California Regional Water Quality Control Board
San Francisco Bay Region

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Linda S. Adams
Secretary for
Environmental Protection

Arnold Schwarzenegger
Governor

CEASE AND DESIST ORDER NO. R2-2009-0071

REQUIRING THE LAS GALLINAS VALLEY SANITARY DISTRICT TO CEASE AND DESIST DISCHARGING PARTIALLY-TREATED WASTEWATER TO WATERS OF THE STATE

WHEREAS the California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter "Regional Water Board"), finds that:

1. The Las Gallinas Valley Sanitary District (hereinafter Discharger) owns and operates a wastewater treatment plant (Plant), located at 300 Smith Ranch Road, San Rafael, Marin County, CA 94903. The Plant treats wastewater from domestic and commercial sources from the northern area of San Rafael. It has a dry weather design capacity of 2.92 million gallons per day (MGD).

2. The wastewater discharge has been regulated by waste discharge requirements in Order No. R2-2003-0108 (NPDES Permit No. CA0037851, the previous permit).

3. Immediately preceding the adoption of this Cease and Desist Order, the Regional Water Board adopted Order No. R2-2009-0070 (hereinafter "Permit"), reissuing waste discharge requirements for the Discharger. The Permit contains prohibitions, limitations, and provisions regulating the discharge. Final effluent limitations for toxic pollutants established by the Permit include those listed in Table 1, below.

Table 1. Water Quality-Based Effluent Limitations (WQBELs) for Copper

Parameter	Final Effluent Limits		Monitoring Stations
	Average Monthly (µg/L)	Maximum Daily (µg/L)	
Copper	8.6	11	EFF-001 or EFF-001-D

4. As stated in the Fact Sheet accompanying the Permit, the Regional Water Board concludes that the Discharger cannot immediately comply with the WQBELs for copper, because the 95th percentile (10.6 µg/L) and 99th percentile (12.1 µg/L) of the effluent data set from January 2004 through April 2009 exceed the average monthly and maximum daily effluent limitations.

5. Pursuant to State Water Board Order No. WQ-2007-0004, the Regional Water Board cannot establish a schedule for compliance with final limitations for copper. Because the Discharger cannot immediately comply with final effluent limitations for copper, discharges from the Plant threaten to violate the final effluent limitations established by Order No. R2-2009-0070 for this pollutant.

6. Water Code § 13301 authorizes the Regional Water Board to issue a Cease and Desist Order when it finds that a waste discharge is taking place, or threatening to take place, in violation of Regional Water Board requirements.

7. Because the Discharger will violate or threatens to violate required effluent limitations, this Cease and Desist Order is necessary to ensure that the Discharger achieves compliance. This Order establishes a time schedule for the Discharger to complete necessary investigative, preventive, and remedial actions to address imminent and threatened violations of effluent limitations for copper.

8. The time schedule in this Order is intended to be as short as possible. It accounts for the considerable uncertainty in determining effective measures (e.g., pollution prevention and treatment plant upgrades) necessary to achieve compliance. This Order allows the Discharger some time to continue to explore source control measures before requiring further actions, such as treatment plant upgrades, which are likely to be much more costly. The time schedule is based on reasonably expected times needed to implement source identification and upstream source control; evaluate success; identify on-site treatment alternatives, if necessary; test and select from among alternatives; and construct Plant upgrades. The Regional Water Board may revisit these assumptions as more information becomes available.

9. As part of the time schedule to achieve compliance, this Order requires the Discharger to comply with an interim effluent limit based on past treatment performance. The interim maximum daily effluent limitation for copper shall be 14 µg/L. This limitation is a performance-based interim limitation based on the 99.87th percentile of the Discharger's copper effluent data collected from January 2004 through April 2009. It is more stringent than the interim effluent limit of 17 µg/L in the previous permit. The interim effluent limit is intended to ensure that the Discharger maintains at least its existing level of treatment performance while completing all tasks required by this Order.

10. This Order is an enforcement action and, as such, in accordance with 14 CCR § 15321, is exempt from the provisions of the California Environmental Quality Act (Public Resources Code § 21000 et seq.).

11. The Regional Water Board has notified the Discharger and interested persons of its intent to consider adoption of this Cease and Desist Order and has provided an opportunity to submit written comments and appear at a public hearing. The Regional Water Board, in a public hearing, has heard and considered all comments.

