

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

CEASE AND DESIST
ORDER NO. R5-2010-0XXX

REQUIRING THE CITY OF COLFAX
WASTEWATER TREATMENT PLANT
PLACER COUNTY
TO CEASE AND DESIST
FROM DISCHARGING CONTRARY TO REQUIREMENTS

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

1. On 25 October 2007 the Central Valley Water Board adopted Waste Discharge Requirements (WDR) Order No. R5-2007-0130 (NPDES Permit No. CA0079529) and Cease and Desist Order (CDO) No. R5-2007-0131 prescribing waste discharge requirements and time schedules for the City of Colfax (hereafter Discharger) Wastewater Treatment Plant (hereafter Facility), Placer County. The Discharger owns and operates the Facility and the sanitary sewage collection system. The Facility provides sewerage service for the City of Colfax, serving a population of approximately 1800 with no significant industrial users. The City of Colfax is a small, disadvantaged community, with a median household income of approximately \$44,200 per year. Effective 1 January 2009 the total sewerage service fee per household is \$105.40 per month, and effective 1 July 2010 the fees will be increased to \$108.44 per month.
2. The Discharger constructed a new Facility capable of discharging up to 0.5 million gallons per day (mgd) of Title 22 tertiary treated wastewater, which was in full operation and discharging by 1 January 2009. The Facility discharges Title 22 tertiary treated effluent to an unnamed tributary to Smuthers Ravine, a water of the United States and a tributary to the North Fork of the American River via Bunch Canyon.
3. The Discharger's wastewater collection system extends over approximately 974 acres, consists of approximately 50,000 linear feet of pipeline, 200 manholes, and 700 laterals. Much of the original collection system was built in the early 1900s. The Discharger has not repaired or rehabilitated the collection system; consequently, the collection system experiences excessive infiltration and inflow (I&I). The wet weather maximum peak influent flow is 4 mgd and the maximum daily average wet weather influent flow is 1 mgd.
4. When influent flows exceed the tertiary treatment plant capacity of 0.5 mgd, partially treated wastewater is stored in a 69 million gallon storage reservoir that was built in 1979. The 9.7 acre storage reservoir has a dam that is 385 feet in length, and 75 feet in height with a spillway located approximately 4 feet below the top of the dam. The storage reservoir is unlined and constructed over bedrock in an area of several natural springs. Seepage occurs at the dam and is collected and returned to the storage reservoir. Seepage also occurs at other locations that may bypass the seepage collection system and may discharge to surface water. Such discharges are in violation of WDR Order No. R5-2007-0130, Discharge Prohibition III.A. CDO No. R5-2007-0131 required the Discharger, in part, to cease all wastewater seepage discharges from the storage reservoir by 1 October 2009.

