

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

CEASE AND DESIST
ORDER R5-2013-0046

REQUIRING THE CITY OF COLFAX
WASTEWATER TREATMENT PLANT
PLACER COUNTY

TO CEASE AND DESIST
FROM DISCHARGING CONTRARY TO REQUIREMENTS

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

1. The City owns and operates the wastewater treatment plant and the wastewater collection system. The Facility provides sewerage service for the City of Colfax, serving a population of approximately 2,000¹. Colfax is considered a small, disadvantaged community².
2. In 2009, the City completed construction on a new package wastewater treatment facility that provides tertiary-level treatment of the wastewater. The treatment plant includes nitrification, denitrification, tertiary filtration, and ultraviolet light disinfection (hereinafter referred to as Facility). The design flow of the Facility is 0.5 million gallons per day (mgd), but the permitted average dry weather flow limit is 0.275 mgd. The Facility has been in full operation since 1 January 2009.
3. On 30 May 2013, the Central Valley Water Board adopted Waste Discharge Requirements (WDRs) Order R5-2013-0045 (NPDES Permit No. CA0079529) that replaced Order R5-2007-0130. WDR Order R5-2013-0045 includes, in part, the following final effluent limitations for arsenic:

<i>Parameter</i>	<i>Units</i>	<i>Effluent Limitations</i>				
		<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Minimum</i>	<i>Instantaneous Maximum</i>
<i>Arsenic, Total Recoverable</i>	<i>µg/L</i>	10	--	20	--	--

4. The City cannot consistently comply with the arsenic effluent limitations in WDRs Order R5-2013-0045 and must implement additional actions to reach compliance. Therefore, this Order contains a schedule for compliance with the final arsenic effluent

¹ City of Colfax adopted budget for fiscal years 2010-2011 and 2011-2012, page 105

² Median household income of \$48,752 per year, as found in State Water Resources Control Board ("State Water Board") staff report for CWSRF Project C-06-7806-110.

limitations. This Order also includes interim arsenic effluent limitations and interim requirements and dates for their achievement.

5. Between 1 January 2009 (when the Facility became fully operational) and 31 December 2011, there were two samples collected and analyzed for total recoverable arsenic. One sample was ND, with a reporting level of 10 µg/L and a method detection limit of 0.9 µg/L, and the second sample was reported to contain arsenic concentrations at 12.7 µg/L. The City submitted an Arsenic Infeasibility Analysis, dated 18 January 2013, in which the City proposes to conduct monthly arsenic analyses for one year and to investigate the laboratory analytical methods for potential interference. If the additional sample analyses indicate effluent concentrations- exceed the arsenic effluent limitations, the City will conduct a source identification study and a local education and outreach program, and if necessary regulate industrial users that caused the exceedance under its local municipal code.
6. The performance-based interim effluent limitations for arsenic contained in this Order are based upon the current Facility performance data, discussed in previous finding 5. The average monthly interim limit for arsenic is established at the maximum effluent concentration of 12.7 µg/L and the maximum daily interim limitation for arsenic was established at the final maximum daily limit of 20 µg/L in WDRs Order R5-2013-0045.

MANDATORY MINIMUM PENALTIES

7. California Water Code section 13385, subdivisions (h) and (i) require the Regional Water Board to impose mandatory minimum penalties ("MMPs") upon dischargers that violate certain effluent limitations. California Water Code section 13385(j) exempts certain violations from the MMPs. California Water Code section 13385(j)(3) exempts the discharge from MMPs "*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.*"
8. Per the requirements of California Water Code section 13385(j)(3), the Central Valley Water Board finds that:
 - a. This Order specifies the actions that the Discharger is required to take in order to correct the violations that would otherwise be subject to California Water Code sections 13385(h) and (i).
 - b. New or modified control measures are necessary in order to comply with the new arsenic effluent limitations. The new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.
 - c. This Order establishes a time schedule to bring the waste discharge into compliance with the effluent limitations 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 limitations.

9. Previous CDOs or TSOs have not provided the Discharger with protection from MMPs for violations of the final effluent limitations for arsenic.
10. Compliance with this Order exempts the Discharger from MMPs for violations of the arsenic final effluent limitations found in WDRs Order R5-2013-0045 from the date of adoption through 30 May 2016. In accordance with Water Code section 13385(j)(3), the total length of protection from MMPs is less than five years.
11. This Order provides a time schedule for completing the actions necessary to ensure compliance with the final effluent limitations for arsenic contained in WDRs Order R5-2013-0045. Since the time schedule for completion of actions necessary to bring the waste discharge into compliance exceeds 1-year, this Order includes interim effluent limitations and interim requirements and dates for their achievement.
12. This Order includes newly established monthly average and maximum daily interim effluent limitations for arsenic. The interim limitations were established based on Facility performance.
13. If the interim effluent arsenic limits in this Order are exceeded, then the City is subject to MMPs for that particular exceedance as it will no longer meet the exemption in California Water Code 13385(j)(3). It is the intent of the Central Valley Water Board that a violation of the interim arsenic average monthly effluent limitation subjects the City to only one MMP for that monthly averaging period. In addition, a violation of the interim maximum daily arsenic effluent limitation subjects the City to one MMP for the day the sample was collected.
14. The Central Valley Water Board finds that the City can maintain compliance with the interim effluent limitations included in this Order. Interim effluent limitations are established when compliance with the final effluent limitations cannot be achieved by the existing Facility. 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 limitation can be achieved.
15. This Order requires the City to implement an arsenic pollution prevention plan.

