

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

TIME SCHEDULE ORDER R5-2010-0903

REQUIRING THE CITY OF ATWATER
WASTEWATER TREATMENT FACILITY
MERCED COUNTY
TO COMPLY WITH REQUIREMENTS PRESCRIBED IN ORDER R5-2007-0063
(NPDES PERMIT NO. CA0079197)

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

1. On 22 June 2007, the Central Valley Water Board adopted Waste Discharge Requirements (WDR) Order R5-2007-0063, authorizing the City of Atwater (hereafter Discharger) to discharge treated wastewater from the Discharger's wastewater treatment facility (hereafter Facility) to the Atwater Drain.
2. WDR Order R5-2007-0063, Effluent Limitation B.5.a, contains final effluent limits for California Toxics Rule constituents, which reads, in part, as follows:

<u>Constituents</u>	<u>Units</u>	<u>Monthly Average¹</u>	<u>Daily Maximum¹</u>
Copper	µg/L	1.9	3.4
Lead	µg/L	0.38	0.75
Zinc	µg/L	16	33
Bromodichloromethane	µg/L	0.56	1.13
Chlorodibromomethane	µg/L	0.40	0.81

¹ A daily maximum or monthly average value for a given constituent shall be considered non-compliant with the effluent limitations only if it exceeds the effluent limitation and the reported ML for that constituent. The MLs that the City's laboratory must achieve are indicated in the SIP Section 2.4.1.

3. WDR Order R5-2007-0063, Provision G.10, provides a compliance schedule requiring the Discharger to comply with final effluent limitations for copper, lead, and zinc listed in Finding 2, above, by 18 May 2010.
4. WDR Order R5-2007-0063, Provision G.9, provides a compliance schedule requiring the Discharger to either comply with the final effluent limitations for bromodichloromethane and chlorodibromomethane listed in Finding 2, above, by 18 May 2010, or to provide the information/support necessary for the Central Valley Water Board to conduct a Use Attainability Analysis (UAA) of municipal and domestic supply (MUN) designated beneficial use of the Atwater Drain.

5. On 21 March 2008, the Discharger submitted a UAA work plan to gather the information necessary to determine whether dedesignation of MUN is appropriate. However, after further consideration, the Discharger has decided not to pursue a UAA at this time.
6. WDR Order R5-2007-0063, Provision G.9 requires the Discharger to comply with the final effluent limitations for bromodichloromethane and chlorodibromomethane by 18 May 2010 if the Discharger does not pursue a UAA.
7. 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.

8. Federal regulations, 40 CFR 122.44 (d)(1)(i), require 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.
9. 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 cease and desist 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) 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. For the purposes of this subdivision, the time schedule may not exceed five years in length.... 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 final copper, lead, zinc, bromodichloromethane, and chlorodibromomethane limitations contained in WDR Order R5-2007-0063.

The final effluent limitations contained in WDR Order R5-2007-0063 for copper, lead, zinc, bromodichloromethane, and chlorodibromomethane are based on implementation of the California Toxics Rule. These effluent limitations are new requirements that will become applicable to the discharge on 18 May 2010, and new or modified control measures will need to be implemented to comply with the limitations, 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 (PPP) pursuant to CWC section 13263.3 for copper, lead, zinc, bromodichloromethane, and chlorodibromomethane.

10. On 4 August 2009, the Central Valley Water Board received a Report of Waste Discharge for a new wastewater treatment facility that the Discharger proposes to construct to replace the existing Facility. The proposed new wastewater treatment facility will include screening, grit removal, oxidation ditches with nitrification/denitrification capabilities, secondary clarifiers, tertiary filtration, and ultraviolet disinfection. Construction of the new wastewater treatment facility is the Discharger's primary means of complying with the new effluent limitations for copper, lead, zinc, bromodichloromethane, and chlorodibromomethane.
11. In a letter dated 18 November 2009, the Discharger stated that additional time is required to comply with the final effluent limitations for copper, lead, zinc, bromodichloromethane, and chlorodibromomethane. The Discharger reported that design for the new wastewater treatment facility was completed in July 2009, and construction bids were received on 21 October 2009. The construction contract was awarded on 25 January 2010 and construction began in February 2010. The Discharger anticipates a three year construction schedule and proposes to achieve full compliance by 18 November 2013. The proposed compliance date includes time for start-up adjustments and testing.

