

California Regional Water Quality Control Board
North Coast Region

Order No. R1-2005-0085
(Modifying Order No. R1-2004-0102)

I.D. No. 1B83001OSON

Cease and Desist Order

Requiring
The Occidental County Sanitation District
and
The Sonoma County Water Agency
To Cease and Desist From Threatening to Discharge
In Violation of Waste Discharge Requirements

Sonoma County

The California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board), finds that:

1. The Occidental County Sanitation District (hereinafter OCSD), owns a municipal wastewater treatment facility located east of the Town of Occidental. The wastewater treatment facility serves the community of Occidental. Treated effluent is disposed by irrigation during the summer and by discharge to Dutch Bill Creek during the winter. The Sonoma County Water Agency (hereinafter SCWA), located at 2150 W. College Avenue, Santa Rosa, is under contract to operate and maintain the Occidental Wastewater Treatment Facility (WWTF). The OCSD and the SCWA are collectively hereinafter referred to as the Discharger.
2. The Regional Water Board adopted Waste Discharge Requirements Order No. 93-42 (WDR Order No. 93-42) for the WWTF on May 27, 1993. WDR Order No. 93-42 also serves as an NPDES Permit and allows the Discharger to discharge treated effluent at a rate of up to one percent of the flow of the receiving water during the period of October 1 through May 14 of each year and prohibits discharge to Dutch Bill Creek and its tributaries during the period of May 15 through September 30 of each year.
3. On August 27, 1997, the Regional Water Board held an evidentiary hearing and subsequently adopted: (1) Cease and Desist Order No. 97-74 (CDO No. 97-74) requiring the Discharger to cease and desist from threatening to discharge in violation of WDR Order No. 93-42; and (2) Time Schedule Order No. 97-75 (TSO No. 97-75) prescribing an administrative civil liability penalty schedule upon the Discharger's failure to comply with tasks therein pertaining to development and construction of a capital improvement project to correct

violations from the existing failing WWTF. The Regional Water Board found that the Discharger violated WDR Order No. 93-42 by: (1) discharging treated, disinfected effluent to waters of the state during the summer discharge prohibition period; and (2) discharging treated effluent with pH and chlorine residual violations to waters of the state. The Regional Water Board also found that these violations occurred and may continue to occur due to a lack of adequate storage capacity and/or inadequate operation of treatment and storage facilities at the WWTF.

CDO No. 97-74 contained a time schedule of short- and long-term actions for the Discharger to complete in order to cease and desist from threatening to discharge waste in violation of WDR Order No. 93-42. The short-term actions were completed in a timely manner. Some of the long-term actions have been completed and others, such as completion of a capital improvement project (CIP), were extended in a subsequent Cease and Desist Order (see Finding 7).

4. On October 23, 1997, the Regional Water Board adopted Administrative Civil Liability Order No. 97-126 (ACL Order No. 97-126) imposing administrative civil liability against the Discharger for violations of WDR Order No. 93-42 and prohibitions contained in the Water Quality Control Plan for the North Coast.
5. On January 25, 2001, and March 2, 2001, the SCWA submitted letters to the Regional Water Board Executive Officer describing the Discharger's plan for selecting and constructing a final wastewater treatment facility upgrade project and requesting an extension of time to complete Tasks H and I in CDO No. 97-74 pertaining to awarding a bid for and completing construction of the selected capital improvement project. The March 2, 2001, letter requested an extension of one year and nine months to award the bid for the selected project and stated that they could not commit to a date for completion of construction until a project is selected. The time extensions were requested to allow for consideration of a combined Occidental/Camp Meeker wastewater project proposed by the Camp Meeker Parks and Recreation District as an additional upgrade alternative.
6. On May 24, 2001, the Regional Water Board considered the Discharger's extension requests, and adopted: (1) Cease and Desist Order No. R1-2001-47 that extended the remaining deadlines in CDO No. 97-74, subject to completion of an interim project to reduce the potential for on-going effluent limitation violations and a prohibition on additional discharges; and (2) Time Schedule Order No. R1-2001-48 prescribing an administrative civil liability penalty schedule upon the Discharger's failure to comply with tasks therein pertaining to development and construction of the selected CIP.
7. An EIR for the Occidental/Camp Meeker project was certified by the Camp Meeker Recreation and Parks District on March 12, 2002. The EIR identified a preferred capital improvement project that consisted of a combined

Occidental/Camp Meeker wastewater collection, treatment, disposal, and reclamation upgrade project. The identified project consisted of a collection system and lift station in Camp Meeker, a force main from Camp Meeker to Occidental, replacement of the existing collection system in Occidental, modification of the existing lift station in Occidental, upgrade of the existing Occidental WWTF to tertiary treatment capabilities, a new 2-million gallon recycled water storage pond, abandonment of the use of Graham's Pond, construction woodlands and wetland disposal, wet-weather surface water discharge to Dutch Bill Creek at an average rate of 2.2 percent of the flow of Dutch Bill Creek, and dry-weather irrigation on the same parcel currently being used for dry-weather irrigation. The Board of Directors for the OCSD approved the preferred project on March 26, 2002.