REGULATORY BASIS

16. Section 13301 of the California Water Code (California Water Code) 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 preventative action...”*
17. Section 13267 of the California Water Code states in part: *In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.*
18. The City of Colfax owns and operates the Facility and sewage collection system which is subject to this Order. The technical and monitoring reports required by this Order are necessary to determine compliance with the WDRs and with this Order.
19. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) (“CEQA”) pursuant to Water Code section 13389, since the adoption or modification of an NPDES permit for an existing source is statutorily exempt and this Order only serves to implement a NPDES permit. (*Pacific Water Conditioning Ass’n, Inc. v. City Council of City of Riverside* (1977) 73 Cal.App.3d 546, 555-556.).
21. On 30 May 2013, in Rancho Cordova, California, after due notice to the Discharger and all other affected persons, the Central Valley Water Board conducted a public hearing at which evidence was received to consider the new Cease and Desist Order under Water Code section 13301 to establish a time schedule to achieve compliance with waste discharge requirements.

IT IS HEREBY ORDERED THAT:

- Pursuant to California Water Code Sections 13301 and 13267, the City of Colfax, its agents, successors, and assigns shall comply with the following time schedule to ensure compliance with WDRs Order R5-2013-0045, or subsequent Order.

Due Date	Description
30 August 2013	Begin monthly arsenic monitoring
30 January 2014	Pollution Prevention Plan for arsenic and Annual 2013 Progress Report ¹
30 August 2014	End monthly arsenic monitoring
30 January 2015	Annual 2014 Progress Report ¹ Begin arsenic source identification study if warranted by monthly monitoring exceedances of the effluent limitation.
30 January 2016	Annual 2015 Progress Report ¹ Begin community outreach and education program if warranted by arsenic identification study results
30 May 2016	Comply with Final Effluent Limitations for Arsenic
30 January 2017	Annual 2016 Progress Report, including: - documentation of full compliance with arsenic effluent limit
^{1.} The progress reports shall detail the steps taken to comply with this Order, including documentation showing completion of tasks, construction progress, evaluation of the effectiveness of the implemented measures, and assessment of whether additional measures are necessary to meet the compliance dates.	

- Any person signing a document submitted under this Order shall make the following certification:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my knowledge and on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.”

- The following interim effluent limitations for arsenic shall be effective upon adoption of this Order, and shall apply in lieu of the corresponding final effluent limitations in WDRs Order R5-2013-0045. The Discharger shall maintain compliance with the following interim effluent limitations through **29 May 2016**, or when the Discharger is able to come into compliance with the final effluent limitations, whichever is sooner.

Constituent	Average Monthly Effluent Limitation	Maximum Daily Effluent Limitation
Arsenic	12.7 µg/L	20 µg/L

- Existing Cease and Desist Order R5-2011-0097 shall remain in effect until it is rescinded by the Central Valley Water Board.

In accordance with California Business and Professions Code sections 6735, 7835, and 7835.1, engineering and geologic evaluations and judgments shall be performed by or under the direction of registered professionals competent and proficient in the fields pertinent to the required activities. All technical reports specified herein that contain work plans for, that describe the conduct of investigations and studies, or that contain technical conclusions and recommendations concerning engineering and geology shall be prepared by or under the direction of appropriately qualified professional(s), even if not explicitly stated. Each technical report submitted by the Discharger shall contain the professional's signature and/or stamp of the seal.

If, in the opinion of the Executive Officer, the Discharger fails to comply with the provisions of this Order, the Executive Officer may refer this matter to the Attorney General for judicial enforcement, may issue a complaint for administrative civil liability, or may take other enforcement actions.

Failure to comply with this Order or with the WDRs may result in the assessment of Administrative Civil Liability of up to \$10,000 per violation, per day, depending on the violation, pursuant to the California Water Code, including sections 13268, 13350 and 13385. The Central Valley Water Board reserves its right to take any enforcement actions authorized by law.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with Water Code 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 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 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.

I, PAMELA C. CREEDON, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on 30 May 2013.

ORIGINAL SIGNED BY KENNETH D. LANDAU FOR

PAMELA C. CREEDON, Executive Officer