IT IS HEREBY ORDERED, in accordance with Water Code § 13301, that the Discharger shall cease and desist from discharging and threatening to discharge wastes in violation of its Permit by complying with the following provisions.

1. **Prescribed Actions.** The Discharger shall comply with the required actions in Table 2 in accordance with the time schedule provided therein to comply with the effluent limitations contained in the Permit. Deliverables listed in Table 2 shall be acceptable to the Executive Officer, who will review them for adequacy and compliance with the Table 2 requirements. The Discharger shall implement all actions set forth in each deliverable, unless the Executive Officer finds the deliverable to be unacceptable.

2. **Reporting Delays**. If the Discharger is delayed, interrupted, or prevented from meeting one or more of the activities described in Table 2, due to circumstances beyond its reasonable control, the Discharger shall promptly notify the Executive Officer, provide the reasons and justification for the delay, and propose a time schedule for resolving the delay.

3. **Consequences of Non-Compliance**. If the Discharger fails to comply with the provisions of this Order, the Executive Officer is authorized to take further enforcement action or to request the Attorney General to take appropriate action against the Discharger in accordance with Water Code §§ 13331, 13350, 13385, and 13386. Such actions may include injunctive and civil remedies, if appropriate, or the issuance of an Administrative Civil Liability Complaint for Regional Water Board consideration.

4. **Effective Date**. This Order shall be effective on the effective date of the Permit, December 1, 2009.

Table 2. Time Schedules and Prescribed Actions for Copper

Action	Deadline
a. Comply with the following interim effluent limit at Monitoring Station EFF-001 or EFF-001D. Interim daily maximum effluent limit = 14 µg/L	December 1, 2009
b. Continue to implement measures to control copper sources as part of the Discharger's pollution prevention (P2) program and ongoing Plant upgrades effort, including, but not limited to, the following elements: (1) Continue inspection of targeted commercial/light industrial facilities to ensure that they are implementing appropriate best management practices to control copper. (2) Identify potential elevated sources of copper in commercial areas through sanitary sewer line surveillance monitoring. (3) Provide education and outreach to the public (with a focus on proper pool and spa maintenance). (4) Continue participation in the Bay Area Pollution Prevention Group (BAPPG) and other regional and statewide P2 efforts. In particular, support BAPPG's Plumber's Apprenticeship and Union Outreach Program. (5) Continue partnerships with other sanitation agencies and Marin County Storm Water Pollution Prevention Program on environmental education programs and Wetlands Days. (6) Continue P2 messages in the Discharger's newsletter. (7) Continue with phased Plant upgrades.	December 1, 2009
c. Continue to implement the program described in action "b" and submit annual status reports that evaluate its effectiveness and summarize planned changes. Report whether the program has successfully brought the discharge into compliance with the effluent limits in the Permit. If not, identify and implement additional measures to further reduce discharges.	Annually each February 28 in Best Management Practices and Pollutant Minimization Reports required by Permit Provision VI.C.3
d. If by May 31, 2011, discharge data continues to show the discharge is out of compliance (as defined in 2.4.5. of the State Implementation Policy) with the Permit effluent limits, submit a report, by the deadline	August 1, 2011

Action	Deadline
for this action, identifying more aggressive actions to ensure compliance. These actions shall include, but not be limited to, modeling receiving water quality and reviewing options for pretreatment and upgrades to the treatment plant. The report shall identify an implementation schedule for investigating these options, selecting a preferred option, and implementing the chosen option. At a minimum, the report shall plan for the following activities: (1) Dynamic modeling of the discharge and its impacts on receiving water quality (2) Bench scale testing or pilot scale testing or both (3) Development of preliminary design specifications (4) Development of final design specifications (5) Procurement of funding (6) Acquisition of necessary permits and approvals (7) Construction.	
e. Implement the plan required in action "d" within 45 days following the deadline for action "d," and submit a status report.	Annually by February 1 with the Annual Self-Monitoring Report as required by the Monitoring and Reporting Program (Attachment E of Permit).
f. Submit documentation confirming complete plan implementation and achieve compliance with copper effluent limits specified in IV.B. of the Permit.	November 30, 2014

I, Bruce H. Wolfe, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on October 14, 2009.

Digitally signed by Bruce Wolfe
Date: 2009.10.21 19:02:54 -07'00'

BRUCE H. WOLFE
Executive Officer