5. The Discharger has not completed the measures necessary to cease wastewater seepage discharges by the compliance date. The Discharger submitted a workplan that proposed lining of the storage reservoir. However, the Discharger has been unable to dewater the reservoir in preparation of the lining project, because the reservoir has been needed to store wastewater during construction of the tertiary treatment plant and is currently needed to store excessive I&I. In view of the problematic dewatering of the reservoir, the Discharger is considering implementing alternative measures to ensure compliance with Discharge Prohibition III.A. Therefore, this Order requires the Discharger to submit a new workplan and schedule to cease all seepage discharges to surface water, and provides additional time for the Discharger to comply with Discharge Prohibition III.A. The Central Valley Water Board may need to revise the compliance time schedule if weather conditions are not favorable for implementation of proposed compliance projects, or as other unknown factors become present (e.g., emergency use of the storage reservoir).
6. CDO No. R5-2007-0131 also required the Discharger to implement a Capital Improvement Program that provides for repairs of its collection system to reduce excessive I&I, and to comply with the Average Daily Dry Weather Flow effluent limit contained in WDR Order No R5-2007-0130. The Discharger has been in compliance with CDO No. R5-2007-0131 regarding this requirement.
7. On 3 March 2008 the Discharger submitted its Capital Improvement Program (2008 CIP); however, the proposed projects were delayed due to a lack of funding. Nevertheless, the Discharger installed three continuous flow monitors in its wastewater collection system to evaluate the problem areas, and conducted a closed circuit television (CCTV) inspection and smoke testing of 16% of its wastewater collection system. Based on these results, the Discharger refined the 2008 CIP in a draft I&I study, dated July 2009 (2009 I&I Study).
8. During the months of February, March, and May 2009, the Discharger analyzed the rainfall-dependent I&I effects of three separate storm events. In the 2009 I&I Study, the Discharger reported the peaking factors of these storm events, which was averaged over the entire system, as 8.9, 7.8, and 4.6, respectively. The peaking factor is an indicator of the severity of the rainfall-dependent infiltration and inflow into the collection system, and is defined as the peak hourly flow during wet weather divided by the average dry weather flow. US EPA recommends a peaking factor from 3 – 3.5; however, a peaking factor of greater than 5 is typical of basins with higher than average inflow (1 July 2009 Technical Memorandum, by ECO:LOGIC Engineering).
9. In the 2009 I&I Study, the Discharger commits to rehabilitating about 7500 linear feet of piping, 12 manholes, and 100 laterals; and to completing CCTV inspection and smoke testing of the remaining collection system. Additionally, the Discharger commits to upgrading four pump stations. These projects are projected to start February 2010. The Discharger also commits \$450,000 annually to continue repairs of its collection system. The 2009 I&I Study also found that a large quantity of the excessive I&I originates from private laterals and private sewer systems; therefore, the Discharger plans to implement an incentive program towards private lateral replacement/rehabilitation projects. The Discharger has secured funding for these projects from revenues gained in increasing the sewage service fees and the American Recovery & Reinvestment Act funds. This Order

continues the I&I requirements from CDO No. R5-2007-0131 by requiring the Discharger to submit annual progress reports on the collection system repairs and on the progress in reducing I&I to achieve a more reasonable peaking factor of less than 5.

10. CDO No. R5-2007-0131 also required the Discharger to implement additional actions to comply with the final nitrate effluent limitations contained in WDR Order No. R5-2007-0130, and provided a time schedule with compliance required by 1 January 2009. The Discharger has addressed compliance with the nitrate effluent limits by constructing a new nitrification and denitrification treatment system. The Facility is currently in compliance with the final nitrate effluent limitations in WDR Order No. R5-2007-0130. Therefore, this Order does not continue the nitrate compliance schedule from CDO No. R5-2007-0131.
11. WDR Order No. R5-2007-0130 includes the following final effluent limitations for copper that became effective 1 January 2009:

Parameter	Units	Effluent Limitations				
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
Copper, Total Recoverable	µg/L	2.7	--	5.5	--	--

12. The Discharger has completed several efforts to attain compliance with the final copper effluent limitations, including constructing a new Facility capable of discharging Title 22 tertiary treated wastewater that was fully operational by 1 January 2009. However, based on statistical analysis of the 10 samples collected since operation of the tertiary treatment plant, the Discharger has determined that the Facility cannot consistently comply with these effluent limitations. The Discharger must implement additional actions for compliance. Additional treatment facilities may be necessary, which cannot be designed, installed, and put into operation within 30 calendar days. Alternatively, source identification and source reduction efforts may be necessary, or the Discharger may conduct a site-specific water effects ratio study, which could result in the relaxation of the final water quality-based effluent limits.
13. CWC section 13385(h) and (i) require the Regional Water Board to impose mandatory minimum penalties upon dischargers that violate certain effluent limitations. CWC section 13385(j) exempts certain violations from the mandatory minimum penalties. CWC section 13385(j)(3) exempts the discharge from mandatory minimum penalties *“where the waste discharge is in compliance with either a cease and desist order issued pursuant to Section 13301 or a time schedule order issued pursuant to Section 13300, if all the [specified] requirements are met.”*
14. Compliance with this Order exempts the Discharger from mandatory penalties for violations of effluent limitations for copper until 1 January 2014, in accordance with CWC section 13385(j)(3). CWC section 13385(j)(3) requires the Discharger to prepare and implement a pollution prevention plan pursuant to section 13263.3 of the California Water Code. Therefore, a pollution prevention plan will be necessary for copper in order to effectively reduce the effluent concentrations by source control measures.
15. This Order provides a time schedule for completing the actions necessary to ensure compliance with the final copper effluent limitations contained in

