

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

TIME SCHEDULE ORDER R5-2011-XXXX

REQUIRING THE TNC HOLDING COMPANY, LLC, AND  
THE RALPH F. NIX 1995 REVOCABLE TRUST  
TNC HOLDING COMPANY CAVIAR STURGEON FARM  
SACRAMENTO COUNTY

TO COMPLY WITH REQUIREMENTS PRESCRIBED IN WASTE DISCHARGE  
REQUIREMENTS ORDER R5-2011-XXXX  
(NPDES PERMIT NO. CA0085120)

The California Regional Water Quality Control Board, Central Valley Region, (hereinafter Central Valley Water Board) finds that:

1. On X December 2011, the Central Valley Water Board adopted Waste Discharge Requirements (WDR) Order R5-2011-XXXX, prescribing waste discharge requirements for the TNC Holding Company, LLC, and the Ralph F. Nix 1995 Revocable Trust (hereafter "Discharger") of the TNC Holding Company Caviar Sturgeon Farm (hereafter "Facility"), Sacramento County.
2. WDR Order R5-2011-XXXX, contains Final Effluent Limitations IV.A.1.c, which reads as follows:
  - c. *Iron. Effluent total recoverable iron concentrations shall not exceed 300 µg/L as a calendar annual average.*
3. The effluent limitation for iron is based on the Department of Public Health's (DPH) secondary Maximum Contaminant Level (MCL) of 300 µg/L, which is protective of the Basin Plan's chemical constituent objective.
4. California Water Code (CWC) 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.*"
5. In accordance with CWC section 13385(j)(3), the Central Valley Water Board finds that, based upon results of effluent monitoring, the Discharger is not able to consistently comply with the new water quality-based effluent limitation for iron. This limitation is a new requirement that become applicable to WDR Order R5-2011-XXXX after the effective date of adoption of the waste discharge requirement for which new or modified control measures are necessary in order to

comply with the limitations, and the new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.

6. Immediate compliance with the new effluent limitations for iron at Discharge Point 001 is not possible or practicable. The Clean Water Act and the California Water Code authorize time schedules for achieving compliance. The Discharger indicated that additional time is required to comply with the final effluent limitations for iron and requested a compliance schedule in their 21 September 2011 infeasibility report. The Central Valley Water Board is providing no later than 1 December 2016 for the Discharger to comply with the final effluent limitations for iron at Discharge Point 001.
7. This Order provides a time schedule for the Discharger to develop, submit, and implement methods of compliance, including developing and implementing pollution prevention activities or constructing necessary treatment facilities to meet this new effluent limitation.

### **Mandatory Minimum Penalties**

8. CWC section 13385(h) and (i) require the Central Valley Water Board to impose mandatory minimum penalties upon dischargers that violate certain effluent limitations. CWC section 13385(j) exempts certain violations from the mandatory minimum penalties. CWC section 13385(j)(3) exempts the discharge from mandatory minimum penalties "*where the waste discharge is in compliance with either a cease and desist order issued pursuant to Section 13301 or a time schedule order issued pursuant to Section 13300, if all the [specified] requirements are met.*"
9. By statute, a Time Schedule Order may provide protection from MMPs for no more than five years. Compliance with this Order only exempts the Discharger from mandatory penalties for violations of the final effluent limitations for iron. Protection from MMPs for the final effluent limitations for iron begins immediately, and may not extend beyond 1 December 2016. CWC section 13385(j)(3) requires the Discharger to prepare and implement a pollution prevention plan pursuant to section 13263.3 of the California Water Code. Therefore, a pollution prevention plan will be necessary for iron in order to effectively reduce the effluent concentrations by source control measures.
10. Water Code section 13385(j)(3)(C)(i) requires that the time schedule for bringing the waste discharge into compliance with the effluent limitation is as short as possible, taking into account the design, development, and implementation of the control measures that are necessary to comply with the effluent limitation. In this case, the five-year time schedule is as short as possible because a considerable amount of uncertainty exists as to the nature of the sources of iron and the means by which it can be controlled. Sufficient time is needed to ensure a full understanding of the sources of iron and a determination of the most reliable, cost effective means of

controlling iron in the discharge. The compliance schedule is as short as practicable to plan, design, and construct treatment facilities to control the pollutant.

11. Since the time schedule for completion of action necessary to bring the waste discharge into compliance exceeds 1 year, this Order includes an interim requirement and date for achievement. The time schedule does not exceed 5 years.

