

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

TIME SCHEDULE ORDER R5-2019-1001
REQUIRING
NEVADA COUNTY SANITATION DISTRICT NO.1
CASCADE SHORES WASTEWATER TREATMENT PLANT
NEVADA COUNTY

TO COMPLY WITH WASTE DISCHARGE REQUIREMENTS PRESCRIBED IN ORDER
R5-2015-0031
(NPDES PERMIT CA0083241)

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

1. The Nevada County Sanitation District No. 1 (Discharger) owns and operates the Cascade Shores Wastewater Treatment Plant (Facility). The Facility services approximately 86 households and discharges up to 0.026 million gallons per day of treated wastewater to Gas Canyon Creek, a tributary to Bear River via Greenhorn Creek and Rollins Reservoir.
2. On 17 April 2015, the Central Valley Water Board adopted Waste Discharge Requirements (WDR) Order R5-2015-0031, NPDES Permit CA0083241, prescribing WDRs for the Facility. WDR Order R5-2015-0031 section IV.A.1.a includes, in part, the following final copper and zinc effluent limitations applicable to discharges from the Facility at Discharge Point 001:

Table 4. Effluent Limitations

Parameter	Units	Effluent Limitations				
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
Priority Pollutants						
Copper, Total Recoverable	µg/L	1.6	--	3.2	--	--
Zinc, Total Recoverable	µg/L	23	--	46	--	--

3. Also, on 17 April 2015, the Central Valley Water Board adopted TSO R5-2015-0032 to provide the Discharger until 31 December 2018 to comply with final effluent limitations for copper and zinc. TSO R5-2015-0032 required the Discharger to construct and begin operation of a septic system to replace the existing Cascade Shores Wastewater Treatment Plant, which would cease discharge to Gas Canyon Creek. Ceasing discharge to Gas Canyon Creek would result in compliance with the copper and zinc effluent limits.

NEED FOR TIME SCHEDULE EXTENSION AND LEGAL BASIS

4. On 21 January 2015, the Discharger submitted an Infeasibility Analysis requesting additional time to comply with final effluent limitations for copper and zinc through the construction of a land application system. The submittal included:
 - documentation that diligent efforts have been made to quantify pollutant levels in the discharge and the sources of the pollutant in the waste stream

- documentation of source control measures and/or pollution minimization measures efforts currently underway or completed
 - proposed additional or future source control measures, pollutant minimization actions, or waste treatment (i.e., new plant construction) with projected time schedules to achieve compliance with final effluent limitations
5. In January 2017, a landslide occurred in the location where the land application system is being proposed. Due to additional geotechnical studies that were needed to ensure that the project was still feasible, finalization of the State Revolving Fund (SRF) Agreement was delayed until 23 June 2017.
6. On 10 January 2019, the Discharger submitted a request for additional time to comply with final effluent limitations for copper and zinc through the completion of the land application system. The Discharger noted that in addition to the delays caused by the additional geotechnical studies, all responding design firms projected longer design periods than anticipated due to the additional geotechnical work required.

