

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

TIME SCHEDULE ORDER R5-2014-0077  
REQUIRING  
CITY OF VISALIA  
WATER CONSERVATION PLANT  
TULARE COUNTY

TO COMPLY WITH REQUIREMENTS PRESCRIBED IN ORDER R5-2014-0076  
(NPDES PERMIT NO. CA0079189)

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

1. On 6 June 2014, the Central Valley Water Board adopted Waste Discharge Requirements (WDR) Order R5-2014-0076, NPDES Permit No. CA0079189, prescribing waste discharge requirements for the City of Visalia (hereinafter Discharger) Water Conservation Plant (hereafter Facility), Tulare County.
2. WDR Order R5-2014-0076 section IV.B.1.a. includes, in part, the following final effluent limitations applicable to the discharge from Discharge Point 001:

**Table 6. Effluent Limitations – Discharge Point 001**

Parameter	Units	Effluent Limitations				
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
Copper, Total Recoverable	µg/L	4.0	--	10.	--	--
Ammonia, un-ionized (as N)	mg/L	--	--	0.025	--	--

3. The effluent limitations specified in WDR Order R5-2014-0076 for copper are based on implementation of the California Toxics Rule. The effluent limitation specified in WDR Order R5-2014-0076 for un-ionized ammonia (as N) is based on the implementation of the Basin Plan objective for surface waters. The effluent limitations for copper and un-ionized ammonia (as N) are new effluent limitations, which were not prescribed in previous WDR Order R5-2006-0091.

**Need for Time Schedule and Legal Basis**

4. On 16 December 2013, the Discharger submitted a request and justification for a compliance schedule for copper and un-ionized ammonia (as N). The Discharger is in the process of upgrading its wastewater treatment facility. The upgrades will include tertiary-level treatment with nitrogen removal and ultraviolet light disinfection, and will provide treatment that meets the definition of disinfected tertiary recycled water in accordance with Title 22, California Code of Regulations, section 60301.230. As part of the upgrades, the Discharger intends to cease discharge to Mill Creek and terminate coverage under the

NPDES program. The Facility is currently designed to provide secondary-level treatment and disinfection when discharging to Mill Creek. CEQA for the project has been completed. The Discharger has secured financing and begun the construction bidding process in August 2013, and expects to award the construction contract before Summer 2014. The Discharger requested time to allow for construction of the upgrades, as well as performance certification required by the State Revolving Fund and Title 22 validation testing.

### **Mandatory Minimum Penalties**

5. California Water Code (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. 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...”*.
6. Per the requirements of Water Code section 13385(j)(3):
  - 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 Water Code sections 13385(h) and (i).
  - b. The Discharger has stated that an additional five years are necessary to allow time to complete construction of the Facility upgrades and cease discharging to Mill Creek.
  - c. The final effluent limitations for copper and un-ionized ammonia (as N) are new, more stringent, or modified regulatory requirements that became applicable to the waste discharge after the effective date of Order R5-2014-0076 and after 1 July 2000. New or modified control measures are necessary in order to comply with the final effluent limitations for copper and un-ionized ammonia (as N). The new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.
  - d. 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.
7. Compliance with this Order exempts the Discharger from mandatory minimum penalties for violations of the final effluent limitations for copper and un-ionized ammonia (as N) found in WDR Order R5-2014-0076 from 1 August 2014 until 31 July 2019. The Discharger has not previously been protected from mandatory minimum penalties for violations of the copper and un-ionized ammonia (as N) effluent limitations.

8. In accordance with Water Code section 13385(j)(3)(C)(i), the total length of protection from mandatory minimum penalties for the final effluent limitations for copper and un-ionized ammonia (as N) does not exceed five years.
9. This Order provides a time schedule for completing the actions necessary to ensure compliance with the final effluent limitations for copper and un-ionized ammonia (as N) contained in WDR Order R5-2014-0076. 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.
10. This Order includes performance-based interim effluent limitations for copper and un-ionized ammonia (as N). The interim effluent limitations are based on the current treatment plant performance.

