

# ATTACHMENT 1

## CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD CENTRAL VALLEY REGION

AMENDED CEASE AND DESIST ORDER R5-2015-0128-~~01-02~~

### REQUIRING COLLINS PINE COMPANY CHESTER SAWMILL PLUMAS COUNTY TO CEASE AND DESIST FROM DISCHARGING CONTRARY TO REQUIREMENTS PRESCRIBED IN ORDER R5-2009-0015 (NPDES NO. CA0004391)

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

1. On 5 February 2009, the Central Valley Water Board adopted Order R5-2009-0015, National Pollutant Discharge Elimination System (NPDES) Permit No. CA0004391, WDID No. 5A322000001, prescribing waste discharge requirements (WDR) for the Collins Pine Company's (hereinafter Discharger) Chester Sawmill facility (hereinafter Facility).
2. WDR Order R5-2009-0015, contains Final Effluent Limitations IV.A.1.a., which reads, in part, as follows:

Parameter	Units	Effluent Limitations	
		Average Monthly	Maximum Daily
Copper, Total Recoverable	µg/L	7.44	14.92
Lead, Total Recoverable	µg/L	2.95	5.92

3. Effluent limitations specified in Order R5-2009-0015 for copper and lead were new limits based on implementation of the California Toxics Rule, which were not prescribed in the previous WDR, Order R5-2004-0012, adopted by the Central Valley Water Board on 30 January 2004. The Discharger was unable to immediately comply with the average monthly effluent limitations for copper and lead, therefore, WDR Order R5-2009-0015 provided a time schedule for meeting final average monthly effluent limitations for copper and lead. Compliance with these average monthly effluent limits for copper and lead was to be achieved by 18 May 2010. WDR Order R5-2009-0015 did not provide a time schedule for meeting maximum daily effluent limits for copper and lead. Compliance with the maximum daily effluent limits for copper and lead was assumed to be immediately achievable.
4. WDR Order R5-2009-0015 expired on 1 February 2014. A report of waste discharge was submitted by the Discharger and was deemed complete on 4 February 2014, thus allowing for administrative extension of the WDR until renewed. The Central Valley Water Board does not intend to renew the WDRs until after the proposed Facility improvements are completed. At that time there will be a clearer understanding of the future Facility operations.

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5. Time Schedule Order (TSO) R5-2015-0007 was issued on 6 February 2015 to provide the Discharger with a time schedule to comply with final effluent limits for copper (total recoverable) and lead (total recoverable), contained in the current WDR. The time schedule requires compliance with these final effluent limits by 1 January 2017. Upon adoption of this Order, TSO R5-2015-007 will be rescinded and requirements and interim effluent limitations contained in TSO R5-2015-007 will be incorporated into this Order.
6. The Discharger is the owner and operator of the Facility, where white fir, ponderosa pine, sugar pine, incense cedar, and Douglas fir are processed for lumber manufacturing. The Facility is located in Chester, CA, Plumas County, and is adjacent to Stover Ditch, a diversion from the North Fork Feather River that is tributary to Lake Almanor.
7. Electrical cogeneration and sawmill operations take place on approximately 150 acres of Discharger-owned land. The following onsite operations are pertinent to wastewater generation and chemical usage at the Facility: paved and unpaved lumber storage, biomass fuel storage (i.e., wood chip storage), sawmill, planer mill, debarker, lumber drying kilns, equipment fueling and maintenance area, two unlined log-deck recycle ponds, four unlined ash settling ponds, boiler, cooling towers, and a wet electrostatic precipitator.
8. Supply water is necessary for the electrical cogeneration operation to reduce particulate matter in flue gas, supplement boiler water, and supplement cooling tower water. Process wastewater is generated from filter backwash (bag filters, sand filters, and reverse osmosis membranes), boiler blowdown, boiler mud drum blowdown, cooling tower blowdown, ash hopper seals, wet fly and/or bottom ash runoff, and air pollution control equipment. Process wastewater generated from lumber production comes from mechanical cooling systems (e.g., pump bearing cooling water and induced draft fan cooling water).
9. Currently, process wastewater is chemically treated with a ferric sulfate coagulant and metal precipitant; resulting destabilized particles are flocculated and removed in the clarifiers. Clarified process wastewater is conveyed through four in-series ash settling ponds before release into the eastern ditch. The eastern ditch conveys clarified process wastewater, other process flows, and unused diversion water from upstream of Stover Ditch, back into Stover Ditch approximately 0.09 mile downstream of discharge monitoring location EFF-001 (EFF-001 is located at approximately 40°18'20.11" and longitude -121°14'31.56").
10. Bottom ash from the boiler and fly ash from the wet electrostatic precipitator are currently collected and transported to an unpaved and uncovered storage area. The ash storage area contains ash waste year-round. Ash is periodically land applied to the Discharger's forest land for beneficial reuse as a soil amendment, which is managed according to an ash management plan submitted to the Central Valley Water Board in July 2014.
11. Stored logs are currently conditioned through the sprinkling application of treated process wastewater to prevent fungus-caused blue-stain, reduce fire risk, and deter log

checking. On 11 July 2011 Central Valley Water Board staff approved the use of treated process wastewater on the log-deck during “the warmer summer months.” The term “warmer summer months” was not explicitly defined in the 11 July 2011 letter, and the Discharger has sprinkled with process wastewater during months not typically defined as summer months.

