

Attachment 1

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ORDER NO. R5-2010-0033-XX

REQUIRING
QUINCY COMMUNITY SERVICES DISTRICT
QUINCY WASTEWATER TREATMENT PLANT
PLUMAS COUNTY

TO CEASE AND DESIST
FROM DISCHARGING CONTRARY TO REQUIREMENTS

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

1. On 15 October 2004, the Regional Water Board adopted Waste Discharge Requirements (WDRs) Order No. R5-2004-0152 prescribing waste discharge requirements for Quincy Community Services District (hereafter Discharger), Quincy Wastewater Treatment Plant (hereafter Facility). The Discharger discharges approximately 1.6 million gallons per day (mgd) of secondary treated domestic wastewater during the wet season to Spanish Creek, which is tributary to the North Fork of the Feather River. During the dry season, the Discharger discharges treated domestic wastewater to land.
2. WDRs Order No. R5-2004-0152 included Final Effluent Limitations for copper and lead in Section B.1., which stated in part, as follows:

| Constituent | Units | Monthly Average | Daily Maximum |
|---|-------------------------------|--|---|
| <i>Copper,</i> <i>Total Recoverable</i> ⁵ | <i>ug/L</i> <i>lbs/day</i> | <i>1.8</i> ⁶ <i>0.024</i> ⁷ | <i>3.6</i> ⁶ <i>0.048</i> ⁷ |
| <i>Lead,</i> <i>Total Recoverable</i> ⁵ | <i>ug/L</i> <i>lbs/day</i> | <i>0.42</i> ⁶ <i>0.0056</i> ⁷ | <i>0.85</i> ⁶ <i>0.011</i> ⁷ |

⁵ These limitations shall take effect 8 months after adoption of this Order, unless the Discharger submits a compliance schedule pursuant to Provision H.10. If the compliance schedule is submitted in accordance with this provision, and approved by the Executive Officer, the effluent limitations shall take effect 60 months after adoption of this Order. In the interim period, effluent limitations shown in B.2., will apply.

⁶ These limitations are derived for a receiving water hardness of 24 mg/L (see attachment C). For any other receiving water hardness, refer to Attachments D through F.

⁷ Limitations are based upon a design flow of 1.6 mgd.

3. WDRs Order No. R5-2004-0152 included Interim Effluent Limitations for copper and lead in Section B.2., which stated in part, as follows:

| Constituent | Units | Monthly Average | Daily Maximum |
|--|--|----------------------------|--------------------------|
| <i>Copper,</i> <i>Total Recoverable</i> | <i>ug/L</i> <i>lbs/day</i> ² | <i>18.0</i> <i>0.24</i> | <i>56</i> <i>0.75</i> |

| | | | |
|------------------------------------|-------------------------------------|------------------------|----------------------|
| <i>Lead, Total Recoverable</i> | <i>ug/L lbs/day²</i> | <i>0.70 0.0093</i> | <i>2.2 0.029</i> |
|------------------------------------|-------------------------------------|------------------------|----------------------|

² Based on a design treatment capacity of 1.6 mgd.

4. WDRs Order No. R5-2004-0152 required the Discharger to submit a compliance schedule and justification for interim copper and lead effluent limitations; the compliance schedule included a date for achieving compliance with the final effluent limitations for copper and lead by 15 October 2009. The WDRs expired on 15 October 2009, however the Discharger submitted a complete Report of Waste Discharge by 29 May 2009, and therefore the permit was administratively extended.
5. The Discharger is not able to consistently comply with the final effluent limitations for copper by the compliance date of 15 October 2009. Additional time is necessary to complete site-specific studies and plant improvements that will improve the quality and consistency of the effluent. Data submitted by the Discharger during the 2010 permit renewal showed that the Discharger could comply with the final effluent limitations for lead contained in Order No. R5-2010-0032.
6. On 18 March 2010, the Regional Water Board adopted Order No. R5-2010-0032 rescinding Order No. R5-2004-0152 and prescribing revised waste discharge requirements for the Facility. Order No. R5-2010-0032 contains requirements that read in part, as follows:

