

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

TIME SCHEDULE ORDER NO. R5-2010-0909

REQUIRING THE NEVADA COUNTY SANITATION DISTRICT NO. 1
CASCADE SHORES WASTEWATER TREATMENT PLANT
NEVADA COUNTY
TO COMPLY WITH REQUIREMENTS PRESCRIBED IN ORDER NO. R5-2008-0111
(NPDES PERMIT NO. CA0083241)

The California Regional Water Quality Control Board, Central Valley Region, (“Central Valley Water Board” or “Board”) finds that:

1. The Nevada County Sanitation District No.1 (the “District”) owns and operates the Cascade Shores Wastewater Treatment Plant (the “WWTP”), which serves Cascade shores, a community in Nevada County with a population of approximately 200 residents. On 31 July 2008, the Central Valley Water Board adopted Waste Discharge Requirements Order R5-2008-0111 (NPDES No. CA0083241)(the “WDRs”), prescribing waste discharge requirements for the WWTP.
2. The WDRs allow discharge by the WWTP to Gas Canyon Creek, a water of the United States and a tributary to Bear River via Greenhorn Creek and Rollins Reservoir, within the Sacramento River Watershed.
3. The WDRs contain Final Effluent Limitations IV.A.1.a, which reads, in part, as follows:

Parameter	Units	Effluent Limitations				
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
Copper, Total Recoverable	µg/L	1.6	--	3.2	--	--

4. The final effluent limitations for copper, described above, became effective on 18 May 2010.
5. The final effluent limitations for copper specified in the WDRs are based on California Toxics Rule (CTR) criteria for the protection of freshwater aquatic life.
6. The WDRs contain, in part, the following interim limit that was in effect through 18 May 2010:

Parameter	Units	Effluent Limitations				
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
Copper	µg/L	--	--	31	--	--

7. Prior to adoption of the WDRs, the District submitted an Infeasibility Report dated 11 April 2008, which included technical justification and an implementation schedule to assure compliance with the final copper effluent limitations. The District indicated in the Infeasibility Report that additional time may be required beyond 18 May 2010 to comply with the final effluent limits for copper.
8. On 31 January 2009, the District submitted a work plan to develop a Pollution Prevention Plan (PPP) for achieving compliance with the final effluent limitations for copper and aluminum, as required by the WDRs. The PPP would be developed to propose source investigations for each constituent to determine potential source control actions necessary to achieve compliance with the applicable final effluent limitations in the WDRs. Approval of the PPP work plan by the Board is pending, and the District is waiting on the Board's approval to complete development of the PPP.
9. By correspondence dated 17 June 2010, the District requested a time schedule order to achieve compliance with the final effluent limitations for copper and cited the 11 April 2008 Infeasibility Report as justification for the request. The District proposed a time schedule to study and select a practicable resolution of the compliance issues with the copper final effluent limitations contained in the WDRs. The District also expressed concern that the average monthly copper final effluent limitation may be too low and may not be achievable. The District proposes to study several technologies to determine if any potential treatment technologies will be practicable. If the studies find that additional treatment will not be practicable, the District proposes to initiate a testing process to determine the copper Water Effect Ratio (WER) and metal translator ratios which may support a modification of the existing copper final effluent limitations.
10. The District can undertake measures that could result in resolution of the compliance issues with the copper final effluent limitations within five years.
11. Immediate compliance with the final effluent limitations for copper is not possible or practicable. The Clean Water Act and the California Water Code authorize time schedules for achieving compliance.

Mandatory Minimum Penalties

12. California Water Code ("CWC") section 13301 states, in part:

When a regional board finds that a discharge of waste is taking place, or threatening to take place, in violation of requirements or discharge prohibitions prescribed by the regional board, or the state board, the board may issue an order to cease and desist and direct that those persons not complying with the requirements or discharge prohibitions (a) comply forthwith, (b) comply in accordance with a time schedule set by the Board, or (c) in the event of a threatened violation, take appropriate remedial or preventive action.
13. In accordance with CWC section 13385(j)(3)(B)(i), the Assistant Executive Officer finds that the District is not able to comply consistently with the final copper effluent limitation contained in section Effluent Limitations IV.A.1.a of the WDRs. This final effluent limitation is a new requirement that became applicable after the effective date of adoption of the WDRs, and after 1 July 2000, new or modified control measures are

necessary in order to comply with the limitations, and these new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.