8. In a written progress report dated May 31, 2002, the SCWA stated that the OCSD and SCWA would not be able to meet two compliance dates in CDO No. R1-2001-47, the December 1, 2002, date for awarding a bid for the CIP and the December 1, 2003, date for completion of the CIP. The SCWA requested a one-year time extension to award a bid for the CIP and a 27-month time extension to complete construction of the CIP. The progress report stated that progress toward design and construction of the proposed facility is moving ahead slowly due to financial constraints and that the OCSD and the SCWA would continue to seek grants to fund the proposed project. The progress report stated that the extension would allow the Discharger and Camp Meeker to continue their efforts to obtain funding for the CIP but did not provide a definitive plan for obtaining the funding.
9. In June 2002, the Discharger completed the interim project required by CDO No. R1-2001-47 (dredging sludge from the settling pond) that was to improve WWTF reliability. The Discharger has continued to report effluent limitation violations in its monthly self-monitoring reports since the completion of the interim project.
10. In a letter dated October 31 2002, the Regional Water Board Executive Officer required that the Discharger submit a financial plan documenting that funding was available for completion of the preferred CIP. On December 18, 2002, and January 8, 2003, the SCWA submitted drafts of a written report titled "Financial Plan, Long-Term Capital Improvement Project" (CIP Report) with a time schedule and financial plan for completion of the CIP. The CIP Report described a phased approach to constructing the CIP that involved breaking the project into prioritized stand-alone phases that would be constructed as grant funding was obtained. The CIP Report identified funding sources that were being applied for in order to pay for completion of the CIP.
11. On March 27, 2003, the Regional Water Board considered the Discharger's extension requests, and adopted: (1) Cease and Desist Order No. R1-2003-0020 that extended the remaining deadlines in CDO No. R1-2001-47, subject to completion of an interim project to reduce the potential for on-going effluent

limitation violations and a prohibition on additional discharges, and (2) Time Schedule Order No. R1-2003-0021, prescribing an administrative civil liability penalty schedule upon the Discharger's failure to comply with tasks therein pertaining to development and construction of the selected CIP.

12. On September 1, 2003, the Discharger submitted a plan and time schedule for implementing an interim compliance project directed at improving system reliability and reducing violations of WDR Order No. 93-42. The selected project, installation of baffles in the aeration pond to eliminate the potential for short-circuiting and improve BOD removal, was installed on March 9, 2004. On December 1, 2004, the Discharger submitted a progress report with a water quality evaluation of the baffles' effect on the effluent quality. The water quality analysis appears to show some improvement in water quality. However, the Occidental WWTF continues to experience compliance problems, particularly during high rainfall conditions.
13. On May 21, 2004, the Sonoma County Water Agency submitted a semi-annual progress report with a request for extension of the compliance schedule for completion of Task 1.E – Award Bid for Phase 2 of the Capital Improvement Project due to delays associated with negotiation of the engineering and design services contract that were beyond the control of the Discharger. The semi-annual progress report documented that the Discharger has worked diligently to comply with the enforcement orders and has satisfactorily completed Tasks 1.A., 1.B. and 1.D and the Discharger has submitted all semi-annual progress reports as required by Task 1.C. in a timely manner.
14. On November 29, 2004, the Regional Water Board considered the Discharger's extension request, and adopted: (1) Cease and Desist Order No. R1-2004-0102 that extended the deadline for completion of Task 1.E; and (2) Time Schedule Order No. R1-2004-0103, prescribing an administrative civil liability penalty schedule upon the Discharger's failure to comply with tasks therein pertaining to development and construction of the selected CIP.
15. The connection ban established in CDO No. R1-2001-47 was reviewed by the Regional Water Board when considering CDO Nos. R1-2003-0020, R1-2004-0102, and R1-2005-0085. With each review, the Regional Water Board found that any significant additional discharges to the WWTF over the extended compliance period may result in further compliance problems and actual and threatened violations of WDR Order No. 93-42. Accordingly, CDO No. R1-2003-0020 continued to implement California Water Code ("CWC") Section 13301, which states in part:

"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."

and

Title 23, California Code of Regulations (“CCR”), Section 2244(b) which states:

“Prohibitions or appropriate restrictions on additional discharges should be included in a cease and desist order if the further addition in volume, type, or concentration of waste entering the sewer system would cause an increase in violation of waste discharge requirements or increase the likelihood of violation of requirements.”