IV. EFFLUENT LIMITATIONS AND DISCHARGE SPECIFICATIONS

A. Effluent Limitations – Discharge Points D-001 and D-002

1. Final Effluent Limitations – Discharge Points D-001 and D-002

The Discharger shall maintain compliance with the following effluent limitations at Discharge Point D-001 and D-002, with compliance measured at Monitoring Locations EFF-001 and EFF-002 as described in the Monitoring and Reporting Program:

Table 6. Effluent Limitations - Discharge Points D-001 and D-002

| Constituent | Units | Monthly Average | Daily Maximum |
|----------------------------------|--------------|------------------------|----------------------|
| <i>Copper, Total Recoverable</i> | <i>ug/L</i> | <i>4.6</i> | <i>6.4</i> |
| <i>Lead, Total Recoverable</i> | <i>ug/L</i> | <i>1.0</i> | <i>1.7</i> |

7. The Discharger has completed several efforts to achieve copper and lead compliance, including: implementation of a pollution prevention plan, public outreach to reduce discharges of contaminants into the collection system, development and improvement of a wetlands area to remove contaminants, maximizing land discharge, and a mixing zone/dilution study. The most significant action was the cessation of septage receiving at the end of 2007. Septage consisted of roughly 0.5% of the WWTP's influent flow, yet it contained approximately 75% of the influent copper load and 60% of the influent lead load.

8. On 21 January 2010, the Discharger submitted justification for a compliance schedule for copper which included: (a) documentation that diligent efforts have been made to quantify pollutant levels in the discharge and the sources of the pollutant in the waste stream; (b) documentation of source control measures and/or pollution minimization measures efforts currently underway or completed; (c) a proposal for additional or future source control measures, pollutant minimization actions, or waste treatment (i.e. facility upgrades); and (d) a demonstration that the proposed schedule is as short as practicable. Therefore, this Order provides a time schedule for the Discharger to develop, submit, and implement methods of compliance, including utilizing pollution prevention activities, conducting site specific studies to develop site specific water quality objectives, or constructing necessary treatment facilities to meet the effluent limitations.
9. Section 13301 of the California Water Code (CWC) states in part, "*When a regional board finds that a discharge of waste is taking place or threatening to take place in violation of requirements or discharge prohibitions prescribed by the regional board or the state board, the board may issue an order to cease and desist and direct that those persons not complying with the requirements or discharge prohibitions (a) comply forthwith, (b) comply in accordance with time schedule set by the board, or (c) in the event of a threatened violation, take appropriate remedial or preventative action. 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. Cease and desist orders may be issued directly by a board, after notice and hearing, or in accordance with the procedure set forth in Section 13302.*"
10. In accordance with CWC Section 13385(j)(3), the Regional Water Board finds that the Discharger is not able to consistently comply with the effluent limitations for copper. The schedule for completing the actions necessary to achieve full compliance exceeds the 15 October 2009 compliance date in Order No. R5-2004-0152. Additional time is necessary to complete site-specific studies and plant improvements. A new time schedule is necessary in a CDO for copper. The copper effluent limitations are new requirements that became applicable to the Order after the effective waste discharge requirements adoption date and/or after 1 July 2000, for which new or modified control measures are necessary in order to comply with the limitation, and the new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.
11. Compliance with this Order exempts the Discharger from mandatory minimum penalties for violations of effluent limitations for copper in accordance with CWC Section 13385(j)(3). CWC Section 13385(j)(3) requires the preparation and implementation of a pollution prevention plan (PPP) pursuant to CWC Section 13263.3. Order No. R5-2004-0152 required the Discharger to submit a PPP for copper; this Order requires the Discharger to update and implement the existing PPP for copper.