MANDATORY MINIMUM PENALTIES

7. California Water Code (CWC) sections 13385(h) and (i) require the Central Valley Water Board to impose mandatory minimum penalties (MMP's) upon dischargers that violate certain effluent limitations. CWC section 13385(j)(3) exempts the discharge from MMP's, "*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 or 13308, if all the [specified] requirements are met...for the purposes of this subdivision, the time schedule may not exceed five years in length...*".
8. Per the requirements of Water Code section 13385, subdivision (j)(3), the Central Valley Water Board finds that:
- a. This Order specifies the actions that the Discharger is required to take in order to correct the violations that would otherwise be subject to CWC section 13385(h) and (i).
 - b. To comply with final effluent limitations, the Discharger proposed that they will require until 31 March 2021 to complete necessary upgrades to the Facility. The delays mentioned in Findings 5 and 6 delayed the design and construction, and the 31 December 2018 deadline for completion of the compliance project was not met. The new or modified control measures cannot be designed, constructed, and put into operation as reflected in the compliance schedule prescribed in TSO R5-2015-0032. The Discharger anticipates that the construction, startup, and operational refinement will be completed by 31 March 2021, at which time the Facility will comply with the final effluent limitations for copper and zinc.
 - c. This TSO establishes a time schedule to bring the waste discharge into compliance with final effluent limitations that is as short as possible, taking into account the technological, operational, and economic factors that affect the design, development, and implementation of the control measures that are necessary to comply with the final effluent limitations.
9. TSO R5-2010-0909 provided protection from MMPs for violations of the final effluent limitations for copper from 14 December 2015, and when TSO R5-2015-0032 was adopted on 17 April 2015, protection from MMPs for violations of the final copper effluent limitations was

extended to 31 December 2018. TSO R5-2015-0032 also provided protection from MMPs for violations of the final effluent limitations for zinc from 17 April 2015 through 31 December 2018, which does not exceed five years.

10. TSOs generally may only provide protection from MMPs for up to five years. However, Water Code section 13385, subdivision (j)(3)(C)(ii)(II), authorizes the Board to grant an additional five years if the Board finds, following a public hearing, that a Discharger is making diligent progress towards bringing the waste discharge into compliance and that the additional time is necessary to comply with the effluent limitations. The Central Valley Water Board finds that the Discharger has demonstrated due diligence and is making diligent progress to bring the waste discharge into compliance with final effluent limitations, as described in previous findings in this TSO.
11. Compliance with this TSO provides protection for the Discharger from MMPs as follows:
 - Copper: WDRs Order R5-2008-0111 imposed final effluent limitations for copper that became effective on 19 May 2010. TSO R5-2010-0909 provided MMP protection for copper violations from 14 December 2010 through 10 December 2015. TSO-2015-0032 continued MMP protections for copper through 31 December 2018. This TSO extends MMP protections for copper from the date of signature of this TSO through **31 March 2021**. This time schedule is as short as possible, and in accordance with CWC Section 13358(j)(3)(C)(ii)(I), the total length of the compliance schedule does not exceed ten (10) years.
 - Zinc: WDRs Order R5-2015-0031 imposed final effluent limitations for zinc. TSO R5-2015-0032 provided MMP protection for zinc violations from 17 April 2015 through 31 December 2018. This TSO extends MMP protections for zinc from the date of signature of this TSO through **31 March 2021**. This time schedule is as short as possible, and in accordance with CWC Section 13358(j)(3)(C)(ii)(I), the total length of the compliance schedule does not exceed ten (10) years.
12. This TSO provides a time schedule for completing the actions necessary to ensure compliance with final effluent limitations. Since this TSO extends the existing time schedule contained in previous TSOs R5-2010-0909 and R5-2015-0032 for completion of actions necessary to bring the waste discharge into compliance and the total time schedule for the completion of these actions exceeds one (1) year, this TSO includes interim effluent limitations and interim requirements and dates for their achievement.
13. TSO R5-2015-0032 contained interim performance-based effluent limitations for copper; this TSO carries forward the interim AMEL of 26 µg/L and MDEL of 31 µg/L for copper. This Order also carries forward interim AMEL of 150 µg/L and MDEL of 200 µg/L for zinc from TSO R5-2015-0032.
14. The Central Valley Water Board finds that the Discharger can maintain compliance with the interim effluent limitations included in this Order. Interim effluent limitations are established when compliance with the final effluent limitations cannot be achieved by the existing Facility. 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

effluent limitations, however, establish an enforceable ceiling concentration until compliance with the final effluent limitation can be achieved.