12. An onsite gravel mining quarry is located southwest of the log-deck. The quarry area is topographically formed such that it holds water and occasionally in the past the Discharger has utilized this area as an unpermitted percolation pond for the disposal of process wastewater and/or process wastewater comingled with storm water. The Discharger has eliminated this practice and on 6 August 2015 sealed the water conveyance system that was used to route water to the gravel mining quarry.

#### **Need for Time Schedule Extension and Legal Basis in TSO R5-2015-0007**

13. Since WDR Order R5-2009-0015 was adopted, the Discharger has made efforts to improve facility performance as it relates to treatment and control of copper and lead in the effluent. Efforts include: sourcing and quantifying contaminants in the waste stream, improving treatment system components, analyzing treatment efficiency, altering the Facility’s clarifier configuration and operation, modifying the configuration and operation of the Facility’s ash settling basins, and installing and operating effluent reuse systems.
14. The Discharger modified several processes at the Facility to meet the requirements imposed by the copper and lead effluent limitations in WDR Order R5-2009-0015. However, the modified facility has not been able to meet final average monthly nor maximum daily effluent limitations for copper and lead. Additional treatment facilities and/or additional source control measures must be implemented.
15. The Discharger has been evaluating plans to (1) repair the boiler wall to improve combustion efficiency and contain fugitive ash, (2) make changes to settling pond configuration including increased depth, baffles, planted filter strips, and piping to direct flow to bottom of the ponds, (3) configure log deck recycling pumps and sprinklers for improved water reuse capabilities, (4) evaluate chemical pH controls with monitoring feedback loop, (5) improve performance of the clarifiers, (6) implement pre-quench chamber effluent recirculation, (7) design and complete a process treatment system flow and constituent loading characterization, and (8) review treatment chemicals associated with process wastewater.
16. The Discharger has also been evaluating the feasibility, economic requirements, and practicality of upgrading facilities and/or implementing reclamation and/or land disposal, which would eliminate or reduce the Facility’s discharge to surface water.
17. On 24 September 2013 the Discharger met with Central Valley Water Board staff to discuss the NPDES permit renewal process and facility compliance issues. On 7 January 2014, 3 March 2014, and 16 June 2014 the Discharger submitted a request and justification for additional time to comply with final effluent limitations for copper and lead. The submittals included justification for a time schedule for compliance 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 currently underway or completed; (c) a proposal for additional or future source control measures and, pollutant minimization actions; and (d) a demonstration that the proposed schedule is as short as practicable.

### **Need for Compliance Schedule and Legal Basis**

18. Since 1996 the Discharger has implemented improvements at the Facility in an effort to comply with permit conditions issued by the Central Valley Water Board. As reported in the California Integrated Water Quality System, approximately 235 WDR violations have occurred from October 1996 to March 2015, which includes both discharge and non-discharge permit violations. Violations included receiving water limit exceedances (turbidity, temperature, and pH), effluent limit exceedances (copper, lead, chemical oxygen demand, pH, and acute toxicity), discharge prohibitions, deficient reporting, and late reporting. As a result of violations between October 1996 and March 2015, the following administrative civil liability (ACL) complaints were issued:

6 Sept 2000: ACL Complaint 5-00-519	\$30,000
14 Feb 2005: ACL Complaint R5-2005-0504	\$12,000
9 May 2007: ACL Complaint R5-2007-0511	\$12,000
1 Apr 2011: ACL Complaint R5-2011-0520	\$30,000
23 July 2012: ACL Complaint R5-2012-0550	\$33,000
7 Nov 2014: ACL Complaint R5-2014-0576	\$213,000

19. Since ACL Complaint R5-2014-0576 the Discharger has self-reported an additional five (5) effluent limit exceedances: two (2) copper limit exceedances (30 November 2014 and 31 December 2014), one (1) lead effluent limit exceedance (30 November 2014) and two (2) COD effluent limit exceedances (10 February 2015 and 17 February 2015). The Central Valley Water Board assessed administrative civil liability for these additional five effluent limit exceedances in a comprehensive settlement agreement, Stipulated Order R5-2015-0544, which included effluent limit exceedances alleged in ACL Complaint R5-2014-0576.
20. The Discharger has maintained diligent progress towards achieving compliance with final effluent limits by meeting deadlines and milestones included in TSO R5-2015-0007. However, previous and/or current modifications of treatment components have not resulted in complete compliance with final effluent limits, as cited in Findings 18 and 19.
21. Throughout the year, bottom and fly ash are stored at the Facility in uncovered locations where precipitation can directly affect stockpiled ash. Leachate from wood ash contains pollutants, exhibits high pH, and has the potential to impact surface water or groundwater quality if leachate runoff enters surface water or percolates into the groundwater.
22. As a component of settling ACL Complaint R5-2014-0576, the Central Valley Water Board and the Discharger agreed to Stipulated Order R5-2015-0544. The Central Valley Water Board and the Discharger acknowledged a common goal of achieving a zero discharge operation at the Facility in Stipulated Order R5-2015-0544. To work towards that end, the Discharger intends to replace the existing wet electrostatic precipitator

(WESP) with a dry electrostatic precipitator process (DESP), ~~to be operational by 1 January 2018~~. Both the Central Valley Water Board and the Discharger agreed to memorialize the project schedule and final compliance deadline for conversion to a dry electrostatic process in this Order. The final deadline for installing and operating a DESP has been extended ~~by one year, to 1 January 2021, or when the Discharger is able to come into compliance, whichever is sooner, 1 January 2018~~, based on a 15 September 2017 29 July 2016 request from the Discharger due to circumstances beyond its control as outlined in Ordered Paragraph 9. The ~~29 July 2016~~ extension request is attached hereto for reference.

