

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

TIME SCHEDULE ORDER NO. R5-2010-0900

REQUIRING THE PLANADA COMMUNITY SERVICES DISTRICT
WASTEWATER TREATMENT FACILITY
MERCED COUNTY
TO COMPLY WITH REQUIREMENTS PRESCRIBED IN ORDER NO. R5-2005-0009
(NPDES PERMIT NO. CA0078950)

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

1. On 27 January 2005, the Central Valley Water Board adopted Waste Discharge Requirements (WDR) Order No. R5-2005-0009 authorizing the Planada Community Services District (hereafter Discharger) to discharge treated wastewater from the Discharger's wastewater treatment facility (hereafter Facility) to Miles Creek.
2. WDR Order No. R5-2005-0009, Effluent Limitation B.5.a, contains final effluent limits for California Toxic Rule constituents as follows:

<u>Constituents</u>	<u>Units</u>	<u>Average Monthly¹</u>	<u>Maximum Daily¹</u>
Cyanide	µg/L	4.2	8.5
Carbon Tetrachloride	µg/L	0.25	0.50
Chlorodibromomethane	µg/L	0.41	0.82
Dichlorobromomethane	µg/L	0.56	1.1

¹ A daily maximum or monthly average value for a given constituent shall be considered non-compliant with the effluent limitations only if it exceeds the effluent limitation and the reported ML for that constituent. The MLs that the Discharger's laboratory must achieve are indicated in the SIP Section 2.4.1.

3. WDR Order No. R5-2005-0009, Provision G.7 provides a compliance schedule requiring the Discharger to comply with the final effluent limitations presented in Finding 2 by 26 January 2010.
4. WDR Order No. R5-2005-0009, Effluent Limitation B.6.a, contains final effluent limits for non-California Toxic Rule constituents as follows:

<u>(1) Constituents</u>	<u>Units</u>	<u>Average Monthly¹</u>	<u>Average Weekly</u>	<u>7-Sample Median¹</u>	<u>Average Daily</u>	<u>Maximum Daily</u>
BOD ₅ ²	mg/L	10	15	---	---	20
	lb/day	44 ³	66 ³	---	---	88 ³
Total Suspended Solids (TSS)	mg/L	10	15	---	---	20
	lb/day	44 ³	66 ³	---	---	88 ³

<u>(1) Constituents</u>	<u>Units</u>	<u>Average Monthly¹</u>	<u>Average Weekly</u>	<u>7-Sample Median¹</u>	<u>Average Daily</u>	<u>Maximum Daily</u>
Total Coliform Organisms	MPN ⁴ /100 mL	---	---	2.2	---	23
Turbidity	NTU	---	---	---	2	10 ⁵

¹ Median value based on the last seven samples

² 5-day, 20°C biochemical oxygen demand (BOD).

³ Based upon a design flow of 0.53 mgd

⁴ MPN = most probable number

⁵ This magnitude shall not be exceeded at any time; turbidity shall not exceed 5 NTU more than 5 percent of the time within a 24-hour period.

(2) The arithmetic mean of 20°C BOD (5-day) and total suspended solids in effluent samples collected over a monthly period shall not exceed 10 percent of the arithmetic mean of the values for influent samples collected at approximately the same times during the same period (90 percent removal).

(3) The CT (residual chlorine concentration times modal contact time) value shall be not less than 450 milligram-minutes per liter at all times with a modal contact time of at least 90 minutes, based on peak dry weather flow.

5. WDR Order No. R5-2005-0009, Provision G.8 requires the Discharger, by 26 January 2010, to comply with the final effluent limitations presented in Finding 4 or to implement an alternative method of wastewater disposal that does not require tertiary treatment.
6. On 3 November 2004, the Discharger submitted a proposed compliance project to address Administrative Civil Liability Complaint No. R5-2004-0533 and to address the requirement to implement tertiary treatment. The proposed compliance project includes, in part, a plan to implement an alternative method of wastewater disposal. The Discharger originally proposed to cease discharges to Miles Creek by October 2009 by purchasing land to apply undisinfectated secondary recycled water to non-human consumption crops. As described below, the Discharger's project has been delayed and the Discharger is unable to cease discharges to Miles Creek by 26 January 2010. However, the plan to cease discharges to Miles Creek by implementing reclamation remains the cornerstone of the Discharger's strategy to comply with the final effluent limitations presented in Findings 2 and 4 and to implement an alternative method of disposal, as allowed by WDR Order No. R5-2005-0009.
7. Subsequent to adoption of Order No. R5-2005-0009, the Discharger has made progress towards completing the compliance project. The Discharger completed two land purchases (totaling 108 acres), holds a purchase option on an additional 233 acres (pending compliance with the California Environmental Quality Act (CEQA) and funding), completed pre-design of the infrastructure necessary for land discharge, submitted a report of waste discharge for land discharge, and expended significant effort to satisfy CEQA. However, the Discharger has encountered significant project delays.

