
North Coast Regional Water Quality Control Board

California Regional Water Quality Control Board
North Coast Region

ORDER NO. R1-2013-0048
AMENDING TIME SCHEDULE ORDER NO. R1-2011-0103
TO PROVIDE TIME TO UNDERTAKE ACTIONS TO COMPLY WITH
REQUIREMENTS IN ORDER NO. R1-2013-0001
(Santa Rosa Subregional Water Reclamation System)
NPDES PERMIT NO. CA0022764

Sonoma County

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

1. The City of Santa Rosa (hereafter City or Permittee) owns and operates the Santa Rosa Subregional Water Reclamation System (the "Reclamation Plant"), a publicly-owned treatment works, which currently collects, treats, recycles and/or discharges an average dry weather flow of 15 million gallons per day (MGD) under Waste Discharge Requirements (WDRs) contained in Order No. R1-2013-0001, adopted by the Regional Water Board on November 21, 2013. Order No. R1-2013-0001 also serves as the National Pollutant Discharge Elimination System (NPDES) permit (NPDES No. CA0022764).
2. The City reuses most of its produced tertiary treated recycled water throughout the year, providing agricultural operators with recycled water for beneficial water reclamation and reuse (e.g., agricultural irrigation of crops, including vineyards, orchards, animal fodder, pasture, and specialty vegetable crops), participating in urban reuse (e.g., golf courses, playing fields, and landscaped areas), or providing the recycled water to the Geysers Recharge Project. These reuse projects used between 95 and 100 percent of the produced recycled water during the last four years of operation.
3. The City's WDRs/NPDES Permit allows the discharge of tertiary treated recycled water that is not reused from October 1 through May 14 of each year, in accordance with discharge restrictions set forth in the Regional Water Board's Basin Plan. Discharge occurs from the City's recycled water storage ponds to the Laguna de Santa Rosa and/or Santa Rosa Creek, both tributaries to the Russian River.
4. The Laguna de Santa Rosa is on the State Water Resources Control Board's Clean Water Act 303(d) List of Water Quality Limited Segments for nitrogen, phosphorus,

and dissolved oxygen impairments. A Total Maximum Daily Load (TMDL) has not yet been prepared to address these impairments.

5. On July 24, 2008, the Regional Water Board adopted the Santa Rosa Nutrient Offset Program, Resolution No. R1-2008-0061, (Nutrient Offset Program) to provide a program through which the Permittee could comply with the “zero” or “no net loading” effluent limitations for nitrogen and phosphorus that were established in the Permittee’s previous NPDES permit, Order No. R1-2006-0045. Under terms of the Nutrient Offset Program, the Permittee could comply with the “zero” or “no net loading” limitations by reducing the loads elsewhere in the watershed by an amount at least equal to the amount discharged (and of equivalent bioavailability) through an approved offset program.
6. The effluent limitations in Order No. R1-2006-0045 for nitrogen and phosphorus became effective November 9, 2011, and the first three-year average compliance determination was scheduled to occur in 2014, after conclusion of the 2013-2014 discharge season. The Nutrient Offset Program prescribes the use of a three-year rolling average to calculate compliance with effluent limitations for nitrogen and phosphorus.
7. On November 4, 2011, the Regional Water Board Executive Officer issued Time Schedule Order No. R1-2011-0103, which extended the date for determining compliance with the effluent limitations for nitrogen and phosphorus from the conclusion of the 2013-2014 season to the conclusion of the 2014-2015 discharge season. The extension was justified because the City was making significant good faith efforts towards developing acceptable nutrient offset projects, but project finalization and approval proved to be more complicated than initially anticipated.
8. The Regional Water Board renewed the City’s current WDRs/NPDES Permit on November 21, 2013; that permit includes the following effluent limitation for phosphorus at Provision IV.A.2.b:
 - b. The Permittee shall maintain compliance with the following effluent limitations at Discharge Points 006A, 006B, 012A(1), 012A(2), 012B, and 015, with compliance measured at Monitoring Locations EFF-006A, EFF-006B, EFF-012A(1), EFF-012A(2), EFF-012B, and EFF-001, respectively, as described in the MRP, when discharges occur:
 - i. **Effluent Limitation for Total Phosphorus for Compliance with Narrative Objective for Biostimulatory Substances.** There shall be no net loading of total phosphorus to the water bodies of the greater Laguna de Santa Rosa watershed.

Compliance with this effluent limitation shall be determined in accordance with section VII.N (Compliance Determination) of the Order.
9. Consistent with Order No. R1-2006-0045, the Nutrient Offset Program provides the process by which the City can propose, gain approval, and implement nutrient offset projects to earn nutrient reduction credits that offset annual nutrient loads discharged to the Laguna de Santa Rosa. The Nutrient Offset Program prescribes criteria for measurement and calculation of nutrient reduction credits, including a margin of safety.