23. Based on discussions between the Central Valley Water Board and the Discharger, the Discharger has also agreed to undertake several other projects in addition to replacement of the WESP. The additional projects include improvements to log conditioning practices and the sheltering of fly/bottom ash from precipitation.

#### **Mandatory Minimum Penalties**

24. Water Code section 13385, subdivisions (h) and (i) require the Central Valley Water Board to impose mandatory minimum penalties (MMP) upon Dischargers that violate certain effluent limits. Water Code section 13385 subdivision (j)(3) exempts the waste discharge from MMPs “*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...*”
25. Per the requirements of Water Code section 13385, subdivisions (j)(3)(A) through (D), the Central Valley Water Board finds that:
- a. This Order specifies actions the Discharger is required to take in order to correct violations that would otherwise be subject to Water Code section 13385, subdivisions (h) and (i).
  - b. The Discharger is not able to consistently comply with one or more effluent limits established in WDR Order R5-2009-0015 because the effluent limits are a new or more stringent regulatory requirement that have become applicable to the waste discharge after the effective date of the WDRs and after 1 July 2000. New or modified control measures are necessary in order to comply with effluent limits, and the new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.
  - c. The Discharger has determined that the following additional changes to their Facility are necessary in order to comply with final copper and lead effluent limits, support best management practices for ash reuse, and effectively manage log-deck conditioning: (1) replace the wet electrostatic precipitator with a dry electrostatic precipitator, (2) shelter all bottom/fly ash storage areas with sufficient covering to prevent precipitation from infiltrating into and leaching from waste ash, (3) modification of current log conditioning practices for more efficient log conditioning to eliminate or considerably reduce reused process wastewater from

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ponding on the log yard, and (4) eliminate storage of process wastewater at the Facility's onsite gravel mining area (eliminated on 6 August 2015).

- d. This Order establishes a time schedule to bring waste discharge into compliance with final effluent limits that is as short as possible, taking into account technological, operational, and economic factors that affect design, development, and implementation of control measures that are necessary to comply with effluent limits.
  - e. The Discharger has prepared and is implementing in a timely and proper manner, or is required by the Central Valley Water Board to prepare and implement, a pollution prevention plan pursuant to Water Code section 13263.3.
26. Final copper and lead average monthly effluent limits (AMEL) became applicable to the waste discharge on 18 May 2010. Copper and lead maximum daily effluent limits (MDEL) became applicable to the waste discharge on 5 February 2009. By statute, a time schedule may provide protection from the imposition of MMPs for no more than five years, except as provided in Water Code section 13385, subdivision (j)(3)(C)(ii)(II). Five years from the effective date of the new AMELs was 18 May 2015. Five years from the effective date of the new MDELs was 5 February 2014. The Board adopted a time schedule from 6 February 2015 until 18 May 2015 for AMEL for copper and lead in TSO No. R5-2015-0007 pursuant to Water Code section 13385, subdivisions (j)(3)(A) through (D) to allow for protection from MMPs for violations of copper and lead AMELs. Protection from MMPs for violations of copper and lead MDELs was not provided pursuant to Water Code section 13385, subdivision (j)(3)(A) through (D) because more than five years has expired since those limits became effective. However, the Board noted in TSO No. R5-2015-0007 that protection from the imposition of MMPs for violations of both AMELs beyond 18 May 2015 and MDELs for copper and lead may be provided pursuant to Water Code section 13385, subdivision (j)(3)(C)(ii)(II).
27. By statute, a CDO may provide protection from MMPs for no more than five years, except as provided in Water Code section 13385, subdivision (j)(3)(C)(ii)(II).
28. Per the requirements of Water Code section 13385, subdivision (j)(3)(C)(i), the time schedule shall not exceed five years. However, per the requirements of 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 waste discharge into compliance with final effluent limits, the Central Valley Water Board may extend the time schedule for up to an additional five years if the Discharger demonstrates that more time is necessary to comply with final effluent limits. The Central Valley Water Board determined, as described in previous findings in this Order, that the Discharger made diligent progress to bring the waste discharge into compliance with final copper and lead effluent limits contained in WDR Order R5-2009-0015, and demonstrated that additional time was necessary. On ~~29 July 2016, 15 September 2017~~ the Discharger provided justification that diligent progress was made towards compliance with final effluent limits. However, progress has been inhibited due to air quality permitting delays with the United States Environmental Protection Agency. The Discharger has requested an ~~one-year~~ extension of the final effluent limit compliance deadline for copper and lead effluent limits, which results in final effluent limit compliance date of ~~1 January 2018~~