8. On 5 May 2009, the Discharger's attorney submitted a letter citing the following reasons for the Discharger's delay in completing the compliance project by October 2009: (1) members of the public opposed the project and the mitigated negative declaration, which prompted the Discharger to prepare an environmental impact report (estimated 8-10 month delay); (2) members of the public filed two lawsuits against the Discharger challenging the environmental impact report (estimated 8-9 month delay); and (3) the Discharger terminated its contract with its original CEQA consultant hired to work on the project due to delinquent work, and retained a new consultant (estimated 12 month delay). The total project delay is estimated to be 28-31 months. The attorney's letter also includes invoices for services directly related to the compliance project.
9. On 16 November 2009, the Discharger's engineer provided an updated schedule for completion of the compliance project. The new estimated project completion date is 3 September 2012.
10. The effluent limitations specified in Order No. R5-2005-0009 for cyanide, carbon tetrachloride, chlorodibromomethane, and dichlorobromomethane are based on implementation of the California Toxics Rule. BOD, TSS, total coliform organisms, turbidity, BOD/TSS percent removal, and CT value are based on tertiary treatment requirements. These effluent limitations are new limitations, which were not prescribed in previous WDR Order No. 97-123, adopted by the Central Valley Water Board on 20 June 1997.
11. 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.*"
12. Federal regulations, 40 CFR 122.44 (d)(1)(i), require that NPDES permit effluent limitations must control all pollutants which are or may be discharged at a level which will cause or have the reasonable potential to cause or contribute to an in-stream excursion above any State water quality standard, including any narrative criteria for water quality. Beneficial uses, together with their corresponding water quality objectives or promulgated water quality criteria, can be defined per federal regulations as water quality standards.
13. In accordance with CWC section 13300, the subject discharge threatens to violate WDR Order No. R5-2005-0009, Effluent Limitation B.5.a, Effluent Limitation B.6.a, Provision G.7, and Provision G.8, and the Discharger is unable to comply immediately. The Clean Water Act and the CWC authorize time schedules for achieving compliance.

14. In accordance with CWC section 13385(j)(3), the Discharger is unable to consistently comply with the new effluent limitations for cyanide, carbon tetrachloride, chlorodibromomethane, dichlorobromomethane, BOD, TSS, total coliform organisms, turbidity, BOD/TSS percent removal, and CT value. These limitations are based on new requirements that became applicable to the Order after the effective date of the waste discharge requirements, and after 1 July 2000. 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.
15. This Order provides a time schedule for the Discharger to implement the compliance project described in Finding 6. The final effluent limitations specified in WDR Order No. R5-2005-0009, Effluent Limitation B.5.a, Effluent Limitation B.6.a, and the need for tertiary treatment for discharges to Miles Creek will become inapplicable upon completion of the compliance project.
16. CWC sections 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)(3) exempts certain violations from the 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.”*
17. Compliance with this Order exempts the Discharger from mandatory penalties for violations of effluent limitations for cyanide, carbon tetrachloride, chlorodibromomethane, dichlorobromomethane, BOD, TSS, total coliform organisms, turbidity, BOD/TSS percent removal, and CT value only, in accordance with CWC section 13385(j)(3). CWC section 13385(j)(3) requires the Discharger to prepare and implement a pollution prevention plan (PPP) pursuant to CWC section 13263.3. This Order requires the Discharger to prepare a PPP for cyanide, carbon tetrachloride, chlorodibromomethane, and dichlorobromomethane. A PPP for BOD, TSS, total coliform organisms, and turbidity is unnecessary for the reasons described in the Findings below, and the Discharger has met the requirements of CWC section 13263.3 for these constituents.
18. The need to meet tertiary treatment-based effluent limitations will be inapplicable once the Discharger ceases discharging to Miles Creek and begins applying undisinfectated secondary recycled water to non-human consumption crops. BOD, TSS and total coliform organisms are components of human sewage and are not feasible to reduce by pollution prevention, but are dependent on additional control measures that are unnecessary for land disposal. Turbidity is an operational parameter used to confirm the effectiveness of tertiary treatment systems, and not a water-quality based requirement in Order No. R5-2005-0009. Thus, no additional pollution prevention measures or source control measures are necessary for BOD, TSS, total coliform organisms, and turbidity once the Discharger completes the compliance project.

