short- and long-term actions for the Discharger to complete in order to cease and desist from threatening to discharge waste in violation WDR Order No. 93-42. The short-term actions involve solutions to prevent pH and chlorine residual violations. The long-term action involves, among other items, selection and environmental analysis of a capital improvement project/plan ("CIP").
5. On the same date that the Regional Water Board adopted CDO No. 97-74, it also adopted Time Schedule Order No. 97-75 (TSO No. 97-75) for administrative civil liabilities, in which the Regional Water Board prescribed a penalty schedule upon the Discharger's failure to comply with the tasks contained therein pertaining to development and construction of the CIP.
6. On October 23, 1997, the Regional Water Board adopted Administrative Civil Liability Order No. 97-126 (ACL Order No. 97-126) imposing administrative civil liability against the Discharger for violations of WDR Order No. 93-42 and prohibitions contained in the Water Quality Control Plan for the North Coast.
7. The discharger has completed Tasks A through G of CDO No. 97-74 pertaining to short- and long-term solutions to prevent pH and chlorine residual violations, development of alternative CIPs, presentation of the CIPs to rate payers, selection of CIP alternatives to be evaluated in an environmental document under the California Environmental Quality Act ("CEQA"; at Pub. Res. Code Section 21000 et seq.), and preparation and certification of a CEQA document. In accordance with CDO No. 97-74, the Discharger has prepared and certified an environmental impact report (EIR) under CEQA for improvements to the treatment facility. The EIR analyzed two upgrade alternatives: 1) a local leachfield system with treatment facility upgrades, and 2) connection of the Occidental service area to the Russian River Community Services District wastewater treatment facility. The local leachfield system may be technically infeasible and thus may not represent a viable solution.
8. On January 25, 2001, the SCWA submitted a letter to the Regional Water Board Executive Officer describing the SCWA's plan for selecting and constructing a final upgrade project and requesting a six month extension of the remaining deadlines for Tasks H and I of CDO No. 97-74 pertaining to awarding a bid for the selected capital improvement project and completion of construction of the selected project, respectively. In a letter to the Executive Officer dated March 2, 2001, the SCWA modified their time extension request. The March 2, 2001 letter requested an extension of one year and nine months to award the bid for the selected project and stated that they could not commit to a date for completion of

construction until a project is selected. A project is expected to be selected by November 1, 2001.

The time extensions are being requested to allow for consideration of a treatment system proposed by the Camp Meeker Parks and Recreation District as an additional upgrade alternative, which requires further environmental analysis under CEQA. An EIR for the proposed Camp Meeker project is expected to be certified some time prior to June 30, 2002.

9. The Regional Board has considered the Discharger's extension requests, and by this Order extends the remaining deadlines in CDO No. 97-74 as provided below, subject to completion of an interim project and a prohibition on additional discharges as described below.
10. The Occidental facility continues to experience compliance problems. It is expected that an extension to the deadlines in CDO No. 97-74 would result in more compliance problems and actual and threatened violations of WDR Order No. 93-42 over the extended period. In order to reduce potential violations during the extended compliance period, it is necessary for the Discharger to select and complete an interim project directed at improving system reliability and compliance with WDR Order No. 93-42, within fifteen months of the date of this Order. Examples of interim projects that the Discharger could choose to implement to significantly lessen the potential for violations include, but are not limited to, a project for the removal of accumulated solids from within treatment ponds in order to increase residence time and treatment efficiency, and a project for the replacement of a section of the collection system piping which the Discharger has identified as needing replacement or lining. An alternative project or projects may be proposed as long as the project can be shown to significantly lessen the potential for permit violations.
11. Additional discharges to the WWTF over the extended compliance period may result in further compliance problems and actual and threatened violation of WDR No. 93-42. California Water Code ("CWC") Section 13301 states in part:

"In the event of an existing or threatened violation of waste discharge requirements in the operation of a community sewer system, cease and desist orders may restrict or prohibit the volume, type, or concentration of waste that might be added to such system by dischargers who did not discharge into the system prior to the issuance of the cease and desist order."

Title 23, California Code of Regulations ("CCR"), Section 2244(b) states:

"Prohibitions or appropriate restrictions on additional discharges should be included in a cease and desist order if the further addition in volume, type, or concentration of waste entering the sewer system would cause an increase in

violation of waste discharge requirements or increase the likelihood of violation of requirements.”

The Regional Board finds that additional discharges into the WWTF would cause an increase in violation of WDR Order No. 93-42 or increase the likelihood of violation of such requirements. Such violations or likelihood of violations cannot be immediately corrected. Therefore, a connection ban prohibiting any addition in the volume, type, or concentration of waste entering into the WWTF is necessary.