WDR Order No. R5-2007-0130 (Section IV.A.2. Final Effluent Limitations), and requires the Discharger to implement a pollution prevention plan for copper. Since the time schedule for completion of actions necessary to bring the waste discharge into compliance exceeds 1-year, this Order includes an interim effluent limitation and interim requirements and dates for their achievement. The time schedule does not exceed 5 years.

16. The interim effluent limitation for copper is based on the current treatment plant performance. In developing interim limitations, when there are ten sampling data points or more, sampling and laboratory variability is accounted for by establishing interim limits that are based on normally distributed data where 99.9% 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*). Since operation of the tertiary treatment facility in January 2009 through September 2009, the Discharger has collected ten effluent samples for copper. Therefore, the interim limitation in this Order is established as the mean plus 3.3 standard deviations of these data values.
17. The Central Valley Water Board finds that the Discharger can undertake source control and treatment plant measures to 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.
18. Section 13301 of the California Water Code (CWC) states in part, "*When a regional board finds that a discharge of waste is taking place or threatening to take place in violation of requirements or discharge prohibitions prescribed by the regional board or the state board, the board may issue an order to cease and desist and direct that those persons not complying with the requirements or discharge prohibitions (a) comply forthwith, (b) comply in accordance with a time schedule set by the board, or (c) in the event of a threatened violation, take appropriate remedial or preventative action. In the event of an existing or threatened violation of waste discharge requirements in the operation of a community sewer system, cease and desist orders may restrict or prohibit the volume, type, or concentration of waste that might be added to such system by dischargers who did not discharge into the system prior to the issuance of the cease and desist order. Cease and desist orders may be issued directly by a board, after notice and hearing, or in accordance with the procedure set forth in Section 13302.*"
19. This Order extends the compliance schedule for compliance with WDR Order No. R5-2007-0130, Discharge Prohibition III.A, contained in CDO No. R5-2007-0131. This Order also adds a new compliance schedule for complying with the final effluent limits for copper in WDR Order No. R5-2007-0130. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000, *et seq.*) ("CEQA") for the following reasons, each of which is an independent basis for exemption.

- This Order does not modify any compliance dates or other requirements of NPDES Order No. R5-2007-0130, which requires compliance with Discharge Prohibition III.A. and compliance with Effluent Limitations IV.A.2.a for copper notwithstanding any cease and desist order. This Order serves to enforce Order No. R5-2007-0130. This Order is exempt from CEQA under Water Code Section 13389, since the adoption or modification of a NPDES permit for an existing source is exempt and this Order only serves to implement a NPDES permit. (*Pacific Water Conditioning Ass'n, Inc. v. City Council of City of Riverside* (1977) 73 Cal.App.3d 546, 555-556.)
 - This Order does not have the potential to cause a significant impact on the environment (Title 14 CCR section 15061(b)(3)) and is not a "project" as defined by CEQA. This Order enforces preexisting requirements to improve the quality of ongoing discharges that constitute the CEQA "baseline"; and includes interim effluent limitations to ensure that discharge does not increase above the CEQA baseline. This Order imposes requirements that will maintain the CEQA baseline while the Discharger attains compliance with the existing requirements. Any measures to meet effluent limitations are the result of WDR Order No. R5-2007-0130 and not this Order. Since the compliance schedules are as short as possible and all actions to comply with the existing permit requirements are already required, this Order does not cause or allow any environmental impacts to occur; those impacts would occur regardless of this Order.
20. On 28 January 2010, in Rancho Cordova, California, after due notice to the Discharger and all other affected persons, the Central Valley Water Board conducted a public hearing at which evidence was received to consider a Cease and Desist Order under CWC section 13301 to establish a time schedule to achieve compliance with waste discharge requirements.
21. 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 CWC 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 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 (including mandatory furlough days), 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.

