

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

TIME SCHEDULE ORDER R5-2013-0005
REQUIRING
MOUNTAIN HOUSE COMMUNITY SERVICES DISTRICT
MOUNTAIN HOUSE WASTEWATER TREATMENT PLANT
SAN JOAQUIN COUNTY

TO COMPLY WITH REQUIREMENTS PRESCRIBED IN ORDER R5-2013-0004
(NPDES PERMIT CA0084271)

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

1. On 31 January 2013 the Central Valley Water Board adopted Waste Discharge Requirements (WDR) Order R5-2013-0004, NPDES Permit No. CA0084271, prescribing WDRs for the Mountain House Community Services District (hereinafter Discharger), Mountain House Wastewater Treatment Plant (hereafter Facility), San Joaquin County.
2. The State Water Resources Control Board adopted the *Water Quality Control Plan for Control of Temperature in the Coastal and Interstate Water and Enclosed Bays and Estuaries of California* (Thermal Plan) on 18 May 1972, and amended this plan on 18 September 1975. The Thermal Plan contains temperature objectives for surface waters, which are applicable to the discharge from the Facility. WDR Order R5-2013-0004 contains effluent and receiving water limitations based on the Thermal Plan, as described in Findings 3 and 4.
3. WDR Order R5-2013-0004 section IV.A.1.e. includes the following final temperature effluent limitations applicable to discharges from the Facility at Discharge Point No. 001:

*“e. **Temperature.** The maximum temperature of the discharge shall not exceed the natural receiving water temperature by more than 20°F.”*

4. WDR Order R5-2013-0004 section V.A.14. includes the following receiving water limitations for temperature:

“14. Temperature

- a. *The creation of a zone, defined by water temperatures of more than 1°F above natural receiving water temperature, which exceeds 25 percent of the cross-sectional area of the river channel at any point.*
- b. *A surface temperature rise greater than 4°F above the natural temperature of the receiving water at any time or place.”*

Need for Time Schedule Extension and Legal Basis

5. On 2 November 2012, the Discharger submitted an infeasibility analysis and time schedule justification for a compliance schedule for temperature. The Facility discharges tertiary treated wastewater to Old River. There are no industrial users in the service area that contribute a heat load to the Facility. Effluent temperature is largely based on influent temperature and the heat transfer from the ultraviolet (UV) lamps used for disinfecting the wastewater. Effluent temperature is continuously monitored at the effluent wet well, located immediately after the UV lamps. However, treated effluent is then conveyed approximately 0.9 miles via an underground outfall pipeline before discharged to Old River at Discharge Point No. 001. Based on preliminary monitoring by the Discharger it appears the temperature of the effluent is reduced in the outfall. However, there is uncertainty whether the discharge can comply with the temperature effluent limitations. There is also uncertainty whether the discharge complies with the temperature receiving water limitations because water quality modeling must be performed to evaluate the discharge under reasonable worst-case conditions.

To better understand the cooling effect of the pipeline and to evaluate the thermal effects of the discharge in the receiving water, the Discharger has requested time to develop a temperature study. If the temperature study results indicate the discharge cannot comply with the Thermal Plan, the Discharger will proceed with obtaining a Thermal Plan exception.

The Thermal Plan provides a general water quality provision where Regional Water Boards may, in accordance with Section 316(a) of the Federal Water Pollution Control Act of 1972, and subsequent federal regulations including 40 CFR Part 122, grant an exception to the specific water quality objectives in the Thermal Plan. In the infeasibility analysis and time schedule justification, the Discharger proposed to investigate whether an exception to the Thermal Plan requirements is appropriate, which includes consultation with the National Marine Fisheries Service (NMFS) and United States Fish and Wildlife Services (USFWS).

This Order allows a compliance schedule of up to 5 years to conduct a temperature study in order meet the requirements for a Thermal Plan exception. If a Thermal Plan exception is not feasible, additional time may be needed to construct facilities to meet the Thermal Plan requirements.