The interim effluent limitations consist of statistically calculated performance-based average monthly and maximum daily effluent limitations derived using sample data provided by the Discharger. The interim effluent limitations were developed using the statistical based approach provided in USEPA's *Technical Support Document for Water Quality-Based Toxics Control* (TSD). The TSD provides guidance on estimating the projected maximum effluent concentration using a lognormal distribution of the observed effluent concentrations at a desired confidence level, as detailed in Section 3.3 of the TSD. The multipliers in Table 3-1 of the TSD were used to calculate the 99th percent confidence level and 99th percentile of the data set based on the number of effluent samples and the coefficient of variation. The multipliers from the table were multiplied by the highest observed effluent concentration (MEC) to estimate the maximum expected effluent concentration; this value was used as the interim effluent limitations for the average monthly effluent limitation (AMEL). The interim performance-based maximum daily effluent limitations (MDELs) were established in accordance with section 1.4 and Table 2 of the *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California* (SIP), by multiplying the interim AMEL by the MDEL/AMEL multiplier.

Effluent data from October 2006 through October 2012 were used to calculate the interim effluent limitations in the table below. The following table summarizes the calculations of the daily maximum and average monthly interim effluent limitations for these constituents:

Parameter	Units	MEC	No. of Observations	Mean	Standard Deviation	CV	Interim AMEL <sup>1</sup>	Interim MDEL <sup>2</sup>
Copper	µg/L	23	34	5.3	5.0	0.95	60	150
Ammonia, un-ionized (as N)	mg/L	0.51	134	0.11	0.073	0.69	--	1.5

<sup>1</sup> Projected 99<sup>th</sup> percentile effluent concentration value for an assumed lognormal distribution at a 99 percent confidence upper bound. Calculated per Section 3.3.2 of the TSD.

<sup>2</sup> Interim MDEL calculated using MDEL/AMEL multiplier from Section 1.4 of the SIP.

11. 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 limitations can be achieved.
12. If an interim effluent limitation 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 Water Code 13385(j)(3). It is the intent of the Central Valley Water Board that a violation of an interim average monthly effluent limitation subjects the Discharger to only one MMP for that monthly averaging period. In addition, a violation of an interim maximum daily effluent limitation subjects the Discharger to one MMP for the day in which the sample was collected.

### **Other Regulatory Requirements**

13. 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.). Issuance of this Order is also exempt from CEQA pursuant to California Code of Regulations, title 14, section 15321, subdivision (a)(2).

17. On 6 June 2014, 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 Time Schedule Order under Water Code section 13300 to establish a time schedule to achieve compliance with waste discharge requirements.

**IT IS HEREBY ORDERED THAT** pursuant to Water Code sections 13300 and 13267,

1. The Discharger shall comply with the following time schedule to submit reports and ensure completion of the compliance project described in Finding No. 4, above:

Task	Description	Compliance Date
1	Submit and implement a Pollution Prevention Plan (PPP) for copper and un-ionized ammonia (as N) that meets the requirements specified in California Water Code Section 13263.3 <sup>1</sup>	6 March 2015
2	Progress Reports <sup>2</sup>	1 February, annually, until final compliance
3	Submit documentation that construction has initiated	1 July 2014
4	Submit documentation that construction is completed	1 July 2017
5	Request termination of NPDES Permit -or- Submit application for NPDES Permit Renewal	1 February 2019
6	Full compliance with the final effluent limitations for copper and un-ionized ammonia (as N)	1 August 2019

<sup>1</sup> The pollution prevention plan shall be prepared and implemented for copper and un-ionized ammonia (as N), and shall meet the requirements specified in Water Code section 13263.3. The pollution prevention plan shall describe pollution prevention activities the Discharger will implement in the short-term and the long-term to reduce effluent concentrations for copper and un-ionized ammonia (as N).

<sup>2</sup> 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. Discharge from Discharge Point 001 shall not exceed the following interim effluent limitations. These interim effluent limitations for copper and un-ionized ammonia (as N) are effective upon the effective date of WDR Order R5-2014-0076 and shall apply in lieu of the corresponding final effluent limitations in WDR Order R5-2014-0076. The Discharger shall comply with the following interim effluent limitations through 31 July 2019.

Parameter	Units	Interim Maximum Daily Effluent Limitation	Interim Average Monthly Effluent Limitation
Copper, Total Recoverable	µg/L	150	60
Ammonia, un-ionized (as N)	mg/L	1.5	--

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.
5. For the time schedules required by this Order, the Discharger shall submit to the Central Valley Water Board on or before each 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.

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 Resources Control Board (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., within 30 days following adoption of this Order, except that if the thirtieth day following the adoption 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](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 6 June 2014.

*Original signed by:*

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PAMELA C. CREEDON, Executive Officer