IT IS HEREBY ORDERED THAT Cease and Desist Order No. R5-2007-0131 is rescinded upon the adoption of this Order by the California Regional Water Quality Control Board, Central Valley Region, except for enforcement purposes, and, pursuant to CWC Section 13301:

1. The Discharger shall comply with the following time schedule to report collection system repairs, and subsequently rain-induced infiltration and inflow (I&I) reductions as described in the findings of this Order:

<u>Task</u>	<u>Date Due</u>
Implement the 2009 I&I Study described in Finding 9 of this Order, and any additional projects necessary to rehabilitate the collection system's most severe I&I issues:	No later than 28 February 2010
Submit annual reports that summarizes:	1 May, each year
1) Collection system repairs completed,	
2) Estimates of I&I reduction achieved (e.g. based on influent flows, peak day, peaking factor, average day maximum month flow), and	
3) Budget, source of funding, and work planned for next fiscal year	

2. The Discharger shall comply with the following time schedule to ensure compliance with Discharge Prohibition III.A. in WDR Order No. R5-2007-0130 as described in the findings of this Order:

<u>Task</u>	<u>Date Due</u>
Submit Method of Compliance Workplan/Schedule/Budget and source of funding.	1 January 2011
Submit Progress Reports, including discussion of seepage characterization and water quality impacts assessment.	1 January, each year after approval of the Workplan/Schedule
Full compliance with Discharge Prohibition III.A.	1 January 2014

3. The Discharger shall comply with the following time schedule to ensure compliance with Effluent Limitations IV.A.2.a for copper in WDR Order No R5-2007-0130 as described in the findings of this Order:

<u>Task</u>	<u>Date Due</u>
Submit Compliance Project Workplan/Schedule	1 September 2010
Submit and implement Pollution Prevention Plan (PPP) ¹ pursuant to CWC Section 13263.3	1 September 2010
Submit Progress Reports ²	1 January, each year
Full compliance with Effluent Limitations IV.A.2.a. for Copper	1 January 2014

¹ The PPP shall be prepared and implemented for copper, and shall meet the requirements specified in CWC Section 13263.3

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.

4. For the compliance schedules 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.

5. The following interim effluent limitation for copper shall be effective immediately, and shall remain in effect through 1 January 2014, or when the Discharger is able to come into compliance with the final effluent limitation, whichever is sooner.

Parameter	Maximum Daily Effluent Limitation
Copper (µg/L)	6.7

6. If in the opinion of the Executive Officer, the Discharger fails to comply with the provisions of this Order, the Executive Officer may apply to the Attorney General for judicial enforcement or issue a complaint for Administrative Civil Liability.
7. 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.”
8. In addition to the above, the Discharger shall comply with all applicable provisions of the California Water Code that are not specifically referred to in this Order.
9. All technical reports required herein that involve planning, investigation, evaluation, or design, or other work requiring interpretation and proper application of engineering or geologic sciences, shall be prepared by or under the direction of persons registered to practice in California pursuant to California Business and Professions Code, Sections 6735, 7835, and 7835.1. As required by these laws, completed technical reports must bear the signature(s) and seal(s) of the registered professional(s) in a manner such that all work can be clearly attributed to the professional responsible for the work.
10. Failure to comply with this Order may result in the assessment of an Administrative Civil Liability up to \$1,000 or up to \$10,000 per day of violation, depending on the violation, pursuant to the California Water Code, including Sections 13268, 13350, and 13385. The Central Valley Water Board reserves its right to take any enforcement actions authorized by law.

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 28 January 2010.

PAMELA C CREEDON, Executive Officer