

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

TIME SCHEDULE ORDER R5-2011-0906

REQUIRING
U.S. DEPARTMENT OF INTERIOR, NATIONAL PARK SERVICE,
YOSEMITE NATIONAL PARK
EL PORTAL WASTEWATER TREATMENT FACILITY
MARIPOSA COUNTY

TO COMPLY WITH REQUIREMENTS PRESCRIBED IN ORDER R5-2008-0060
(NPDES PERMIT NO. CA0081759)

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

1. On 25 April 2008, the Central Valley Water Board adopted Waste Discharge Requirements Order R5-2008-0060, NPDES Permit No. CA0081759, authorizing the U.S. Department of Interior, National Park Service, Yosemite National Park (hereafter Discharger) to discharge treated wastewater from the El Portal Wastewater Treatment Facility (WWTF) to the Merced River, a water of the United States.
2. Order R5-2008-0060, section IV.A.1.a., contains final effluent limitations for discharges to the Merced River, which read, in part, as follows:

Parameter	Units	Average Monthly
Copper	µg/L	9.6

3. Order R5-2008-0060, section VI.C.7.a.i., provides a compliance schedule requiring the Discharger to comply with the final effluent limitation for copper presented in Finding 2 by 18 May 2010.
4. California Water Code (CWC) section 13300 states:

Whenever a regional board finds that a discharge of waste is taking place or threatening to take place that violates or will violate requirements prescribed by the regional board, or the state board, or that the waste collection, treatment, or disposal facilities of a discharger are approaching capacity, the board may require the discharger to submit for approval of the board, with such modifications as it may deem necessary, a detailed time schedule of specific actions the discharger shall take in order to correct or prevent a violation of requirements.
5. Title 40 of the Code of Federal Regulations, Section 122.44(d)(1)(i) requires that NPDES permit effluent limitations 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.

6. CWC subsections 13385(h) and (i) require the Central Valley Water Board to impose mandatory minimum penalties upon dischargers that violate certain effluent limitations. CWC section 13385(j)(3) provides protection from mandatory minimum penalties for violations of an effluent limitation when:

...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 of the following requirements are met:

(A) The ... time schedule order is issued on or after July 1, 2000, and specifies the actions that the discharger is required to take in order to correct the violations that would otherwise be subject to subdivisions (h) and (i).

(B) The regional board finds that, for one of the following reasons, the discharger is not able to consistently comply with one or more of the effluent limitations established in the waste discharge requirements applicable to the waste discharge:

(i) The effluent limitation is a new, more stringent, or modified regulatory requirement that has become applicable to the waste discharge after the effective date of the waste discharge requirements and after July 1, 2000, new or modified control measures are necessary in order to comply with the effluent limitation, and the new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.

...

(C) (i) The regional board establishes a time schedule for bringing the waste discharge into compliance with the effluent limitation that is as short as possible, taking into account the technological, operational, and economic factors that affect the design, development, and implementation of the control measures that are necessary to comply with the effluent limitation. Except as provided in clause (ii), for the purposes of this subdivision, the time schedule shall not exceed five years in length.

...

(iii) If the time schedule exceeds one year from the effective date of the order, the schedule shall include interim requirements and the dates for their achievement. The interim requirements shall include both of the following:

(I) Effluent limitations for the pollutant or pollutants of concern.

(II) Actions and milestones leading to compliance with the effluent limitation.

(D) The discharger has prepared and is implementing in a timely and proper manner, or is required by the regional board to prepare and implement, a pollution prevention plan pursuant to Section 13263.3.

In accordance with CWC section 13385(j)(3), and based upon effluent monitoring results, the Discharger is unable to consistently comply with the average monthly final effluent limitation for copper contained in Order R5-2008-0060. Monitoring data show

the Discharger is able to comply with the maximum daily final effluent limitation for copper contained in Order R5-2008-0060.

The final effluent limitations contained in Order R5-2008-0060 for copper are based on implementation of the California Toxics Rule. These effluent limitations are new requirements that became applicable to the discharge on 18 May 2010, and new or modified control measures will need to be implemented to comply with the average monthly final effluent limitation, and these new or modified control measures cannot be completed and put into operation within 30 calendar days. This Order requires the Discharger to prepare and implement a pollution prevention plan pursuant to CWC section 13263.3 for copper.