15. If an interim effluent limit contained in this Order is exceeded, then the Discharger is subject to MMPs for that particular exceedance, as it will no longer meet the exemption in Water Code section 13385, subdivision (j)(3). It is the intent of the Central Valley Water Board that a violation of an interim monthly effluent limitation subjects the Discharger to only one MMP for that monthly averaging period. In addition, a violation of an interim daily maximum effluent limit subjects the Discharger to one MMP for the day in which the sample was collected.

REGULATORY BASIS

16. 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.”*
17. CWC section 13267(b)(1) states: *“In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.”*
18. The Discharger owns and operates the Facility. The technical and monitoring reports required by this Order are necessary to determine compliance with WDRs Order R5-2015-0031 and with this TSO.
19. Issuance of this TSO is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) pursuant to Water Code section 13389, since the adoption or modification of an NPDES permit for an existing source is statutorily exempt and this Order only serves to implement a NPDES permit. (*Pacific Water Conditioning Ass’n, Inc. v. City Council of City of Riverside* (1977) 73 Cal.App.3d 546, 555-556.)
20. This Order is issued under authority delegated to the Executive Officer in accordance with Central Valley Water Board Resolution No. R5-2018-0057, and Water Code section 13223.
21. The Central Valley Water Board has notified the Discharger and interested agencies and persons of its intent to issue the compliance schedule for copper and zinc and has provided

them with an opportunity to submit their written views and recommendations. No adverse public comments were received during the 30-day public comment period as required pursuant to Water Code section 13167.5.

IT IS HEREBY ORDERED THAT, pursuant to Water Code sections 13300 and 13267, TSO R5-2015-0032, is rescinded except for enforcement purposes, and, in order to ensure compliance with the requirements of Waste Discharge Requirements Order R5-2015-0031 the Discharger shall comply with the following:

1. Pursuant to water code section 13267, the Discharger shall submit the following technical report to ensure compliance with the final effluent limitations for copper and zinc contained in WDR Order R5-2015-0031, as described in Finding 2 above:

Task	Compliance Date
Submit Progress Reports ¹	31 January, annually
Receive septic system contractor construction bids	1 August 2019
Initiate septic system construction	31 January 2020
Complete septic system construction	1 October 2020
Operational Startup	31 October 2020
Submit documentation showing that the facility has ceased discharging to surface water or fully complies with the final effluent limitations for copper and zinc.	31 March 2021

¹ The progress reports shall detail the steps taken to comply with this Order, including documentation showing completion of tasks, construction progress, evaluation of the effectiveness of the implemented measures, and assessment of whether additional measures are necessary to meet the compliance dates.

2. The following interim effluent limitations for copper and zinc shall be effective upon signature of this Order and shall apply in lieu of the corresponding final effluent limitations in WDRs Order R5-2015-0031. The Discharger shall maintain compliance with the following interim effluent limitations through 31 March 2021, or when the Discharger is able to come into compliance with the final effluent limitations, whichever is sooner.

Parameter	Units	Interim Average Monthly Effluent Limitation	Interim Maximum Daily Effluent Limitation
Copper	µg/L	26	31
Zinc	µg/L	150	200

3. 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.”

4. 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 registered professionals competent and proficient in the fields pertinent to the required activities. All technical reports specified herein that contain work plans 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 the professional's signature and/or stamp of the seal.

If, in the opinion of the Executive Officer, the Discharger fails to comply with the provisions of this Order, the Executive Officer may refer this matter to the Attorney General for judicial enforcement, may issue a complaint for administrative civil liability, or may take other enforcement actions. Failure to comply with this Order or with the WDRs may result in the assessment of Administrative Civil Liability of up to \$10,000 per violation, per day, depending on the violation, pursuant to the Water Code, including sections 13268, 13350 and 13385. The Central Valley Water Board reserves its right to take any enforcement actions authorized by law.

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 Water Code 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, 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

or will be provided upon request.

This Order is effective upon the date of signature.

Original Signed by

PATRICK PULUPA, Executive Officer

22 May 2019

Date