12. An evidentiary hearing on this matter was held before the Regional Water Board on May 24, 2001 in the Regional Water Board Hearing Room, 5550 Skylane Boulevard, Suite A, Santa Rosa, California. The Regional Water Board considered all evidence presented at the hearing.
13. The adoption of a cease and desist order is an enforcement action to protect the environment, and is therefore exempt from the provisions of the CEQA pursuant to Title 14, CCR, Sections 15308 and 15321(a)(2).

THEREFORE, IT IS HEREBY ORDERED THAT:

1. In order to increase the options for choosing a reliable, long term solution for wastewater treatment and storage, the compliance dates for completing Tasks H and I in CDO Order No. 97-74 are amended as provided in the time schedule below. Additional tasks are added to this Order to assure the Discharger's interim compliance with WDR Order No. 93-42.

<u>TASK</u>	<u>AMENDED DATE</u>
A. Submit for Executive Officer concurrence a report with a plan and time schedule for implementing an interim project to improve system reliability.	December 1, 2001
B. Submit semi-annual progress reports on status of selection of CIP.	December 1, 2001 June 1, 2002
C. Complete the interim project concurred upon by the Executive Officer.	August 24, 2002
D. Award Bid for Selected CIP.	December 1, 2002
E. Complete Construction of Selected CIP.	December 1, 2003

2. The addition of (a) new wastewater flows to the WWTP from new residential, commercial, industrial, and/or governmental connections or (b) increase in wastewater flows (either in volume or concentration) to the WWTP from existing facilities that are already connected to the WWTP is prohibited (the “Additional Discharge Ban”). The prohibition shall continue until such time that it can be demonstrated to the satisfaction of the Regional Water Board that such connections will not cause an increase in violation of WDR No. 93-42 (or any

future waste discharge requirements order issued for the WWTF) or increase the likelihood of violation of such requirements, except that the Regional Water Board may remove the prohibition, in whole or in part, if it makes all of those findings provided in Provision 5 below.

3. The following are excluded from the Additional Discharge Ban:
 - a. Structures with building permits (or, if the governmental entity with jurisdiction does not issue a document called a “building permit,” such other approval document that constitutes final approval of construction) already issued at the time of publication of the public notice (i.e., March 28, 2001) for a hearing on this Order are excluded from the Additional Discharge Ban in accordance with Title 23, CCR, Section 2244.1(a).
 - b. Those structures that normally do not require a building permit (e.g., those government buildings exempted from the permit process) shall be exempt from the Additional Discharge Ban if construction has commenced.
 - c. Discharges from existing dwellings not connected to the sewer system which have methods of waste disposal which are causing more severe water quality problems than those caused by the community sewer system.
 - d. Discharges which, by reason of special circumstances, if not allowed to connect to the community sewer system would result in extreme public hardship or a public health hazard. This is not intended to mean that economic loss to a community as a whole or to any public agency or private person within the community is by itself cause for not prohibiting additional connections because such loss is the rule rather than the exception and cannot outweigh the need to prevent an increase in water quality impairment which is the basic reason for the prohibition.
4. Persons wishing to obtain an exclusion from the prohibition or restriction provided in Provisions 3(c) and 3(d) shall make such request, in writing, to the Regional Water Board Executive Officer. The Executive Officer shall promptly act on the request, but in no event later than 60 days from receipt of the request.
5. As set forth in Title 23, CCR, Section 2244.3(b), the prohibition on the additional discharges provided herein may be removed, at the discretion of the Regional Water Board, if it finds that:
 - Consistent compliance with requirements can be achieved only by construction of a facility which will take a substantial period of time to complete; and

- the Discharger has the capacity, authority, and final resources to complete the corrective measures necessary to achieve compliance and is currently proceeding with such corrective measures; and
- the corrective measures necessary to achieve compliance with requirements will be completed and placed into operation by the Discharger in the shortest practicable time; and
- all practicable interim repairs and improvements to the treatment process of the discharges which can be made have been made; and
- during the interim period of time until compliance with requirements can be fully achieved the treatment process of the discharges will be so managed, operated, maintained and repaired as to reduce to a minimum the violations which resulted in the imposition of the prohibition, and such minimum violations for the interim period of time involved will not significantly impair water quality or beneficial uses.

Certification

I, Lee A. Michlin, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, North Coast Region, on May 24, 2001.

Lee A. Michlin
Executive Officer