14. CWC section 13385(h) and (i) require the Board to impose mandatory minimum penalties (“MMPs”) for discharges of certain effluent limitation violations. However, CWC section 13385(j) exempts certain violations from the mandatory minimum penalties “*where 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, if all the [specified] requirements are met.*”
15. By statute, a Time Schedule Order may provide protection from MMPs for no more than five years, and the time schedule must be as short as possible. Neither a Cease and Desist Order nor a Time Schedule Order has previously been issued to address copper at the WWTP. Compliance with this Order exempts the District from mandatory penalties for violations of Final Effluent Limitations IV.A.1.a for copper for a period of no more than five years beginning on the adoption date of this Order.
16. CWC section 13385(j)(3) requires that, in order for the District to receive protection from the imposition of MMPs, it must implement a pollution prevention plan pursuant to CWC section 13263.3. This Order requires the District to develop and implement a pollution prevention plan to achieve compliance with copper final effluent limitations.
17. The compliance time schedule in this Order includes an interim effluent limitation for copper. The interim effluent limitation is carried over from the WDRs, as shown in Finding 6, and remains in effect pursuant to this Order.
18. Based on a review of historical copper effluent monitoring data, the Assistant Executive Officer finds that the District can maintain compliance with the interim limitation included in this Order. Interim limitations are established when compliance with the final effluent limitations cannot yet 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 final effluent limitation can be achieved. The Assistant Executive Officer finds that the time schedules contained herein are as short as possible, taking into account the technological, operational and economic factors that affect the development, and implementation of control measures that are necessary to comply with the final effluent limitations.

Other Regulatory Requirements

19. On 10 December 2009, the Central Valley Water Board adopted Resolution R5-2009-0114, authorizing the Executive Officer, or her delegatee, to issue or modify time schedule orders that meet the requirements of CWC section 13385(j)(3).
20. The Assistant Executive Officer has provided a 30-day public comment period and has addressed all pertinent comments.

21. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code § 21000 et seq.), in accordance with California Code of Regulations, title 14, section 15321(a)(2), as an enforcement action by a regulatory agency. This action to enforce compliance with an NPDES permit is also exempt from the California Environmental Quality Act pursuant to CWC section 13389.

IT IS HEREBY ORDERED THAT:

1. The District shall comply with the following time schedule to ensure compliance with the copper effluent limitation contained in the WDRs as described in the above Findings or any subsequent copper effluent limitation adopted by the Board.

<u>Task</u>	<u>Date Due</u>
Submit and begin implementation of Pollution Prevention Plan for Copper.	By six months of issuance of this Order
Identify Alternatives to achieve compliance with final copper effluent limitations and Submit Work Plan and Time Schedule to Select Preferred Alternative	By six months of issuance of this Order
Initiate Implementation of the Work Plan and Time Schedule	Within one month of Work Plan approval or 3 months of Work Plan submittal, whichever is earlier
Complete Work Plan Implementation and Select Preferred Alternative	Within two years of Work Plan initiation
Quarterly Progress Reports ¹	1 January, 1 April, 1 July, and 1 September, annually, beginning 1 April 2011 until full compliance.
Achieve Compliance with Copper Final Effluent Limitations	Within five years of the date of issuance of this Order

¹ 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 maximum daily effluent limitation shall be effective immediately upon adoption of this Order and remain in effect for a period of no more than five years, or when the District is able to come into compliance, whichever is sooner.

Parameter	Units	Maximum Daily Effluent Limitation
Copper, Total Recoverable	µg/L	31

3. For the compliance schedules required by this Order, the District shall submit to the Central Valley Water Board on or before the 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 District will be in compliance. The District shall notify the Central Valley Water Board by letter when it returns to compliance with the time schedule.
4. If, in the opinion of the Assistant Executive Officer, the District fails to comply with the provisions of this Order, the Assistant Executive Officer may refer enforcement of the Board's Orders to the Attorney General for judicial remedies. If compliance with these effluent limitations is not achieved by the Full Compliance date, the discharge would not be exempt from the mandatory minimum penalties for violation of certain effluent limitations.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with CWC section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water 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

KENNETH D. LANDAU
Assistant Executive Officer

14 December 2010

Date