

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
COLORADO RIVER BASIN REGION**

CEASE AND DESIST ORDER NO. R7-2011-0026

ISSUED TO

CITY OF IMPERIAL, OWNER/OPERATOR
WATER POLLUTION CONTROL PLANT
Imperial - Imperial County

The California Regional Water Quality Control Board, Colorado River Basin Region, (hereinafter referred to as the Regional Board) finds that:

1. City of Imperial, 420 South Imperial Avenue, Imperial, CA 92251 (hereinafter, Discharger) owns and operates the City of Imperial Water Pollution Control Plant (WPCP) that provides sewerage services to the City of Imperial in Imperial County. The WPCP has a rated capacity of 2.4 million gallons per day (MGD) and consists of an influent pump station, grit chamber, two parallel oxidation ditches, two secondary clarifiers, an ultraviolet disinfection system, and sludge drying beds. In 2007, the facility upgraded the treatment plant with the addition of new headworks with bar screens, two aeration basins, and two clarifiers.
2. The WPCP is a publicly owned treatment works (POTW) that discharges its effluent to the Dolson Drain via Discharge 001. The Dolson Drain conveys the discharge to the Salton Sea via Lilac Drain, Rose Drain, and Alamo River. The Dolson Drain, Lilac Drain, Alamo River, and Salton Sea are waters of the United States.
3. The following are designated beneficial uses of waters in the Imperial Valley Drains:
 - a. Fresh Water Replenishment of Salton Sea (FRSH)
 - b. Industrial Service Supply (IND)¹
 - c. Water Contact Recreation (REC I)²
 - d. Non-Contact Water Recreation (REC II)¹
 - e. Warm Freshwater Habitat (WARM)
 - f. Wildlife Habitat (WILD)
 - g. Preservation of Rare, Threatened, or Endangered Species (RARE)³
4. Clean Water Act Section 122.44(d)(1)(i) mandates that permits include effluent limitations for all pollutants that are or may be discharged at levels that have the reasonable potential to cause or contribute to an exceedance of a water quality standard, including numeric and narrative objectives within a standard. Where reasonable potential has been established for a pollutant, but there is no numeric criterion or objective for the pollutant, water quality-based effluent limitations (WQBELs) must be established.

¹ Unauthorized use.

² The only REC-I usage that is known to occur is from infrequent fishing activity. Although some fishing occurs in the downstream reaches, the presently contaminated water in the river makes it unfit for any recreational use. An advisory has been issued by the Imperial County Health Department warning against the consumption of any fish caught from the river and the river has been posted with advisories against any body contact with the water.

³ Rare, endangered, or threatened wildlife exists in or utilizes some of these waterway(s). If the RARE beneficial use may be affected by a water quality control decision, responsibility for substantiation of the existence of rare, endangered, or threatened species on a case-by-case basis is upon the California Department of Fish and Game on its own initiative and/or at the request of the Regional Board; and such substantiation must be provided within a reasonable time frame as approved by the Regional Board.

5. On March 2, 2000, the State Water Resource Control Board adopted the Policy for Implementation of Toxic Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (State Implementation Policy or SIP). The SIP and its amendments establish implementation provisions including: 1) priority pollutant criteria and objectives; and 2) provisions for chronic toxicity control.
6. On September 16, 2010, the Regional Board adopted Waste Discharge Requirements (WDRs) Order No. R7-2010-0020 (NPDES Permit No. CA010440) for Discharger to regulate discharges of treated wastewater. WDRs Order No. R7-2010-0020 contains specific effluent limitations, prohibitions, specifications, and provisions that were necessary to protect the beneficial uses of the surface and ground waters within the Colorado River Basin Region.
7. Effluent Limitation IV.A.1.a of WDRs Order No. R7-2010-0020 established final effluent limitations for copper, silver and zinc at Discharge Point 001, with compliance measured at Monitoring Location EFF-001 as described in the attached MRP (Attachment E):

Parameter	Units	Final Effluent Limitations	
		Average Monthly	Maximum Daily
Copper, Total Recoverable	µg/L	25	50
	lbs/day ¹	0.5	1.0

¹ The mass-based effluent limitations are based on a design capacity of 2.4 MGD.

8. WDRs Order No. R7-2010-0020 states in Special Provision C.1.a: “This Order may be reopened for modification, or revocation and reissuance, as a result of the detection of a reportable priority pollutant generated by special conditions included in this Order. These special conditions may include, but are not limited to, fish tissue sampling, whole effluent toxicity, monitoring requirements on internal waste stream(s), and monitoring for surrogate parameters. Additional requirements may be included in this Order as a result of the special condition monitoring data.”
9. Self-monitoring reports (SMRs) submitted by the Discharger in October and November, 2010 to Regional Board staff show that wastewater discharged from the Discharger’s WPCP violated the final effluent limitations in WDRs Order No. R7-2010-0020 for copper.
10. On January 27, 2011, Regional Board staff met with the Discharger at the Regional Board office to discuss the discharge of copper in excess of effluent limitations and other potential violations.
11. On February 15, 2011, Regional Board staff received a letter dated February 15, 2011 from the Discharger. The letter states in part: “The city has been investigating the source of the elevated copper, silver, and zinc concentrations in the wastewater and has not been able to identify the source of elevated concentrations. Therefore, the City is requesting this CDO to allow time for investigation into this issue...”
12. On February 22, 2011, the Regional Board Assistant Executive Officer issued Administrative Civil Liability (ACL) Complaint No. R7-2011-0008 to the Discharger for violations of the final effluent limitation for copper and that the Discharger reported in its October and November 2010 SMRs.