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- 18 May 2020 for average monthly limits and 5 February 2019 for maximum daily effluent limits, or when the Discharger is able to come into compliance, whichever is sooner. The ~~4 January 2018~~ 18 May 2020 and 5 February 2019 deadlines provide the maximum time allowable under Water Code section 13385, subdivision (j)(3)(C)(ii)(II) for copper and lead average monthly and maximum daily effluent limits, respectively represents the Discharger's best approximation for complying with this Order's requirements because of permitting delays in constructing a DESP. The ~~one-year~~ extension complies with requirements of Water Code section 13385, subdivision (j)(3)(C)(ii)(II).
29. Compliance with this Order exempts the Discharger from MMPs for violations of final copper and lead effluent limits contained in WDR Order R5-2009-0015 from the date of this Order until ~~4 January 2018~~ 18 May 2020 and 5 February 2019 for average monthly and maximum daily effluent limits, respectively. The Discharger understands that MMPs for copper and lead maximum daily effluent limit exceedances could accrue if the Discharger is not able to meet effluent limits.
30. In accordance with Water Code section 13385, subdivision (j)(3)(C), the total length of protection from MMPs for final copper and lead effluent limits does not exceed ten years. The initial five year time schedule, as allowed pursuant to Water Code section 13385, subdivisions (j)(3)(A) through (D), expired 18 May 2015 for AMELs, and expired on 5 February 2014 for MDELs. An extended time schedule period from 18 May 2015 until ~~4 January 2018~~ 18 May 2020, for copper and lead AMELs, and from 6 February 2015, the date of TSO No. R5-2015-0007, until ~~4 January 2018~~ 5 February 2019, for copper and lead MDELs, is pursuant to Water Code section 13385, subdivision (j)(3)(C)(ii)(II).
31. As required in WDR Order R5-2009-0015 and TSO No. R5-2015-0007, on 8 July 2009 and 30 April 2015, respectively, the Discharger submitted a pollution prevention plan (PPP) pursuant to Water Code section 13263.3 for copper and lead. In the most recent PPP, the Discharger indicated that: (1) copper and lead is naturally present in the Facility's freshwater sources and (2) is naturally present in the Facility's biomass fuel. The Discharger prepared and is implementing, in a timely and proper manner, a PPP pursuant to Water Code section 13263.3.
32. This Order provides a time schedule for completing actions necessary to ensure compliance with final copper and lead effluent limits contained in WDR Order R5-2009-0015. Since the time schedule for completion of actions necessary to bring the waste discharge into compliance exceeds one year, this Order includes interim effluent limits, interim requirements, and dates for compliance with final limits.
33. This Order carries forward the performance-based interim effluent limits for copper and lead that the Board previously established in TSO No. R5-2015-0007. Interim copper and lead effluent limits consist of a MDEL and AMEL derived using sample data provided by the Discharger. In developing the performance-based interim MDEL and AMEL, where there are 10 data points or more and only once per month sampling is required, sampling and laboratory variability is accounted for by establishing interim effluent limits based on normally distributed data where 99.9 percent 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, 3rd Edition, January 1986). When at least 80 percent of the data points are reported as non-detect values, or

if there are less than 10 data points available, the interim AMEL is based on 3.11 times the maximum observed effluent concentration (MEC) when once per month sampling is required. Additionally, if either of these procedures produces an interim AMEL less than the MEC, the MEC is sometimes established as the interim AMEL. The interim MDEL can be calculated by multiplying the calculated AMEL with a multiplier from Table 2 (which is each parameters MDEL multiplier divided by their AMEL multiplier) of the *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California*. To calculate the coefficient of variation (COV), division of sample variance by sample mean was completed using historical records. In this case, based on best professional judgment, and evaluation of the facility performance, the interim AMEL and MDEL for copper are set at 15 µg/L and 20 µg/L, respectively. The interim AMEL and MDEL for lead are set at 6.0 µg/L and 8.0 µg/L, respectively.

September 2010 through September 2014 effluent data were used in calculating interim effluent limitations for copper and lead. January 2013 through April 2013 data was not included in the calculations due to standard operating conditions not being met at the Facility. The following table summarizes the calculation of the interim effluent limitations:

**Interim Effluent Limitation Calculation Summary**

Parameter	Units	# of Samples	Mean	Standard Deviation	COV	99.9%	MEC	Interim AMEL	Interim MDEL
Copper, Total Recoverable	µg/L	78	7.27	3.83	0.526	19.9	26	15	20
Lead, Total Recoverable	µg/L	42	1.92	2.01	1.05	8.5	12.8	6.0	8.0

34. The Central Valley Water Board finds that the Discharger can maintain compliance with interim effluent limits included in this Order. Interim effluent limits are established when compliance with final effluent limits cannot be achieved. Discharge of constituents in excess concentrations of the final effluent limits, but in compliance with interim effluent limits, can significantly degrade water quality and adversely affect beneficial uses of the receiving stream on a long-term basis. However, interim limits establish an enforceable ceiling concentration until compliance with final effluent limits can be achieved.
35. If an interim effluent limitation contained in this Order is exceeded, the Discharger is subject to MMPs for that particular exceedance as the waste discharge is not in compliance with a CDO pursuant to Water Code section 13385, subdivision (j)(3). It is the intent of the Central Valley Water Board that a violation of an interim AMEL subjects the Discharger to only one MMP for that monthly averaging period for that constituent. In addition, a violation of an interim MDEL subjects the Discharger to one MMP for the day in which the sample was collected for that constituent.

**Regulatory Considerations**

36. Beneficial uses are designated in the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, Fourth Edition (hereafter Basin Plan), which establishes water quality objectives, and contains implementation plans and policies for protecting waters of the basins. Following the tributary rule, existing and potential beneficial uses of Stover Ditch include: hydropower generation; water contact recreation;

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warm freshwater habitat; cold freshwater habitat; warm water spawning; wildlife habitat; and municipal and domestic water supply. Existing beneficial uses for groundwater are: municipal and domestic water supply; agricultural supply; industrial service supply; and industrial process supply.