Mandatory Minimum Penalties

6. California Water Code sections 13385(h) and (i) require the Central Valley Water Board to impose mandatory minimum penalties (MMPs) upon dischargers that violate certain effluent limitations. California Water Code section 13385(j)(3) exempts the discharge from 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 or 13308, if all the [specified] requirements are met...for the purposes of this subdivision, the time schedule may not exceed five years in length...*”.

7. 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. The Discharger has stated that five years is necessary to allow the time to develop a temperature study to develop a Thermal Plan exception justification, and to allow the Central Valley Water Board to approve an exception.
 - 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.
8. By statute, a Cease and Desist Order or Time Schedule Order may provide protection from MMPs for no more than five years.
9. Compliance with this Order exempts the Discharger from mandatory minimum penalties for violations of the final effluent limitations for temperature found in WDR Order R5-2013-0004 from 31 January 2013 (the date of this Order) until 1 February 2018. The Discharger has not previously been protected from mandatory minimum penalties for violations of the temperature effluent limitations.
10. In accordance with CWC section 13385(j)(3)(C), the total length of protection from mandatory minimum penalties for the final effluent limitations for temperature does not exceed five years.
11. This Order provides a time schedule for completing the actions necessary to ensure compliance with the final effluent limitations for temperature contained in WDR Order R5-2013-0004. Since the time schedule for completion of actions necessary to bring the waste discharge into compliance exceeds one year, this Order includes interim effluent limitations and interim requirements and dates for their achievement.
12. This Order includes new performance-based interim effluent limitations for temperature. The effluent temperature exceeded the receiving water temperature by more than 20°F 17 times out of 218 individual samples at Monitoring Location RSW-001 and 19 times out of 218 individual samples at Monitoring Location RSW 003 from July 2007 through March 2012. The maximum temperature difference between the effluent and Monitoring Locations RSW-001 and RSW-003 were 27.9°F and 26.7 F, respectively. Therefore, this Order establishes an interim effluent limitation for temperature requiring that the maximum temperature of the discharge shall not exceed the natural receiving water temperature by more than 30°F.

13. The Central Valley Water Board finds that the Discharger 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.
14. If an interim effluent limit contained in this Order is exceeded, then the Discharger is subject to MMPs for that particular exceedance as it will no longer meet the exemption in CWC 13385(j)(3). It is the intent of the Central Valley Water Board that a violation of an interim daily maximum effluent limit subjects the Discharger to one MMP for the day in which the sample was collected.

Other Regulatory Requirements

15. California Water Code 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.”*
14. Water Code section 13267 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.*
15. The Discharger owns and operates the wastewater treatment facility 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.

16. 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 a 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.).
17. On 31 January 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 this 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:

1. Pursuant to California Water Code Sections 13300 and 13267, the Discharger shall comply with the following time schedule to submit reports and ensure completion of the study and ensure compliance with final effluent limitations in WDR Order R5-2013-0004:

Task	Compliance Date
Submit Temperature Study – Work Plan and Schedule	1 August 2013
Install meter at outfall to monitor temperature	31 December 2013
Submit Temperature Study – Final Study Report	1 February 2016
Submit Thermal Plan Exception Justification Report and Request	1 August 2016
Obtain NMFS and USFWS Approval of Thermal Plan Exception	1 January 2017
Comply with the Final Effluent Limitations for Temperature	1 February 2018

2. Discharge from Discharge Point No. 001 shall not exceed the following interim effluent limitations. These interim effluent limitations for temperature are effective upon adoption of this Order and shall apply in lieu of the corresponding final effluent limitations in WDR Order R5-2013-0004. The Discharger shall comply with the following interim effluent limitations through 1 February 2018.
- i. The maximum temperature of the discharge shall not exceed the natural receiving water temperature by more than 30°F, as measured at RSW-001.

3. 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."

4. 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 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 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.

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 31 January 2013.

ORIGINAL SIGNED BY KENNETH LANDAU FOR

PAMELA C. CREEDON, Executive Officer