13. Based on the information in the Discharger's letter and the Discharger's self-monitoring reports, the Discharger has violated current final effluent limitations in WDRs Order No. R7-2010-0020 set forth in Finding 7 above, for copper in November and December 2010. Discharger threatens continued and future violations of final effluent limitations for copper in WDRs Order No. R7-2010-0020.
14. California Water Code (CWC) Section 13301 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 a time schedule set by the board, or (c) in the event of a threatened violation, take appropriate remedial or preventive 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 that system by dischargers who did not discharge into the system prior to the issuance of the cease and desist order."
15. CWC Section 13385(h) and (i) require the Regional 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."
16. Compliance with this Order exempts the Discharger from mandatory minimum penalties for violations of effluent limitations in accordance with CWC Section 13385 (j)(3) from the date of this Order's adoption by the Regional Board. However, violations of the interim effluent limitations set forth in this Order or any milestone date related to effluent limitation compliance will subject the Discharger to mandatory minimum penalties for violations of the effluent limitations in Order No. R7-2010-0020.
17. Specifically, pursuant to CWC Section 13385(j)(3)(B)(i), mandatory minimum penalties under 13385 (h) and (i) will not apply to violations of effluent limitations established in the WDRs where the waste discharge is in compliance with a CDO issued pursuant to CWC Section 13301 if:
 - a. *The effluent limitations are new;*
 - i. The effluent limitations for copper were new parameters established in WDRs Order R7-2010-0020, which rescinded WDRs Order No. R7-2005-0084 (amended by R7-2007-0066).
 - b. *The effluent limitations have become effective after the effective date of the waste discharge requirements and after July 1, 2000;*
 - i. Effluent limitations for copper were implemented on September 16, 2010.
 - c. *New or modified control measures are necessary in order to comply with the effluent limitations; and the new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.*

Table 1: Time Schedule

Milestone	Milestone Description	Milestone Submittal	Completion Date
1	Bi-monthly sampling to determine source of increased copper.	Submit a Final Investigative Report detailing results of the study	September 15, 2011
2	Complete Pollution Prevention Plan	Submit a Copy of the Pollution Prevention Plan to the Regional Board	December 31, 2011
3	Obtain and secure funding for the design, bidding, and construction of the City of Imperial WPCP including Engineering, Administration, and Construction costs	Submit a Copy of the design and construction plan to the Regional Board	September 15, 2012
4	Complete the Design of the Plant Improvements	Submit a Copy of Final Design Drawings to the Regional Board	December 31, 2012
5	Construct the Water Pollution Control Plant Improvements	Submit Summary and Verification of Construction Completion	December 31, 2014

- Wastewater discharged to the Dolson Drain shall not exceed the interim effluent limitations for copper, silver, or zinc set forth in this CDO (summarized in Table 2 below). The interim effluent limitations are based on plant performance data, reference data from representative wastewater treatment facilities, and Best Professional Judgment (BPJ):

Table 2: Interim Effluent Limitations for Copper

Parameter	Units	<u>Date Interim Effluent Limit Becomes Effective</u>	Effluent Limitations	
			Average Monthly	Maximum Daily
Copper, Total Recoverable	µg/L	March 17, 2011	250	500
	lbs/day ¹	March 17, 2011	5	10

¹The mass-based effluent limitations are based on a design capacity of 2.4 MGD.

- After the engineering report is submitted to the Regional Board by December 31, 2011 the Discharger shall submit quarterly reports, due by the 15th of January, April, and July, and October of each year, on the status of the preparation and implementation of the Pollution Prevention Plan and associated Milestones listed in the time schedule set forth in Table 1 above.
- Plans and schedules are subject to the Regional Board's Executive Officer approval prior to implementation. Failure to comply with the terms of this Order may result in administrative civil liability of up to \$10,000 per day for each violation pursuant to Sections 13263.3(g), 13385(c)(1), and/or 13308 of the CWC. In addition, if, in the opinion of the Regional Board's Executive Officer, the Discharger fails to comply with this Order, the

Executive Officer may issue a Complaint against the Discharger under Article 2.5, Chapter 5, Division 7 of the CWC, and seek the appropriate administrative civil liability and/or request the Attorney General to take appropriate action against the Discharger, including injunctive relief and civil monetary liability as deemed appropriate.

5. In accordance with California Business and Professions Code Sections 6735, 7835, and 7835.1, engineering and geologic evaluations and judgments shall be performed by or under the direction of California registered professionals (i.e., civil engineer, engineering geologist, geologist, etc.) competent and proficient in the fields pertinent to the required activities. All technical reports specified herein that contain workplans, that describe the conduct of investigations and studies, or that contain technical conclusions and recommendations concerning engineering and geology shall be prepared by or under the direction of appropriately qualified professional(s), even if not explicitly stated. Each technical report submitted by the Discharger shall contain a statement of qualifications of the responsible licensed professional(s) as well as the professional's signature and/or stamp of the seal.
6. In addition, if in the opinion of the Regional Board's Executive Officer, the Discharger fails to comply with this Order, the Executive Officer may issue a complaint against the Discharger under Article 2.5, Chapter 5, Division 7 of the CWC, and seek the appropriate administrative civil liability and/or request the Attorney General to take appropriate action against the Discharger, including injunctive relief and civil monetary liability as deemed appropriate.

I, Robert Perdue, Executive Officer, do hereby certify that the foregoing is a full, true and correct copy of an Order adopted by the Regional Water Quality Control Board, Colorado River Basin Region, on March 17, 2011.


ROBERT PERDUE
Executive Officer