37. WDR Order R5-2009-0015 implements provisions of the *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California* (SIP) by requiring additional monitoring of the Facility's effluent for certain California Toxics Rule (CTR) constituents that have reasonable potential to cause or contribute to an excursion above a water quality criterion or objective applicable to the receiving water.
38. Pursuant to 40 Code of Federal Regulations part 122.44(d)(1)(i), NPDES effluent limits 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.
39. The following, in part, is stated in section 13301 of the California Water Code (Water Code):

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... Cease and desist orders may be issued directly by a board, after notice and hearing.
40. The continued discharge of process wastewater from the wet electrostatic precipitator would likely result in further violations of WDRs and additional impacts to water quality and beneficial uses if discharges from the wet electrostatic precipitator do not cease. This Order requires the Discharger to take appropriate action to comply with WDRs, agreed upon by the Central Valley Water Board and the Discharger, in accordance with the time schedule contained in this Order.
41. The following statute, in part, is written in Water Code section 13267:
  - (a) A regional board, in establishing or reviewing any water quality control plan or waste discharge requirements, or in connection with any action relating to any plan or requirement authorized by this division, may investigate the quality of any waters of the state within its region.

- (b) (1) 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

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waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges... 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.

42. The Discharger owns and operates the industrial process wastewater treatment facility subject to this Order. The technical reports required by this Order are necessary to assure compliance with the WDRs. The Discharger operates the facility that produces and discharges the waste subject to the WDRs. The actions and reports required by this Order are directly related to the Discharger's compliance with the WDRs and do not require expense that is not already required pursuant to the WDRs. The expense will not affect the Discharger's ability to continue business. The burden of these actions and reports bears a reasonable relationship to the need for the actions and reports.
43. Issuance of this Order is an enforcement action by a regulatory agency and is exempt from the provisions of the California Environmental Quality Act, pursuant to title 14, California Code of Regulations, section 15321(a)(2).
44. In the event the selected projects require additional review under CEQA, the Discharger shall conduct required review and obtain appropriate approval prior to initiating construction.
45. On 11 December 2015, after due notice to the Discharger and all other interested persons, the Central Valley Water Board conducted a public hearing and received evidence regarding this Order.
46. On 6 December 2016, in Rancho Cordova, California, after due notice to the Discharger and all other affected persons, the Central Valley Water Board considered ~~the proposed~~ amendments to Cease and Desist Order No. R5-2015-0128.
47. On 8 December 2017, in Rancho Cordova, California, after due notice to the Discharger and all other affected persons, the Central Valley Water Board considered the proposed amendments to Amended Cease and Desist Order No. R5-2015-0128-01.

**IT IS HEREBY ORDERED THAT:**

1. TSO No. R5-2015-0007 is rescinded upon the effective date of this Order, except for enforcement purposes.

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2. The following interim effluent limitations shall be effective immediately. The average monthly and maximum daily interim effluent limitations for copper and lead shall be effective until ~~1 January 2018~~ 18 May 2020 and 5 February 2019, respectively, or when the Discharger is able to come into compliance, whichever is sooner.

Parameter	Units	Interim AMEL	Interim MDEL
Copper, Total Recoverable	µg/L	15	20
Lead, Total Recoverable	µg/L	6.0	8.0

3. Pursuant to Water Code section 13301, the Discharger shall cease and desist from discharging, or threatening to discharge, in violation of Order R5-2009-0015. The Discharger shall maintain compliance in accordance with the schedule below:

Task	Compliance Date
<b>Work Plan and Implementation Schedule:</b> Submit a technical report in the form of a work plan, including a proposed time schedule for implementation that describes in detail, appropriate engineering calculations and design information used to convert the WESP to a DESP. In that report, provide similar information for covering areas where waste ash is stored at the Facility. The report should also describe planned modifications of log conditioning practices that will be utilized to eliminate or considerably reduce significant ponding on the log-deck.	1 February 2016
<b>Progress Reports:</b> Submit progress reports that detail what steps have been implemented towards achieving compliance with WDRs, including studies, construction progress, evaluation of measures implemented, and recommendations for additional measures as necessary to achieve full compliance by the final compliance date.	1 May 2016 1 October 2016 1 May 2017 1 October 2017 <u>1 October 2018</u> <u>1 October 2019</u>
<b>Full Compliance with <u>Copper and Lead Maximum Daily Final Effluent Limits</u></b>	<del>4 January 2018</del> <u>5 February 2019</u>
<b><u>Full Compliance with Copper and Lead Average Monthly Effluent Limits</u></b>	<u>18 May 2020</u>
<b>Report of Completion:</b> Submit a final report that certifies completion of the work plan and compliance with final effluent limits.	<del>4 February 2018</del> <u>1 January 2021</u>

4. It is the intent of the Central Valley Water Board to enforce on any violations that occur during the term of this Order. The failure of the Central Valley Water Board to enforce any provision of this Order shall in no way be deemed a waiver of such provision, or in any way affect the validity of the Order. The Discharger continues to be subject to the effluent limits specified in WDR Order R5-2009-0015 for the duration of this Order and compliance with these limits

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should be demonstrated with sampling methods that employ the appropriate level of precision.