The Regional Water Board found that significant additional discharges into the WWTF would cause an increase in violation of WDR Order No. 93-42 or increase the likelihood of violation of such requirements unless all practicable interim repairs and improvements to the treatment process are made. Therefore, a connection ban continued to be necessary. However, in light of interim repairs and improvements that have been proposed by the Discharger, some additional flows to the WWTF can be accommodated before the complete upgrade is complete. Accordingly, the connection ban was modified to allow limited additional connections as described in Provision 4 of CDO Nos. R1-2003-0020 and R1-2004-0102, which is carried forward into this Order.

16. On June 21, 2005, the Discharger presented an oral update to the Regional Water Board at its regularly scheduled Board Meeting. The Discharger informed the Regional Water Board that the capital improvement project described in Finding 7 of this Order is no longer feasible due to the fact that high capital and annual costs would be borne by the community of Occidental alone. The Discharger reported that although the project identified in Finding 7 of this Order was intended to serve both Occidental and Camp Meeker, anticipated grant funding is not available for Camp Meeker and has been significantly cut back for Occidental. Due to the limited funding, Camp Meeker is unable to participate in the project and the construction and annual costs are too high for Occidental to fund on its own.

The Discharger further informed the Regional Water Board that it is evaluating options and is prepared to take steps to develop a new capital improvement project plan to comply with the Regional Water Board’s requirements and one that is feasible for the community of Occidental. The Discharger is investigating alternative projects to meet the June 30, 2008, compliance project deadline required by ACL Complaint Order No. R1-2003-0125, including the possibility of upgrading its collection system to reduce flows to the wastewater treatment plant.

17. On July 29, 2005, the Discharger submitted a letter to the Regional Water Board Executive Officer requesting an extension of time to June 30, 2010, to complete a capital improvement project as required by the Regional Water Board’s CDOs. The July 29, 2005, letter stated that the Discharger has conducted a preliminary evaluation of alternative capital improvement projects that indicates that the most feasible CDO capital improvement project is a new pipeline with capacity for

Occidental and Camp Meeker's wastewater that would be constructed from Occidental to the Russian River CSD wastewater treatment facility. The Discharger proposes to complete an environmental impact report that evaluates the proposed project alternatives.

In addition, the July 29, 2005, letter requested a change in the compliance project that the Discharger would implement to comply with ACLC No. R1-2003-0125. The Discharger proposes replacement of Occidental CSD's collection system in place of the original compliance project, construction of tertiary filters, as the tertiary filters are no longer practicable or feasible. The letter states that an Occidental CSD collection system replacement project would be completed by October 2007, sooner than the June 30, 2008, deadline required by ACLC Order No. R1-2003-0125. ACLC Order No. R1-2003-0125 has been amended under a separate action to allow a change in compliance projects.

18. This Order sets a new compliance schedule for completion of a capital improvement project and carries forward the unaffected portions of Order R1-2004-0102 for completeness.
19. An evidentiary hearing was held on the adoption of this Order before the Regional Water Board on October 12, 2005, in the Regional Water Board Hearing Room, 5550 Skylane Boulevard, Suite A, Santa Rosa, California. The Regional Water Board considered all evidence presented at the hearing.
20. The adoption of a CDO is an enforcement action to protect the environment, and is therefore exempt from the provisions of the CEQA pursuant to Title 14, CCR, Sections 15308 and 15321(a)(2).
21. Any person affected by this action of the Regional Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with CWC Section 13320 and Title 23, CCR, Section 2050. The petition must be received by the State Water Board within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request. In addition to filing a petition with the State Water Board, any person affected by this Order may request the Regional Water Board to reconsider this Order. To be timely, such request must be made within 30 days of the date of this Order. Note that even if reconsideration by the Regional Water Board is sought, filing a petition with the State Water Board within the 30-day period is necessary to preserve the petitioner's legal rights. If you choose to request reconsideration of this Order or file a petition with the State Water Board, be advised that you must comply with the Order while your request for reconsideration and/or petition is being considered.

THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Discharger shall cease and desist from threatening to discharge in violation of Waste Discharge Requirements Order No. 93-42 and the Water Quality Control

Plan for the North Coast Region (Basin Plan) in accordance with the following schedule:

TASK	TASK DESCRIPTION	COMPLIANCE DATE
A.	Submit quarterly progress reports that identify specific steps that have been taken toward identification and implementation of the capital improvement project (CIP) and compliance project during the previous quarter and describing the status of interim operations of the existing plant ¹ .	March 1, June 1, September 1 and December 1 of each year until the CIP is completed
B.	Release draft CEQA document for CIP for public review	February 28, 2007
C.	Complete the construction of the Occidental collection system upgrade project	October 30, 2007
D.	Certify final CEQA document	December 30, 2007
E.	Complete final design of the CIP	December 30, 2008
F.	Complete Construction of the Capital Improvement Project	June 30, 2010

2. The addition of (a) new wastewater flows to the WWTF from new residential, commercial, industrial, and/or governmental connections or (b) increases in wastewater flows (either in volume or concentration) to the WWTF from existing facilities that are already connected to the WWTF is prohibited (the "Additional Discharge Ban"), except as described in Provisions 3 and 4 of this Order. The prohibition shall continue until such time that it can be demonstrated to the satisfaction of the Regional Water Board that such connections will not cause an increase in violation of WDR Order No. 93-42 (or any future waste discharge requirements order issued for the WWTF) or increase the likelihood of violation of such requirements, except that the Regional Water Board may remove the prohibition, in whole or in part, if it makes all of those findings provided in Provision 6 below.
3. The following are excluded from the Additional Discharge Ban:
 - a. Structures with building permits (or, if the governmental entity with jurisdiction does not issue a document called a "building permit," such other approval document that constitutes final approval of construction) already issued at the time of publication of the public notice (i.e., March 28, 2001) for

¹ Quarterly progress reports shall provide comprehensive updates on project milestones and shall include, but not be limited to, information such as CEQA document progress, progress on project design, posting of Requests for Proposals, selection of consultants and contractors, bid award, efforts to obtain funding, submittal of grant applications, and progress toward construction of the selected CIP. The quarterly progress reports should include technical and financial information that demonstrates that the projects are moving ahead in a timely manner and shall identify any problems encountered that may affect progress. The quarterly progress reports shall describe all interim measures being implemented to maximize compliance with Order No. 93-42, including, but not limited to, outreach and education, special projects, O&M measures, user inspections, and monitoring.

a hearing on Order No. R1-2001-47 are excluded from the Additional Discharge Ban in accordance with Title 23, CCR, Section 2244.1(a).

- b. Those structures that normally do not require a building permit (e.g., those government buildings exempted from the permit process) shall be exempt from the Additional Discharge Ban if construction has commenced.
 - c. Discharges from existing dwellings not connected to the sewer system that have methods of waste disposal that are causing more severe water quality problems than those caused by the community sewer system.
 - d. Discharges which, by reason of special circumstances, if not allowed to connect to the community sewer system would result in extreme public hardship or a public health hazard. This is not intended to mean that economic loss to a community as a whole or to any public agency or private person within the community is by itself cause for not prohibiting additional connections because such loss is the rule rather than the exception and cannot outweigh the need to prevent an increase in water quality impairment which is the basic reason for the prohibition.
4. The Regional Water Board Executive Officer may grant up to one exception to the Additional Discharge Ban per year if the Regional Water Board Executive Officer finds that the Discharger has made satisfactory progress toward implementing all practicable interim repairs and improvements to the treatment process, and that such interim repairs and improvements have resulted in improved treatment plant performance.
 5. Persons wishing to obtain an exclusion from the prohibition or restriction provided in Provisions 3(c), 3(d) and 4 shall make such request, in writing, to the Regional Water Board Executive Officer. The Executive Officer shall promptly act on the request, but in no event later than 60 days from receipt of the request.
 6. As set forth in Title 23, CCR, Section 2244.3(b), the prohibition on the additional discharges provided herein may be removed, at the discretion of the Regional Water Board, if it finds that:
 - Consistent compliance with requirements can be achieved only by construction of a facility which will take a substantial period of time to complete; and
 - the Discharger has the capacity, authority, and financial resources to complete the corrective measures necessary to achieve compliance and is currently proceeding with such corrective measures; and
 - the corrective measures necessary to achieve compliance with requirements will be completed and placed into operation by the Discharger in the shortest practicable time; and

- all practicable interim repairs and improvements to the treatment process of the discharges which can be made have been made; and
- during the interim period of time until compliance with requirements can be fully achieved the treatment process of the discharges will be so managed, operated, maintained and repaired as to reduce to a minimum the violations which resulted in the imposition of the prohibition, and such minimum violations for the interim period of time involved will not significantly impair water quality or beneficial uses.

Certification

I, Catherine E. Kuhlman, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, North Coast Region, on October 12, 2005.

Catherine E. Kuhlman
Executive Officer