

Regional Water Quality Control Board
North Coast Region

Executive Officer's Summary Report
8:30 A.M., Thursday, December 6, 2012
Santa Rosa

- ITEM: 10
- SUBJECT: **Public Hearing** on Order No. R1-2012-0102, to consider requiring the **Occidental County Sanitation District and Sonoma County Water Agency** to Cease And Desist From Discharging Or Threatening to Discharge Effluent In Violation of Waste Discharge Requirements for the **Occidental Wastewater Treatment Facility**, WDID No. 1B830010SON, NPDES No. CA0023051, Sonoma County (*Cathleen Goodwin*)
- BOARD ACTION: The Board will consider the adoption of Cease and Desist Order No. R1-2012-0102.
- BACKGROUND: The Occidental CSD owns the Occidental WWTF and the SCWA operates and maintains the WWTF under contract with Occidental CSD. The Occidental CSD and SCWA are collectively referred to as the Permittee.
- The WWTF consists of a collection, treatment and disposal system, which serves a population of approximately 650, including residential and commercial customers in the Town of Occidental. The WWTF is designed to provide secondary treatment for an average annual dry weather flow of 0.05 million gallons per day (mgd) and a peak wet weather flow of 0.252 mgd.
- The WWTF consists of a headworks, one aeration pond, one settling pond, chlorination, dechlorination, and pH adjustment. The headworks is located at the lift station and consists of a grit chamber, wet well, and wet well overflow storage tank. Secondary treated, disinfected, dechlorinated wastewater is discharged year-round to Graham's Pond, a 10 million gallon reservoir that overflows to Dutch Bill Creek, a tributary to the Russian River. During the period of October 1 through May 14, the Permittee intermittently discharges comingled effluent and storm water from Graham's Pond to Dutch Bill Creek at one percent of the flow of Dutch Bill Creek as measured at the Camp Meeker bridge. During the period of May 15 through

September 30, the Permittee irrigates an 8.26 acre cattle pasture with effluent stored in Graham's Pond. The pasture and Graham's Pond are privately owned and the pasture is located adjacent to and immediately downgradient from Graham's Pond.

ISSUES:

Significant issues identified and addressed in the proposed CDO include the following:

Long History of Enforcement

The WWTF has a long history of Basin Plan and effluent limitation violations.

Basin Plan Violations. The Basin Plan requires all WWTFs that discharge to surface waters in the Russian River Basin to provide advanced wastewater treatment. In addition, the Basin Plan prohibits discharges to surface waters during the period of May 14 through September 30. Occidental CSD provides only secondary treatment and discharges year-round to Graham's Pond. The Permittee has utilized Graham's Pond as a year-round effluent storage reservoir since approximately 1977. However, Regional Water Board analysis has determined that Graham's Pond is a water of the United States due to its construction and location within an existing headwaters drainage system. Graham's Pond is an in-stream pond that was constructed at the headwaters of Dutch Bill Creek, originally for use as an agricultural pond. Graham's Pond receives runoff from upstream slopes and several small drainages into the pond.

Effluent Limitation and Other Violations. During the term of the previous Order, the Permittee experienced violations of biochemical oxygen demand (BOD₅), total suspended solids, settleable solids, chlorine residual, pH, total coliform and acute toxicity effluent limitations. Non-effluent violations included several sanitary sewer overflows, spills related to a leak in the effluent settling pond, effluent discharges to receiving water at greater than 1% of the stream flow, and several missing data violations. After the Permittee completed its collection system replacement project in 2007, the number of discharge rate violations decreased from 18 to 11, unauthorized discharges decreased from 16 to 4, and sanitary sewer overflows decreased from 5 to 1.

Effluent limitation violations are assessed at the point that effluent is discharged to Graham's Pond because Graham's Pond has been identified as a water of the US. Numerous acute toxicity violations have not been investigated well and may be related to high ammonia in the effluent discharge.

Violations of BOD₅, TSS, settleable solids, coliform and pH have decreased since completion of the collection system replacement project in 2007. These violations have been intermittent and sometimes episodic (a cluster of violations over a short period of time), but the reason for the violations is not typically evident or identifiable.

Enforcement Actions. Since 1997, several enforcement actions have been taken against the Permittee, including five cease and desist orders (CDO), two administrative civil liability complaints (ACLC), and two administrative civil liability orders (ACLO). The last enforcement action occurred in 2007. Violations that have occurred between 2007 and 2012 will be the subject of a future enforcement action.

Development of a Compliance Project

In response to the CDOs and ACLs described under the *Basin Plan Violation* and *Effluent Limitation Violation* headings, above, several potential capital improvement projects (CIPs) were evaluated between 1997 and 2009, including a subsurface disposal system, an AWT upgrade to serve Occidental and Camp Meeker, an AWT upgrade to serve Occidental, and construction of a pipeline to convey wastewater from Occidental to the Russian River County Sanitation District WWTF in Guerneville. Each of these projects were subsequently deemed environmentally, technically, and/or financially infeasible to complete.