5. For purposes of enforcement, the Central Valley Water Board has interpreted flow limits included in WDR Order R5-2009-0015 as an average monthly dry weather flow limit, not a maximum daily flow limit. Compliance is demonstrated by dividing total flow in a calendar month by the number of calendar days when discharges have occurred in that same month. For the purpose of a compliance determination with flow limits and for enforcement, the Central Valley Water Board intends to maintain this interpretation.
6. The Central Valley Water Board and the Discharger agree that by 1 January 2017 the Discharger shall improve water management practices on the log deck. Surface water and groundwater issues with log deck operation may be addressed in future permitting actions.
7. Effective the date of this Order, the Discharger will cease using the onsite gravel quarry used for storage of excess process wastewater and/or process wastewater comingled with storm water.
8. During the term of this Order the Discharger shall operate and maintain, as efficiently as possible, all facilities and systems necessary to comply with all prohibitions, effluent limits, and requirements identified in WDR Order R5-2009-0015 and any future WDRs issued to the Discharger.
9. If, for any reason, the Discharger is unable to perform any activity or submit any documentation in compliance with deadlines set forth in this Order, despite the timely good faith efforts of the Discharger, due to circumstances beyond the control of the Discharger or its agents, employees, contractors, consultants and any other person acting on the Discharger's behalf, and which could not have been reasonably foreseen and prevented or minimized by the exercise of due diligence by the Discharger, the Discharger shall notify the Executive Officer in writing within thirty (30) days of the date the Discharger first knew of the event or circumstance that caused or could cause a violation of this Order. The notice shall describe the reason for the nonperformance and specifically refer to this Paragraph. The notice shall describe the anticipated length of time the delay may persist, the cause or causes of the delay, the measures taken or to be taken by the Discharger to prevent or minimize the delay, the schedule by which the measures will be implemented, and the anticipated date of compliance. The Discharger shall adopt all reasonable measures to avoid and minimize such delays. The determination as to whether the circumstances were beyond the reasonable control of the Discharger and its agents will be made by the Executive Officer. Where the Executive Officer concurs that compliance was or is impossible, despite the timely good faith efforts of the Discharger, due to circumstances beyond the control of the Discharger that could not have been reasonably foreseen and prevented by the exercise of reasonable diligence by the Discharger, a new final compliance deadline shall be established and this Order will be revised accordingly. Where the Executive Officer does not concur that compliance was or is impossible, the matter will be scheduled for hearing

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before the Central Valley Water Board and no penalty imposed pursuant to Paragraph 12 below unless the Regional Water Board upholds the Executive Officer's determination.

10. 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.*
11. In accordance with the 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 fields pertinent to the required activities. All technical reports specified herein that contain work plans for, 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 their professional seal.
12. If, in the opinion of the Executive Officer, the Discharger fails to comply with 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 WDRs, may result in an 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.
13. 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, section 2050 et seq. 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 will be provided upon request or 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)

Note that, even if reconsideration by the Central Valley Water Board is sought, filing a petition with the State Water Board within a 30-day period is necessary to

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preserve the petitioner's legal rights. If reconsideration of this Order is requested or a petition with the State Water Board is filed, be advised that compliance with this Order is required while the reconsideration request and/or petition is considered.

This Order is effective upon date of adoption.

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 11 December 2015, and as amended by Order R5-2016-0088 and R5-2017-0118 on 6 December 2016 and 8 December 2017, respectively.

***Original Signed By***

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PAMELA C. CREEDON, Executive Officer

Attachment A: 29 July 2016 Extension Request  
Attachment B: 15 September 2017 Extension Request

ATTACHMENT A: 29 July 2016 Extension Request

Churchwell White LLP

churchwellwhite.com

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Barbara A. Brenner  
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Barbara@churchwellwhite.com

July 29, 2016

VIA EMAIL ([Pamela.Creedon@waterboards.ca.gov](mailto:Pamela.Creedon@waterboards.ca.gov))

Pamela Creedon  
Central Valley Regional Water Quality Control Board  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670-6114

**Re: Collins Pine Company Cease and Desist Order R5-2015-0128**

Dear Ms. Creedon:

This letter serves as formal written notice that my client, Collins Pine Company (“Collins”), is requesting an extension of time to comply with Cease and Desist Order R5-2015-0128 (“CDO”) as provided in Paragraph 9 on Page 12 of the CDO and an extension of the interim effluent limits for copper and lead contained in Paragraph 2 on Page 10 of the CDO.<sup>1</sup> Please see the attached true and correct copy of the CDO for those requirements.

Paragraph 9 on Page 12 of the CDO states:

*If, for any reason, the Discharger is unable to perform any activity or submit any documentation in compliance with deadlines set forth in this Order, despite the timely good faith efforts of the Discharger, due to circumstances beyond the control of the Discharger or its agents, employees, contractors, consultants and any other person acting on the Discharger’s behalf, and which could not have been reasonably foreseen and prevented or minimized by the exercise of due diligence by the Discharger, the Discharger shall notify the Executive Officer in writing within thirty (30) days of the date the Discharger first knew of the event or circumstance that caused or could cause a violation of this Order. The notice shall describe the reason for the nonperformance and specifically refer to this Paragraph. The notice shall describe the anticipated length of time the delay may persist, the cause or causes of the delay, the measures taken or to be taken by the Discharger to prevent or minimize the delay, the schedule by which the measures will be implemented, and the anticipated date of compliance.*

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<sup>1</sup> Collins contacted Mayumi Okamoto on 27 May 2016, when first notified extensive comments were submitted to Collins’ minor prevention of significant deterioration permit modification application.

