

California Regional Water Quality Control Board
North Coast Region

Order No. R1-2004-0102
(Modifying Order No. R1-2003-0020)

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 project¹ to correct

¹ The term "capital improvement project" (all lower case letters) is used in this Order to refer to the capital improvement project before a specific WWTF upgrade project was selected. The terms "Capital Improvement Project" or "CIP" are used in this Order to refer to the selected WWTF project that is described in Finding 6 of this Order.

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, 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. An EIR for the Occidental/Camp Meeker project was certified by the Camp Meeker Recreation and Parks District on March 12, 2002. The project was approved as the preferred project by the Camp Meeker Recreation and Parks District and the Board of Directors for the SCWA on March 12, 2002 and March 26, 2002, respectively.

The Discharger has identified the selected Capital Improvement Project (CIP) to be a combined Occidental/Camp Meeker wastewater collection, treatment, disposal, and reclamation upgrade project. This project, described in the March 12, 2002 Occidental/Camp Meeker Project Final EIR, includes the following components: 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.

7. 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.
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. 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 describes a phased approach to constructing the CIP that involves breaking the project into prioritized stand-alone phases that will be constructed as grant funding is obtained. The CIP Report identifies funding sources that are being applied for in order to pay for completion of the CIP. The CIP Report describes four project phases, but contains only one specific compliance date as summarized in the following table:

PHASE	DESCRIPTION	COST	TIME FRAME ²
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² No specific dates given for Phases 2, 3 and 4. According to the December 18, 2002 report, these phases are dependent on the Discharger obtaining grant and loan funding. The time frames given in this column are the amount of time the phase would

1 – Permitting, Agreements and Governance	This phase includes preparation of a ROWD in order to obtain an NPDES permit for the WWTF; preparation of a NEPA ³ document in order to receive federal funding; negotiation of a lease for continued use of the property used for effluent storage and land disposal; and identification of a governance model for operation and maintenance of the WWTF	\$125,000	December 31, 2003
2 – Treatment Plant Upgrade	This phase includes improvements to the WWTF to: 1) bring it to a tertiary level of treatment, and 2) provide the capacity needed to treat flows from both Occidental and Camp Meeker.	\$2,800,000 (\$300,000 design; \$2,500,000 construction)	Design and development of plans and specifications will take 1 year. Construction will take 2 years.
3 – Reclamation System Improvements	This phase would include the construction of a new effluent storage pond, 2.5 acres of irrigated wetlands and woodlands, and improvements to the irrigation system and discharge point.	\$1,300,000 (\$200,000 design; \$1,100,000 construction)	Preparation of plans and specifications will take 1 year. Construction will take 1 year.
4 – Collection Systems	This phase includes the construction of a new collection system in Camp Meeker, replacement of the existing collection system in Occidental, and construction of the necessary pump stations and force mains to convey wastewater to the treatment plant.	\$7,900,000 (\$800,000 to design; \$7,100,000 to construct)	Preparation of plans and specifications will take 1 year. Construction of Occidental collection system will take 6 months. Construction of Camp Meeker collection system will take 12 to 18 months.

11. 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. The Discharger will submit, with the December 1, 2004 progress report, a water quality analysis to evaluate the effect of the baffles on the effluent quality. The Occidental WWTF continues to experience compliance problems, particularly during high rainfall conditions.

take after grant funds are received. Phase 2, 3 and 4 activities could be performed concurrently if sufficient funding is available.

³ NEPA is the acronym for National Environmental Policy Act.

The CIP Report also states that the Discharger will conduct inspections and provide advice to its commercial and industrial users to reduce the potential for influent discharges that could adversely affect the treatment process.

12. The Regional Water Board considered the Discharger's previous extension requests, time schedule and financial plan and with the adoption of CDO R1-2003-0020 extended the remaining deadlines in CDO No. R1-2001-47, subject to completion of an interim project and a prohibition on additional discharges as provided below.
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 Dischargers. The semi-annual progress report documented that the Dischargers have worked diligently to comply with the enforcement orders and have satisfactorily completed Tasks 1.A., 1.B. and 1.D and the Dischargers have submitted all semi-annual progress reports as required by Task 1.C. in a timely manner.
14. The connection ban established in CDO No. R1-2001-47 was reviewed by the Regional Water Board when considering CDO No. R1-2003-0020. 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 violation 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 No. R1-2003-0020, which is carried forward into this Order.

15. An evidentiary hearing on the adoption of Order No. R1-2003-0020 was held before the Regional Water Board on March 27, 2003, 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.
16. This Order modifies Task 1.E of CDO No. R1-2003-0020 to grant the May 21, 2004 extension request. The agenda package for this item includes a version of the Order that shows, in underline/strikeout format, the proposed changes to Order R1-2003-0020. This Order incorporates the proposed modifications and carries forward the other unaffected portions of Order R1-2003-0020 for completeness.
17. An evidentiary hearing was held on the adoption of this Order before the Regional Water Board on November 29, 2004, 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.
18. 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).
19. 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 compliance dates for completing Tasks D (bid award) and E (completion of CIP) in CDO No. R1-2001-47 were amended by CDO Order No. 2003-0020 as provided in the time schedule below. Additional interim compliance tasks were

added to CDO Order No. 2003-0020 to assure that the Discharger remains on schedule to complete the CIP and to assure interim compliance with WDR Order No. 93-42. This Order makes additional modifications to update the status of compliance and extend the deadline for compliance with Task 1.E.

<u>TASK</u>		<u>AMENDED COMPLIANCE DATE</u>	<u>STATUS</u>
A.	Submit for Executive Officer concurrence, a report with a plan and time schedule for implementing an interim project to improve system reliability.	September 1, 2003	Completed
B.	Complete Phase 1 – Permitting, Agreements and Governance	December 31, 2003	Completed
C.	Submit semi-annual progress reports ⁴ on the status of interim operations of the existing plant, the status of obtaining funding to finance the CIP and the construction of the CIP.	June 1 and December 1 of each year until the CIP is completed. Semi-annual reporting to begin on June 1, 2003.	On-going
D.	Complete the interim project concurred upon by the Executive Officer	April 30, 2004	Completed
E.	Award Bid for Phase 2 of the CIP	October 1, 2005	Extended
F.	Complete Construction of all CIP Phases	June 30, 2008	No Change

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:

⁴ Semi-annual progress reports shall provide comprehensive updates on project milestones and shall include, but not be limited to, information such as posting of Requests for Proposals, selection of consultants and contractors, bid award and submittal of grant applications, and design plans. The semi-annual progress reports shall describe all interim measures, including, but not limited to outreach and education, special projects, O&M measures, user inspections, and monitoring being implemented to maximize compliance with Order No. 93-42.

- 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 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 which have methods of waste disposal which 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 4(c), 4(d) and 5 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 final 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 November 29, 2004.

Catherine E. Kuhlman
Executive Officer