7. On 26 October 2009, the Discharger submitted a *Time Schedule Extension Request* (Request). The Request states that the Discharger has started work on a corrosion control study and will begin implementing corrosion control treatment at the groundwater supply wells for the El Portal service area. The Request states that if corrosion control is not sufficient to achieve compliance with the average monthly final effluent limitation for copper, the Discharger will begin a water-effects ratio (WER) study. If the WER study is also unsuccessful, the Discharger states in its Request that it would investigate treatment measures within the WWTF. The Request states, however, that the treatment option is dependent on whether funding can be obtained to upgrade the WWTF. Central Valley Water Board staff met with the Discharger on 3 December 2009 to discuss the Request and to inform the Discharger that the compliance schedule included in the Request was inadequate.
8. On 22 March 2010, the Discharger submitted a *Revised Time Schedule Extension Request* (Revised Request). The Revised Request states that the Discharger still intends to complete its corrosion control study and will conduct a WER study if necessary. The Discharger is confident corrosion control and a WER study, if necessary, will be sufficient to achieve compliance with the average monthly final effluent limitation for copper. The Discharger requests to extend its final compliance date from 18 May 2010 to 31 May 2012 to allow enough time to complete corrosion control treatment facilities and, if necessary, the WER study.
9. The Discharger states in its Revised Request that it intends to use zinc orthophosphate for corrosion control. Zinc is also a California Toxics Rule constituent. Order R5-2008-0060 requires the Discharger to monitor for zinc four times per year.
10. The compliance time schedule in this Order includes an interim performance-based effluent limitation for copper. The interim effluent limitation consists of an average monthly effluent concentration derived using sample data provided by the Discharger during the term of Order R5-2008-0060 (approximately 3 years). Monthly averages were not calculated for developing an interim effluent limitation because the Discharger is only required to take monthly samples. In developing the performance-based interim effluent limitation, where there are ten data points or more, sampling and laboratory

variability is accounted for by establishing interim effluent limitations that are 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 (ND) values, or if there are less than ten data points available, the interim effluent limitation is based on 3.11 times the maximum effluent concentration (MEC) to obtain the average monthly interim effluent limitation. Additionally, if either of these procedures produces an interim effluent limitation less than the MEC, the MEC is sometimes established as the interim effluent limitation. The following table summarizes the calculation of the interim performance-based effluent limitation for copper:

Average Monthly Interim Effluent Limitation

Parameter	Units	MEC	Mean	Std. Dev. (SD)	# of Data Points	% ND	Formula Used	Calculated Limit
Copper	µg/L	15	7.8	2.7	38	0	3.3×SD + Mean	17

11. This Order provides a time schedule that is as short as possible for the Discharger to complete its corrosion control study and, if necessary, to conduct a WER study. This Order also includes interim requirements and dates for their achievement. The time schedule does not exceed five years from the date the average monthly final copper effluent limitation became applicable to the discharge.
12. The Discharger can, in addition to other treatment and control options, undertake source control to maintain compliance with the interim effluent limitation included in this Order. Interim effluent limitations are established when compliance with the final effluent limitations cannot be achieved by the existing discharge. 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 limitations can be achieved.
13. Compliance with this Time Schedule Order exempts the Discharger from mandatory minimum penalties for violations of the average monthly final effluent limitation for copper contained in Order R5-2008-0060 from 15 September 2011 to 30 May 2012.
14. The Executive Officer has provided a 30-day public comment period and addressed all pertinent comments.
15. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000, et seq.), in accordance with CWC section 13389 and Title 14, California Code of Regulations, Section 15321(a)(2).

IT IS HEREBY ORDERED, pursuant to sections 13300 and 13267 of the CWC, that:

1. The Discharger shall comply with the following time schedule to ensure compliance with the average monthly final effluent limitation for copper at section IV.A.1.a., contained in Order R5-2008-0060 as described above in the Findings:

Task	Date Due
Submit and implement a Pollution Prevention Plan (PPP) pursuant to CWC section 13263.3 for copper ¹	15 March 2012
Progress Reports ²	1 December 2011
Full compliance with the average monthly final effluent limitation for copper contained at section IV.A.1.a. of Order R5-2008-0060	31 May 2012

¹ The PPP shall be prepared and implemented for copper, and shall meet the requirements specified in CWC section 13263.3. The PPP shall describe pollution prevention activities the Discharger will implement in the short-term and the long-term to reduce effluent concentrations for copper.

² The progress report 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.

2. The following interim effluent limitation at Discharge Points 001 and 002 for copper shall be effective from **15 September 2011** to **30 May 2012**, or when the Discharger is able to come into compliance with the average monthly final effluent limitation, whichever is sooner:

Parameter	Units	Average Monthly
Copper	µg/L	17

3. For the compliance schedule 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.

Issuance of this Order does not preclude the Central Valley Water Board from taking additional enforcement actions against the Discharger. If compliance is not achieved by the full compliance date, the discharge will be subject to mandatory minimum penalties for violations of the average monthly final effluent limitation for copper.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Resources Control Board to review the action in accordance with CWC section 13320 and Title 23, California Code of Regulations, Sections 2050 and following. The State Water Resources Control 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, the petition must be received by the State Water Resources Control 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.

This Order is effective upon the date of signature.

Original signed by Clay L. Rodgers for
PAMELA C. CREEDON, Executive Officer

15 September 2011