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Detailed below are circumstances Collins has encountered that will prevent it from meeting the CDO's 1 January 2017 compliance schedule deadline as required under Paragraph 9 on Page 12 of the CDO.

Collins has been pursuing all permitting requirements to meet the CDO's compliance dates and install a dry ESP in a timely manner. However, those efforts have been delayed through no fault of Collins by virtue of Collins not being able to secure the necessary permits to construct a dry ESP from the United States Environmental Protection Agency Region 9 ("EPA"). For the reasons discussed below, and based on Collins' current information regarding the EPA permit issuance delays, Collins hereby requests an extension of the final compliance date to 1 January 2018 and the CDO's effluent limits on copper and lead. This date is Collins' best approximation of when it will be able to comply with the CDO's requirements, but compliance may take longer depending on EPA's permitting process.

As part of Collins' efforts to comply with the CDO and install a dry ESP, Collins has been endeavoring to secure the requisite agency approvals from EPA and the North Sierra Air Quality Management District ("NSAQMD"):

- On 8 October 2015 Collins submitted an administrative amendment application to EPA to secure an amendment to Collins' Prevention of Significant Deterioration ("PSD") permit thereby allowing Collins to install a dry ESP.
- On 15 January 2016 Collins submitted a modification to Collins' existing Permit to Operate its wood-fired boiler to the NSAQMD.
- On 29 February 2016 EPA rejected Collins' request for an administrative amendment to Collins PSD permit. EPA concluded, despite there being precedent-setting cases in other EPA regions allowing what Collins was proposing, the change in control technology equipment from a wet ESP to dry ESP was a replacement of non-identical equipment. Therefore, EPA concluded the changes Collins proposed could not be considered administrative because there would be a change in the method of operation, i.e. the control device.
- On 1 March 2016 Collins received an approval from the NSAQMD granting Collins the Authority to Construct a new dry ESP.
- On 4 March 2016 Collins submitted information requested by EPA to process Collins' previously submitted administrative amendment application as a minor PSD permit modification.

{CW023350.4}

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- On 30 March 2016 EPA placed its proposed approval of the minor PSD permit modification on public notice with all comments due on 30 April 2016. Issuance of the PSD permit, after the public comment period, would have provided ample time for Collins to complete installation of the dry ESP during the summer or fall of 2016
- By letter dated 2 May 2016, Rob Simpson of Helping Hand Tools requested that EPA reject the application and extend the comment period for the permit. A separate comment letter was submitted by Helping Hands Tools through its attorney; this comment letter was accompanied by over 350 pages of attachments.
- On 12 July 2016 EPA indicated that it was contemplating its response to the comments on Collins' minor PSD permit modification and considering holding a public hearing but provided no definite timeline for action.
- On 29 July 2016 EPA informed Collins that it sent a letter to Rob Simpson of Helping Hand Tools' attorney requesting justification for the request for a public hearing. However, EPA still has not responded to the comments it received, has not established a timeline for making its response, and has not indicated when it will hold a public hearing on Collins' minor PSD permit modification.

Once EPA issues the minor PSD permit modification, it takes 30 days before becoming effective so as to allow those in opposition to the permit to submit their appeals to EPA's Environmental Appeals Board ("EAB"). If appealed to the EAB, the minor PSD permit modification will not become effective until the appeal is resolved. The EAB review process could take anywhere from four to ten months. Collins does not know if the minor PSD permit modification will be appealed by Mr. Simpson, aka Helping Hand Tools.

Following issuance of the minor PSD permit modification and any appeal, Collins will then require a minimum of four to six months to construct, install, and test the dry ESP, its related infrastructure and a continuous emissions monitoring system. This estimated construction and installation time period of up to at least six months was confirmed by the primary contractor on 18 July 2016 taking into consideration lead time to obtain key components of the dry ESP system. These four to six months for construction, installation and testing, in addition to the unknown timeframe for EPA's minor permit modification review, confirm that Collins will not be able to comply with the original 1 January 2017 CDO deadline.

Given the already existing delay in permit issuance, the 12 and 29 July 2016 information from EPA indicating the agency does not have a firm timeline for comment review and permit issuance, in addition to the time required to construct and install the dry ESP, related infrastructure and monitoring system, Collins anticipates it will need until 1 January 2018 to have a dry ESP operational. Collins will be prepared to move forward expeditiously with construction once the minor PSD permit modification becomes effective. Collins has paid a

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deposit to the dry ESP manufacturer and has begun engineering work. However, Collins is prohibited by federal law from beginning "actual construction" until the minor PSD permit modification takes effect.

At this juncture, based on the information currently available to Collins, Collins requests an extension of the CDO's final compliance date and the interim effluent limits for copper and lead to 1 January 2018. This date is Collins' best approximation of how long it will take to secure the minor PSD permit modification and complete work on the dry ESP installation. The minor PSD permit modification process may be extended if an appeal is sought or other unanticipated delays prohibit Collins from commencing construction.

In order to keep the Central Valley Regional Water Quality Control Board informed of Collins' progress, Collins proposes to provide status reports on the EPA permitting process on 1 October 2016 and 1 February 2017. These status reports will address any additional delays in the EPA permitting process and provide updates on Collins' effort to comply with the CDO and any amended compliance date.