12. This Order provides a time schedule that is as short as possible for the Discharger to develop, submit, and implement methods of compliance, including developing and implementing pollution prevention activities and constructing necessary treatment facilities to meet the final effluent limitations.
13. Since the time schedule for completion of actions necessary to bring the waste discharge into compliance exceeds one year, this Order includes interim requirements and dates for their achievement. The time schedule does not exceed five years.
14. The compliance time schedule in this Order includes interim performance-based effluent limitations for copper, zinc, bromodichloromethane, and chlorodibromomethane. The interim effluent limitations consist of a maximum daily effluent concentration derived using sample data provided by the Discharger during the current permit term (approximately 2.5 years of data). In developing the performance-based interim limitations, where there are 10 sampling data points or more, sampling and laboratory variability is accounted for by establishing interim 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*). The following table summarizes the calculations of the interim performance-based effluent limitations:

Interim Effluent Limitation Calculation Summary

Parameter	Units	MEC	Mean ³	Std. Dev. ³	# of Samples	Interim Limitation
Copper	µg/L	4.3	2.2	0.94	32	5.3
Lead ¹	µg/L	0.50	0.25	0.13	19	0.75 ⁴
Zinc ²	µg/L	66	44	9.9	30	76
Bromodichloromethane	µg/L	15	9.3	3.4	32	21
Chlorodibromomethane	µg/L	3.8	2.0	0.89	32	4.9

¹ Interim limitation calculations do not include: non-detect concentrations of <9.6 ug/L reported for 7/10/2007 and 9/3/2007; 13 ug/L reported for 12/4/2007; non-detect concentrations of <16 ug/L reported for 9/9/2008, 12/9/2008, 1/13/2009, 2/3/2009, 3/16/2009, 4/28/2009, 5/4/2009; or the non-detect concentrations of <12 ug/L reported for 7/14/2009, 8/4/2009, 9/8/2009.

² Interim limitation calculations do not include the reported value of 170 ug/L for 12/4/2007.

³ Non-detect results were assumed to be equal to one-half the detection limit (except as noted in footnote 1) for the purposes of calculating the mean and standard deviation.

⁴ The calculated performance based result is 0.68 ug/L. The interim limitation established in this Order is based on the final daily maximum effluent limitation contained in WDR Order R5-2007-0063, Effluent Limitation B.5.a., which was calculated using the procedure described in the Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (known as the State Implementation Policy or SIP).

15. The Discharger can, in addition to other treatment and control options, undertake source control to maintain compliance with the interim limitations included in this Order. Interim

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 limitations, however, establish an enforceable ceiling concentration until compliance with the effluent limitations can be achieved.

16. The Executive Officer has provided a 30-day public comment period and addressed all pertinent comments.
17. Issuance of this Order is exempt from the provisions of CEQA (Pub. Resources Code § 21000 et seq.) in accordance with CWC section 13389 and California Code of Regulations, title 14, section 15321(a)(2).

IT IS HEREBY ORDERED, pursuant to sections 13300 and 13267 of the California Water Code, that:

1. The Discharger shall comply with the following time schedule to ensure compliance with copper, lead, zinc, bromodichloromethane, and chlorodibromomethane effluent limitations at Effluent Limitation B.5.a., contained in WDR Order R5-2007-0063, as described in the above Findings.

<u>Task</u>	<u>Date Due</u>
a. Submit and begin implementing a Pollution Prevention Plan (PPP) ¹ pursuant to CWC section 13263.3 for copper, lead, zinc, bromodichloromethane, and chlorodibromomethane.	18 May 2011
b. Submit progress reports ² .	Semi-annually, 1 February and 1 August until final compliance
c. Achieve full compliance with copper, lead, zinc, bromodichloromethane, and chlorodibromomethane effluent limitations at Effluent Limitation B.5.a. contained in WDR Order R5-2007-0063.	18 November 2013

- ¹ The PPP shall be prepared and implemented for copper, lead, zinc, bromodichloromethane, and chlorodibromomethane 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 (i.e., pending completion of the new wastewater treatment facility) and the long-term to reduce effluent concentrations for copper, lead, zinc, bromodichloromethane, and chlorodibromomethane.
- 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.

2. The following interim effluent limitations for copper, lead, zinc, bromodichloromethane, and chlorodibromomethane shall be effective upon issuance of this Order. The interim effluent limitations shall be effective through **18 November 2013**, or when the Discharger is able to come into compliance with final effluent limitations, whichever is sooner:

Parameter	Units	Maximum Daily Effluent Limitation
Copper	µg/L	5.3
Lead	µg/L	0.75
Zinc	µg/L	76
Bromodichloromethane	µg/L	21
Chlorodibromomethane	µg/L	4.9

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 certain effluent limitations.

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 or furlough day, 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

18 May 2010

Date

MSS/WDH: 4/5/2010