Need for Time Schedule for Lead and Legal Basis

12. On 8 June 2013, the Discharger submitted justification for a compliance schedule for lead. On 27 November 2012, the Discharger submitted a proposed time schedule and additional justification for a compliance schedule for lead. Since 2010, the Discharger has actively pursued dilution credits; the Discharger has installed a new outfall/diffuser and gaging station in Spanish Creek to control in-stream dilution and completed a mixing zone/dilution study, antidegradation analysis, and biological assessment. The Discharger maintains that the amount of dilution needed to come into compliance with the final lead effluent limitations is small; therefore the Discharger cannot justify the cost to upgrade the Facility when dilution is available in Spanish Creek. In addition, the Discharger has implemented a pollution prevention plan; performed source water monitoring, identified high level residential and commercial inputs; and conducted extensive public outreach all in an effort to reduce lead concentrations in the effluent.
13. Final lead effluent limitations became effective on 18 March 2010 in Order No. R5-2010-0032. There was no accompanying cease and desist order or time schedule order with interim effluent limitations for lead. Therefore, pursuant to CWC section 13385, subdivision (j)(3)(A), the final lead effluent limitations are not new, more stringent, or modified regulatory requirements that became applicable to the waste discharge after the effective date of the waste discharge requirements after July 1, 2000. Furthermore, except as provided in CWC section 13385, subdivision (j)(3)(C)(ii)(II), an individual cease and desist order or time schedule order may provide protection from mandatory minimum penalties for no more than five years. In this case, pursuant to Water Code section 13385, subdivision (j)(3)(C)(ii)(II), following a public hearing, and upon a showing that the Discharger is making diligent progress toward bringing the waste discharge into compliance with the effluent limitation, the regional board may extend the time schedule for an additional five years if the Discharger demonstrates that the additional time is necessary to comply with the effluent limitation.

Mandatory Minimum Penalties

14. CWC Section 13385(h) and (i) require the Regional 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.*"
15. Compliance with this Order exempts the Discharger from mandatory minimum penalties for copper and lead in accordance with California Water Code section 13385, subdivision (j)(3). This Order provides protection from mandatory minimum penalties for the following constituents for the following periods:

- **Copper:** Pursuant to CWC section 13385, subdivision (j)(3)(A) through (D), protection from mandatory minimum penalties for copper began with adoption of CDO R5-2010-0033 on 18 March 2010. The adoption of this Order does not affect the compliance dates established for copper in CDO R5-2010-0033.
- **Lead:** Pursuant to CWC section 13385, subdivision (j)(3)(C)(ii)(II), following a public hearing, and upon a showing that the discharger is making diligent progress toward bringing the waste discharge into compliance with the effluent limitation, the regional board may extend the time schedule for an additional period not to exceed five years in length, if the discharger demonstrates that the additional time is necessary to comply with the effluent limitation. As noted in Finding No. 5 and 12, the Discharger has demonstrated that additional time is necessary to comply with the effluent limitation.

16. Since the time schedule for completion of actions necessary to bring the waste discharge into compliance exceeds one year, this Order includes interim requirements and dates for their achievement. The time schedule does not exceed 5 years.
17. The compliance time schedule in this Order includes interim effluent limitations for copper and lead. Interim effluent limitations typically consist of a daily effluent concentration derived using sample data provided by the Discharger demonstrating actual treatment plant performance or previous interim effluent limitations established in Order No. R5-2004-0152. In developing the interim limitations, current plant performance level was used to determine appropriate interim effluent limitations. The *Technical Support Document for Water Quality-Based Toxics Control* (EPA/505/2-90-001) (TSD) provides guidance on estimating the projected maximum effluent concentration using a lognormal distribution of the observed effluent concentrations at a desired confidence level, as detailed in Section 3.3 of the TSD. The multipliers in Table 3-1 of the TSD were used to calculate the 99-percent confidence level and 99th percentile of the data set based on the number of effluent samples and the coefficient of variation. The multipliers from the table were multiplied by the highest observed effluent concentration (MEC) to estimate the maximum expected effluent concentration; this value was used as the interim effluent limitations for each parameter. The following table summarizes the calculation of the interim effluent limitations for copper and lead:

| Parameter | Units | MEC | CV | Number of Samples | Multiplier ¹ | MDEL | AMEL |
|-----------|-------|-----|------|-------------------|-------------------------|------|------|
| Copper | ug/L | 9.3 | 0.42 | 15 | 1.97 | 18 | 18 |
| Lead | ug/L | 1.9 | 0.53 | 17 | 2.24 | 4.3 | 4.3 |

¹Multiplier from Table 3-1 in the TSD.