Please let me know if I can provide any additional information regarding this circumstance resulting in delay, or if you have any questions.

Regards,

Churchwell **White** LLP

*for*   
Barbara A. Brenner

KAF/dmg

cc: Chris Verderber (via email)  
Jess Brown (via email)  
Thomas Wood (via email)  
Mayumi Okamoto (via email)  
Clint Snyder (via email)  
Bryan Smith (via email)

{CW023350.4}

ATTACHMENT B: 15 September 2017 Extension Request

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September 15, 2017

VIA EMAIL ([pamela.creedon@waterboards.ca.gov](mailto:pamela.creedon@waterboards.ca.gov))

Ms. Pamela Creedon  
Central Valley Regional Water Quality  
Control Board  
11020 Cordova, CA 95670

**Re: Collins Pine Company Amended Cease and Desist Order R5-2015-0128-01**

Dear Ms. Creedon:

This letter serves as formal written notice that my client, Collins Pine Company (“Collins”), is requesting an extension of time to comply with AMENDED CEASE AND DESIST ORDER R5-2015-0128-01 (“Amended CDO”) as provided in Paragraph 9 on Page 12 of the Amended CDO and an extension of the interim effluent limits for copper and lead contained in Paragraph 2 on Page 10 of the Amended CDO. Collins was granted an extension of time to comply with the Amended CDO on December 6, 2016, by Order R5-2016-0088. Please see attached true and correct copy of the Amended CDO.

Paragraph 9 on Page 12 of the Amended CDO states:

*If, for any reason, the Discharger is unable to perform any activity or submit any documentation in compliance with deadlines set forth in this Order, despite the timely good faith efforts of the Discharger, due to circumstances beyond the control of the Discharger or its agents, employees, contractors, consultants and any other person acting on the Discharger's behalf, and which could not have been reasonably foreseen and prevented or minimized by the exercise of due diligence by the Discharger, the Discharger shall notify the Executive Officer in writing within thirty (30) days of the date the Discharger first knew of the event or circumstance that caused or could cause a violation of this Order. The notice shall describe the reason for the nonperformance and specifically refer to this Paragraph. The notice shall describe the anticipated length of time the delay may persist, the cause or causes of the delay, the measures taken or to be taken by the Discharger to prevent or minimize the delay, the schedule by which the measures will be implemented, and the anticipated date of compliance.*

{CW047262.6}

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Collins has continued to diligently pursue all permitting requirements to meet the Amended CDO's compliance dates and install a dry ESP (DESP) in a timely manner. However, those efforts have been delayed through no fault of Collins, by virtue of Collins not being able to secure the necessary permits to construct a DESP from the United States Environmental Protection Agency Region 9 ("EPA"). For the reasons discussed in the Amended CDO, including Attachment A, (July 29, 2016, Extension Request) and based on Collins' current information regarding the EPA permit issuance delays, Collins hereby requests an extension of the final compliance date to January 1, 2021, and the Amended CDO's effluent limits on copper and lead. This date is Collins' best approximation of when it will be able to comply with the Amended CDO's requirements, but compliance may take longer depending on EPA's permitting and possible appeal process.

Per the requirements of Water Code section 13385, subdivision (j)(3)(C)(i), the time schedule shall not exceed five years. However, per the requirements of 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 waste discharge into compliance with final effluent limits, the Central Valley Water Board (Board) may extend the time schedule for up to an additional five years, if the Discharger demonstrates that more time is necessary to comply with final effluent limits. The Board determined, as described in previous findings in this Amended Order, that the Discharger made diligent progress to bring the waste discharge into compliance with final copper and lead effluent limits contained in WDR Order R5-2009-0015, and demonstrated that additional time was necessary. On July 29, 2016, the Discharger provided justification that diligent progress was made towards compliance with final effluent limits.

However, progress has been inhibited due to delays in securing a minor permit modification to Collins' Prevention of Significant Deterioration air permit from EPA. Collins is requesting an additional extension of the final effluent limit compliance deadline for copper and lead effluent limits to the legal maximum, which results in final effluent limit compliance dates of February 5, 2019, and May 18, 2020, for maximum daily interim and average monthly effluent limits, respectively.

The January 1, 2021, deadline represents the Discharger's best approximation for complying with this Amended Order's requirements because of permitting delays in constructing the DESP. This request is based on recent communications with EPA's permit writer, and including the potential of an appeal of the EPA decision to issue the air permit.

Collins further requests that the Amended Order be revised to exclude any further status reports until the EPA issues the air permit and the appeal period ends, or any appeal filed is finally decided. Collins has taken all actions required and allowed under the Amended CDO, other than those actions requiring an EPA air permit before commencement.

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Please let me know if I can provide any additional information regarding this circumstance resulting in further delay, or if you have any questions.

Regards,

Churchwell White LLP

  
for:  
Barbara A. Brenner

BAB/dmg

Attachment

cc: Chris Verderber (via email, w/attachment)  
Jess Brown (via email, w/attachment)  
Thomas Wood (via email, w/attachment)  
Mayumi Okamoto (via email, w/attachment)  
Clint Snyder (via email, w/attachment)  
Bryan Smith (via email, w/attachment)  
Zach Chandler (via email, w/attachment)

{CW047262.6}