The compliance time schedule in this Order includes an interim performance-based limitation for iron. In developing performance-based interim limitations, where there are 10 sampling data points or more, sampling and laboratory variability is accounted for by establishing interim limits that are based on normally distributed data where 99.9% of the data points will lie within 3.3 standard deviations of the mean (Basic Statistical Methods for Engineers and Scientists, Kennedy and Neville, Harper and Row). Therefore, the interim limitations in this Order are established as the mean plus 3.3 standard deviations of the available data. The final effluent limitations for iron in Order R5-2011-XXXX are established as a calendar annual average effluent limit. To be consistent with the averaging period of the final effluent limitation the interim performance-based effluent limit included in this Order has been established as an calendar annual average and was calculated using the running annual average iron concentrations using monthly data collected between November 2005 and May 2010. The following table summarizes the calculations of the interim effluent limitation for iron:

Parameter	Units	Mean	Std. Dev.	# of Samples	Calendar Annual Average Interim Limitation
Iron	µg/L	183	83.1	53	460

12. The Central Valley Water Board finds that the Discharger can maintain compliance with the interim limitations included in this Order. Interim limitations are established when compliance with the final effluent limitations cannot be achieved by the existing discharge. Discharge of constituents in concentrations in excess of the final effluent limitations, but in compliance with the interim effluent limitations, can significantly degrade water quality and adversely affect the beneficial uses of the receiving stream on a long-term basis. The interim limitations, however, establish an enforceable ceiling concentration until compliance with the effluent limitation can be achieved.

### Other Regulatory Requirements

13. On X December 2011, in Rancho Cordova, California, after due notice to the Discharger and all other affected persons, the Central Valley Water Board conducted a public hearing at which evidence was received to consider a Time Schedule Order under CWC section 13300 to establish a time schedule to achieve compliance with waste discharge requirements.

14. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000, et seq.), in accordance with California Code of Regulations, title 14, section 15321(a)(2).

**IT IS HEREBY ORDERED THAT:**

1. The Discharger shall comply with the following time schedule to ensure compliance with the final effluent limitations for iron at Discharge Point 001 at Section IV.A.1.c, contained in WDR Order R5-2011-XXXX as described in the above Findings:

<u>Task</u>	<u>Date Due</u>
Submit Method of Compliance Workplan/Schedule.	<b>Within 6 months of adoption of this Order</b>
Submit and implement an updated, or new as appropriate, Pollution Prevention Plan (PPP) pursuant to CWC section 13263.3.	<b>Within 6 months of adoption of this Order</b>
Annual Progress Reports <sup>1</sup>	<b>1 December, annually</b> , until final compliance
Full compliance with the final effluent limitations for iron.	<b>1 December 2016</b>

<sup>1</sup> *The progress reports shall detail what steps have been implemented towards achieving compliance with waste discharge requirements, including studies, construction progress, evaluation of measures implemented, and recommendations for additional measures as necessary to achieve full compliance by the final date.*

2. The following interim effluent limitations shall be effective immediately and until the date specified in the table for applicable parameter, or when the Discharger is able to come into compliance, whichever is sooner.

Effective immediately and until:	Parameter	Calendar Annual Average Effluent Limitation (µg/L)
30 November 2016	Iron	460

The calendar annual average is calculated as the average of the monthly averages for the calendar year.

3. For the compliance schedule required by this Order, the Discharger shall submit to the Central Valley Water Board on or before the compliance report due date, the specified document or, if appropriate, a written report detailing compliance or noncompliance with the specific schedule date and task. If noncompliance is being reported, the reasons for such noncompliance shall be stated, and shall include an estimate of the date when the Discharger will be in compliance. The Discharger shall notify the Central Valley Water Board by letter when it returns to compliance with the time schedule.

4. If, in the opinion of the Executive Officer, the Discharger fails to comply with the provisions of this Order, the Executive Officer may apply to the Attorney General for judicial enforcement. If compliance with these effluent limitations is not achieved by the full compliance date, the discharge would not be exempt from the mandatory minimum penalties for violation of certain effluent limitations, and would be subject to issuance of a Cease and Desist Order in accordance with CWC section 13301.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with CWC section 13320 and California Code of Regulations, title 23, sections 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 (including mandatory furlough days), 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](http://www.waterboards.ca.gov/public_notices/petitions/water_quality)

or will be provided upon request.

I, PAMELA C. CREEDON, 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, Central Valley Region, on XX December 2011.

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PAMELA C. CREEDON, Executive Officer