19. Since the time schedule for completion of action 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 five years.
20. The compliance time schedule in this Order includes interim effluent limitations for cyanide, carbon tetrachloride, chlorodibromomethane, and dichlorobromomethane based on Facility performance using data collected during the current permit term (approximately 4.5 years of data). The interim effluent limitations consist of a maximum daily effluent concentration equal to the maximum concentrations observed during the current permit term.
21. The compliance time schedule in this Order also includes interim effluent limitations for BOD, TSS, total coliform organisms, BOD/TSS percent removal consistent with the interim effluent limitations for these constituents in Order No. R5-2005-0009.
22. The Discharger can, in addition to other treatment and control options, undertake source control 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 limitations can be achieved.
23. The Executive Officer has provided a 30-day public comment period and addressed all pertinent comments.
24. Issuance of this Order is exempt from the provisions of CEQA (Public Resources Code section 21000, et seq.), in accordance with CWC section 15321 (a)(2), Title 14, California Code of Regulations.

IT IS HEREBY ORDERED that pursuant to sections 13300 and 13267 of the California Water Code, Planada Community Services District shall comply with the following:

1. The Discharger shall comply with the following time schedule to ensure compliance with cyanide, carbon tetrachloride, chlorodibromomethane, and dichlorobromomethane effluent limitations at Effluent Limitation B.5.a. and BOD, TSS, total coliform organisms, turbidity, BOD/TSS percent removal, and CT value at Effluent Limitation B.6.a. contained in WDR Order No. R5-2005-0009 as described in the above Findings.

Task

Date Due

Submit Pollution Prevention Plan (PPP)¹ pursuant to CWC section 13263.3 for cyanide, carbon tetrachloride, chlorodibromomethane, and dichlorobromomethane

Within **1 year** after adoption of this Order

Implement PPP¹ pursuant to CWC section 13263.3 for cyanide, carbon tetrachloride, chlorodibromomethane, and dichlorobromomethane

Within **2 years** after adoption of this Order

Progress Reports²

1 July 2010 and **semi-annually** thereafter until final compliance

Full compliance with cyanide, carbon tetrachloride, chlorodibromomethane, and dichlorobromomethane effluent limitations at Effluent Limitation B.5.a and BOD, TSS, total coliform organisms, turbidity, BOD/TSS percent removal, and CT value at Effluent Limitation B.6.a. contained in WDR Order No. R5-2005-0009

3 September 2012

¹ The PPP shall be prepared and implemented for cyanide, carbon tetrachloride, chlorodibromomethane, and dichlorobromomethane and shall meet the requirements specified in CWC section 13263.3. The PPP shall describe pollution prevention activities the Discharger will implement in the short-term (i.e., pending completion of the compliance project) and the long-term to reduce effluent concentrations for cyanide, carbon tetrachloride, chlorodibromomethane, and dichlorobromomethane.

² 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 cyanide, carbon tetrachloride, chlorodibromomethane, and dichlorobromomethane shall be effective immediately. The interim effluent limitations shall be effective through **3 September 2012**, or when the Discharger is able to come into compliance with final effluent limitations, whichever is sooner:

Parameter	Units	Maximum Daily Effluent Limitation
Cyanide, Total (as CN)	µg/L	22
Carbon tetrachloride	µg/L	1.1
Chlorodibromomethane	µg/L	3.5
Dichlorobromomethane	µg/L	23

3. The following interim effluent limitations for BOD, TSS, total coliform organisms, BOD/TSS percent removal shall be effective immediately. The interim effluent limitations shall be effective through **3 September 2012**, or when the Discharger is able to come into compliance with final effluent limitations, whichever is sooner:

Parameter	Units	Average Monthly	Average Weekly	7-Sample Median ¹	Maximum Daily
BOD ₅ ²	mg/L	30	45	--	60
	lb/day	133 ³	199 ³	--	265 ³
Total Suspended Solids (TSS)	mg/L	30	45	--	60
	lb/day	133 ³	199 ³	--	265 ³
Total Coliform Organisms	MPN ⁴ /100 mL	--	--	23	240

¹ Median value based on the last seven samples.
² 5-day, 20°C biochemical oxygen demand (BOD)
³ Based upon a design flow of 0.53 mgd.
⁴ MPN = most probable number

The arithmetic mean of 20°C BOD (5-day) and total suspended solids in effluent samples collected over a monthly period shall not exceed 15 percent of the arithmetic mean of the values for influent samples collected at approximately the same times during the same period (85 percent removal).

4. For the compliance schedule required by this Order, the Discharger shall submit to the Central Valley 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 Central Valley Water Board by letter when it returns to compliance with the time schedule.

Issuance of this Order does not preclude the Central Valley Water Board from taking additional enforcement actions against the Discharger. If compliance is not achieved by the full compliance date, the discharge will be subject to mandatory minimum penalties for violations of certain effluent limitations.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Resources Control 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

Resources Control Board must receive the petition by 5:00 p.m., 30 days after the date that this Order becomes final, except that if the thirtieth day following the date that this Order becomes final falls on a Saturday, Sunday, or State holiday or furlough day, the petition must be received the State Water Resources Control 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

or will be provided upon request.

This Order is effective upon the date of signature.



For PAMELA C. CREEDON, Executive Officer

11 February 2010

Date

MSS/WDH: 12/28/2009