10. Since the Nutrient Offset Program was adopted in July 2008, the City has continued to undertake significant good faith efforts towards developing acceptable nutrient offset projects. To date, the Regional Water Board Executive Officer has approved three offset projects, and the City has proposed several more projects for consideration.
11. The Regional Water Board and the City continue to work cooperatively to investigate further nutrient offset project options that could be approved by the Regional Water Board Executive Officer. The identification, approval, and implementation of nutrient offset projects, agricultural or otherwise, has continued to be more complicated and time consuming than originally thought. Therefore, the City may not be able to implement nutrient offset project(s) in a sufficiently timely manner to meet the 2015 deadline for compliance, as required under Time Schedule Order No. R1-2011-0103.
12. California Water Code 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."
13. For the reasons stated above, the Regional Water Board finds that a discharge of waste is taking place or threatening to take place that will violate requirements prescribed in Order No. R1-2013-0001.
14. Through issuance of this Time Schedule Order, the first three year-averaging period used to calculate compliance with the effluent limitation for total phosphorus via the Nutrient Offset Program will begin with the 2014-2015 discharge season, extending by an additional two years the commencement of the timeframe for determining compliance. The effluent limitation for total phosphorus still became effective November 9, 2011, but the first compliance determination will occur in 2017, after conclusion of the 2016-2017 discharge season, using a three-year average from the 2014-2015 discharge season through the 2016-2017 discharge season, as prescribed by the Nutrient Offset Program.
15. To demonstrate adequate progress leading to compliance with the effluent limitation for total phosphorus established in Order No. R1-2013-0001, the City is required to comply with the following interim requirements and dates, as specified in Order No. R1-2011-0103, as amended:
 - a. By March 1, 2014, the City shall submit a Nutrient Offset Project (NOP) Implementation Plan (Plan) that contains the following components.
 - i. Status of approved projects;
 - ii. Status of proposed projects;
 - iii. Description of project opportunities (*i.e.*, projects in conceptual development phase and not yet proposed for Regional Water Board approval) including, as the information becomes known, the type of project, the expected amount of credit that may be generated, an estimated schedule, including major tasks,

for ultimate proposal to the Regional Water Board, and an expected implementation schedule upon approval; and

- iv. Total offset credit approved, earned and needed.
 - b. The City shall annually update the NOP Plan and submit to the Regional Water Board no later than March 1st of each year.
 - c. The City shall propose semi-annual status meetings with Regional Water Board staff to provide interim status reports regarding the City's implementation of the Nutrient Offset Program.
 - d. **Interim Effluent Limitation for Total Phosphorus.** The discharge of total phosphorus shall not exceed a monthly average of 3.6 mg/L at Discharge Points 006A, 006B, 012A(1), 012A(2), 012B, and 015, as described in Order No. R1-2013-0001.
16. California Water Code section 13385(j)(3) provides protection from the imposition of mandatory minimum penalties otherwise imposed under section 13385, subsections (h) and (i), when: (1) the effluent limitation is a new, more stringent, or modified regulatory requirement that has become applicable to the waste discharge after the effective date of the waste discharge requirements and after July 1, 2000; (2) new or modified control measures are necessary in order to comply the effluent limitation; (3) the new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days; and (4) the Regional Water Board establishes a time schedule bringing the waste discharge into compliance with the effluent limitation that is as short as possible.
 17. The "zero" or "no net loading" requirement for total phosphorus constituted a new and more stringent effluent limit when adopted in Order No. 2006-0045, and still constitutes a new and more stringent effluent limit as applied to the City's surface water discharge. Order No. R1-2013-0001 contains the same "zero or no net loading" requirement for total phosphorus, but replaces the "zero or no net loading" effluent limitation for total nitrogen set forth in Order No. R1-2006-0045 with a final effluent limitation that is based on existing treatment plant performance. Because the final limitation for total nitrogen is performance-based, it is anticipated that the City is able to immediately comply with the limitation.
 18. The Regional Water Board finds that new and modified control measures are necessary to comply with the effluent limitation for total phosphorus. As explained above, for the past several years, the City has endeavored to comply with the effluent limitations for nitrogen and phosphorus included in Order No. R1-2006-0045 through implementation of the Nutrient Offset Program. The development and finalization of approvable offset projects has proved to be more costly, time consuming, and complicated than all parties had originally contemplated. Therefore, additional projects must be developed and implemented in order to comply with the applicable effluent limitations. The Regional Water Board finds that additional time beyond 30 calendar days is needed to develop the control measures to offset discharges of total phosphorus in order to meet the effluent limitation contained in Order No. R1-2013-0001.

19. California Water Code section 13385(j)(3)(C) provides that for purposes of protecting a discharger from mandatory minimum penalties, the time schedule order may not initially exceed five years in length. As amended, Order R1-2011-0103 will have an effective date of three years because it extends by three years the commencement of the timeframe for determining compliance with the effluent limitation for phosphorus.
20. For the reasons contained in the findings above, the Regional Water Board finds that it is appropriate to amend Order R1-2011-0103 to extend the year for the first compliance determination to 2017, after conclusion of the 2016-2017 discharge season, using a three-year rolling average, and to provide protection against the imposition of section 13385 mandatory minimum penalties for the same time period. Attachment A to this Order contains a redline version of the amendments to Order R1-2011-0103, consistent with the findings above, and Attachment B to this Order contains a clean version of Order R1-2011-0103, as amended.
21. The Regional Water Board has notified the City, interested agencies and persons, of its intent to issue a Time Schedule Order in accordance with Water Code section 13167.5.
22. On November 21, 2013, the Regional Water Board conducted a public meeting and received evidence pertaining to this Order.
23. This Order amending an enforcement action by a regulatory agency is exempt from the provisions of the California Environmental Quality Act (Public Resources, Code, section 2100 *et seq.*) in accordance with the California Code of Regulations, title 14, section 15321.

IT IS HEREBY ORDERED, pursuant to California Water Code section 13300:

1. For all the reasons contained in findings 1-23, above, Order R1-2011-0103 shall be amended, as shown in Attachment B to this Order.

Certification

I, Matthias St. John, 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 November 21, 2013.

Original Signed By

Matthias St. John
Executive Officer