18. The Regional Water Board finds that the Discharger can undertake source control and treatment plant measures to 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.

19. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.) (CEQA), for the following reasons, each of which is an independent basis for exemption.
 - a. This Order does not have the potential to cause a significant impact on the environment (Title 14 CCR section 15061(b)(3)) and is not a "project" as defined by CEQA. This Order enforces preexisting requirements to improve the quality of ongoing discharges that are part of the CEQA "baseline"; and includes interim effluent limitations to ensure that discharges do not increase above the CEQA baseline while the Discharger attains compliance with the existing requirements. The PPP will identify source control measures in order to meet the preexisting effluent limitations. Since the compliance schedule is as short as possible and any actions to comply with the existing requirements are already required, this Order does not allow any environmental impacts to occur; those impacts would occur regard less of this Order.
 - b. Which source control measure the Discharger will identify or select for implementations as a result of source control review in the PPP is indefinite and uncertain. In addition, the Discharger is required to study alternatives and potential adverse impacts in its PPP, under Water Code Section 13263.3(d)(2).
 - c. This Order is exempt from CEQA under Water Code Section 13389, since the adoption or modification of a NPDES Permit for an existing source is exempt and this Order only serves to implement WDRs Order No. R5-2010-0032, which is such an NPDES permit.
 - d. This Order is exempt pursuant to CEQA Guidelines Section 15321. The discharges subject to this Order are not "hazardous materials." Even assuming for argument's sake that the facility discharges waste that could be considered "hazardous materials," it is questionable whether the Cortese List exception applies to enforcement orders intended to eliminate such discharges. Rather, the exception apparently was intended to apply only to permits for development projects located on a listed site.
20. Any person adversely affected by this action of the Regional Water Board may petition the State Water Resources Control Board to review this action. The petition must be received by the State Water Resources Control Board, Office of the Chief Counsel, P.O. Box 100, Sacramento, CA 95812-0100, within 30 days of the date on which this action was taken. Copies of the law and regulations applicable to filing petitions will be provided upon request.

IT IS HEREBY ORDERED THAT pursuant to CWC Section 13301:

1. Quincy Community Services District shall comply with the following time schedule to ensure compliance with Order No. R5-2010-0032 effluent limitations for copper and lead:

| Task | Compliance Date |
|--|---|
| Update and implement Pollution Prevention Plan as specified in CWC Section 13263.3 for copper and lead | 90 days after the effective date of this Order |
| Submit formal decisions for compliance | Within 1 year after the permit adoption date |
| Progress Reports ¹ | 1 January and 1 June of each year |
| Full compliance with copper and lead limitations | Within 5 years after the permit adoption date of 18 March 2010 |

¹ 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 for copper and lead shall be effective immediately, and shall remain in effect until the final compliance date, in accordance with Provision 1. above, or when the Discharger is able to come into compliance with the final effluent limitations, whichever is sooner.

| Parameter | Units | Daily Maximum Effluent Limitation | Average Monthly Effluent Limitation |
|---------------------------|--------------|--|--|
| Copper, total recoverable | ug/L | 18 | 18 |
| Lead, total recoverable | ug/L | 4.3 | 4.3 |

3. The Discharger shall monitor the effluent for copper and lead in accordance with Monitoring and Reporting Program No. R5-2010-0032.
4. For the compliance schedules required by this Order the Discharger shall submit to the Regional Water Board on or before each 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 Regional Water Board by letter when it returns to compliance with the time schedule.
5. 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 or issue a complaint for Administrative Civil Liability.
6. Any person signing a document submitted under this Order shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my knowledge and on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

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 **X Date** 2013.

PAMELA C. CREEDON, Executive Officer