

California Regional Water Quality Control Board
North Coast Region

Order No. R1-2005-0086
(Modifying Order No. R1-2004-0103)

I.D. No. 1B83001OSON

Time Schedule Order

For

Administrative Civil Liability
In The Matter of
Occidental County Sanitation District
and The Sonoma County Water Agency

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 of 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 a 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 treatment system 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 request, 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 ongoing 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. On March 12, 2002, an EIR for the Occidental/Camp Meeker project was certified by the Camp Meeker Recreation and Parks District. 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, upgrading 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, constructed 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 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 received. The CIP Report identifies funding sources that are being applied for in order to pay for completion of the CIP. The CIP Report described four project phases, but contained only one specific compliance date.

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.
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. On June 21, 2005, the Dischargers presented an oral report to the Regional Water Board at its regularly scheduled Board Meeting. The Dischargers 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 Dischargers reported that, although the project described 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 Dischargers further informed the Regional Water Board that they are evaluating options and are 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 Dischargers are investigating alternative projects to meet the June 30, 2008, compliance project deadline required by its ACL Complaint Order No. R1-2003-0125, including the possibility of upgrading its collection system to reduce flows to the wastewater treatment plant.

16. On July 29, 2005, the Dischargers 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 Dischargers have 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 propose 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 Dischargers would implement to comply with ACLC No. R1-2003-0125. The Dischargers propose replacement of the Occidental CSD collection system be upgraded in place of constructing tertiary filters, as the tertiary filters are no longer practicable or feasible. The letter states that an 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.

17. This Order sets a new compliance schedule for completion of a capital improvement project and carries forward the unaffected portions of Order No. R1-2004-0103 for completeness.
18. Pursuant to Section 13308 of the California Water Code, the Regional Water Board may adopt a time schedule and prescribe civil penalties that shall become due for violations of the time schedule based on the amount reasonably necessary to achieve compliance, not to include any amount intended to punish or redress previous violations and not to exceed ten thousand dollars (\$10,000) for each day in which the violation occurs.

19. Because there is a threatened or continuing violation of CDO No. R1-2005-0086, it is necessary to adopt this Time Schedule Order to establish a time schedule to achieve compliance with WDR Order No. 93-42 and CDO No. R1-2005-0086, as well as to revise the remaining tasks of TSO No. R1-2004-0103. The time schedule in that Order contained civil penalties in amounts reasonably necessary to induce the Discharger to achieve compliance.
20. If the Discharger fails to comply with the time schedule contained in this Order, a complaint may be issued pursuant to California Water Code Section 13323(a) alleging the violation(s) of this Order and setting forth the amount of civil liability due under this Order as specified below. The amount of the civil liability may be reduced based on consideration of the specific factors in California Water Code Section 13327.
21. 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.
22. The adoption of a time schedule order for administrative civil liability is an enforcement action to protect the environment, and is therefore exempt from the provisions of CEQA pursuant to Title 14, California Code of Regulations, Sections 15308 and 15321(a)(2).

THEREFORE, IT IS HEREBY ORDERED that:

1. Administrative Civil Liability shall be imposed on the Discharger for any failure to comply with Tasks A through F by the compliance dates as set out in the following time schedule:

TASK	TASK DESCRIPTION	COMPLIANCE DATE	PENALTY ASSESSMENT DATE	CIVIL PENALTY
A.	Submit quarterly progress	March 1, June 1,	10 days after each	\$500 for

	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	September 1, and December 1 of each year, until the CIP is completed	progress report compliance date	each late or unsubmitted report
B.	Release draft CEQA document for public review	February 28, 2007	April 1, 2007	\$5,000
C.	Complete the construction of the Occidental collection system upgrade project	October 30, 2007	December 1, 2007	\$5,000
D.	Certify final CEQA document	December 30, 2007	February 1, 2008	\$5,000
E.	Complete final design of the CIP	December 30, 2008	February 1, 2009	\$1,000
F.	Complete construction of the CIP	June 30, 2010	August 1, 2010	\$10,000

2. Administrative civil liability shall be imposed on the Discharger for violation of Tasks A through F in accordance with the above time schedule. If there are delays beyond the dates specified above, the discharger is liable for \$1,000 for each additional day in which the violation occurs.

Certification

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.

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