Pursuant to requirements in CDO No. 2005-0085, the Permittee completed a collection system replacement project in 2007 that resulted in a reduction of the amount of infiltration and inflow to the WWTF. Since completion of this project there has been a reduction in the number of effluent limitation and discharge rate violations of Order No. 93-42.

Order No. R1-2005-0085 required completion of a CIP by June 30, 2010. The Permittee submitted a feasibility study and water balance to Regional Board staff in July 2008 (and amended in September 2008) for a project to eliminate

discharges to surface waters. Since that time, the Permittee has been evaluating a project that includes construction of a new storage pond to replace Graham's Pond, development of a recycled water program, an increase in irrigation acreage, and elimination of discharges to surface waters (referred to in ROWD as a zero discharge facility, meaning that all discharges will be to land rather than surface waters). The project would also incorporate water conservation measures. The Permittee has been submitting quarterly progress reports to the Regional Board.

Although progress has been slow, the Permittee has identified a potential recycled water storage pond site for which it has initiated geotechnical evaluations, environmental studies, and preliminary design. The proposed project would include increasing the irrigation area of the Loades' property (currently 8 acres) and adding new recycled water uses to increase the irrigation acreage to approximately 18 acres. The Permittee must complete a CEQA document in the near future. Project costs are estimated to be \$5 million dollars, and a funding source for the project has not been identified.

Violations of Order No. R1-2012-0101

The Permittee cannot achieve immediate compliance with the renewed permit until it completes a CIP. As identified in the discussion above, the Permittee cannot comply with the AWT and seasonal discharge prohibitions in the Basin Plan. Furthermore, the Permittee is unable to comply with AWT effluent limitations for BOD₅ and TSS, nor effluent limitations for ammonia and California Toxics Rule priority pollutants. CDO No. R1-2012-0102 includes interim effluent limitations that apply during the term of the compliance schedule and protection from mandatory minimum penalties if the Permittee maintains compliance with the terms of the CDO.

CDO No. R1-2012-0102 is proposed to be adopted concurrently with the NPDES permit renewal (Order No. R1-2012-0101) for the Occidental WWTF. The CDO includes a compliance schedule requiring the Permittee to complete the CIP and achieve compliance with all permit requirements by January 31, 2018.

Comment Letter

Regional Water Board Staff met with the SCWA on October 16, 2012, to discuss the Permittee's concerns regarding the draft

CDO. The SCWA, on behalf of Occidental CSD, submitted a letter dated October 22, 2012, addressing the Permittee's concerns and several requested changes to the CDO, as follows:

- The Permittee requested that the CDO compliance schedule be longer than the five-year compliance schedule included in the public review draft of the tentative CDO. The Permittee submitted a narrative description justifying the need for a longer compliance schedule and proposed a schedule that would achieve construction of a proposed capital improvement project within 7 years, full operation of the CIP in compliance with applicable waste discharge requirements within 7.5 years, and submittal of final as-built drawings and results of performance tests within 8 years of permit adoption.

Section 13385(j)(3)(C) of the Water Code requires that CDO compliance schedules be as short as possible and no longer than 5 years in length. This section of the Water Code also authorizes the Regional Water Board, following a public hearing, to extend the compliance schedule for an additional period not exceeding five years in length, if the Permittee demonstrates diligent progress toward bringing the waste discharge into compliance with final effluent limitations in the NPDES permit and that the additional time is necessary to comply with the final effluent limitations.

Therefore, the CDO compliance schedule has not been extended as requested by the Permittee. The CDO includes provisions that allow the Permittee to request time extensions in accordance with the Water Code. The compliance schedule provides time for the Permittee to develop the conceptual design of the proposed CIP and a CEQA document, complete the final project design, secure funding, award a construction contract, complete construction of the CIP, and achieve full operation of the CIP.

- The Permittee requested that the CDO include interim effluent limitations and protection from the assessment of mandatory minimum penalties for two pollutants that were not included in the public review draft of the tentative permit. The Permittee provided justification for including cyanide and total coliform under the terms of the CDO.

It is appropriate to include cyanide under the terms of the CDO based on the finding of reasonable potential and inclusion of final effluent limitations in the proposed permit that was made in response to US Environmental Protection Agency comments on the public review draft of the tentative permit.

It is appropriate to include total coliform under the terms of the CDO due to the fact that the proposed permit establishes more stringent effluent limitations for total coliform. The Permittee's analysis of total coliform data collected over the last five years demonstrates that the current WWTF cannot consistently achieve the new final effluent limitations for total coliform. The final draft of the tentative permit includes interim effluent limitations for total coliform that are based on the total coliform effluent limitations in the previous permit, Order No. 93-42.

Responses to comments and additional minor changes made to the CDO by Regional Water Board staff are described in greater detail in the attached Response to Comments document. The Response to Comments and comment letters can be found in the associated NPDES permit package.

RECOMMENDATION: Adopt Cease and Desist Order No. R1-2012-0102 as proposed.

SUPPORTING DOCUMENTS:

1. Hearing Procedure
2. Proposed Cease and Desist Order No. R1-2012-0102
3. Public Notice