

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
COLORADO RIVER BASIN REGION

CEASE AND DESIST ORDER R7-2024-0047  
FOR

NANCY ANN KENNEDY  
ONSITE WASTEWATER TREATMENT SYSTEM  
TOWN OF YUCCA VALLEY, SAN BERNARDINO COUNTY

The California Regional Water Quality Control Board, Colorado River Basin Region, (Regional Water Board) finds that:

**PROPERTY DESCRIPTION**

1. Ms. Nancy Ann Kennedy (Discharger) owns and operates an Onsite Wastewater Treatment System (OWTS) used to treat domestic wastewater generated at 57478 Encelia Drive, Yucca Valley, APN: 059521215 (Property).

**BASIN PLAN PROHIBITION**

2. The town of Yucca Valley (Town) overlies the Warren Valley Groundwater Subbasin (Warren Subbasin). Warren Subbasin is in the northeast corner of the Joshua Tree Hydrologic Unit. The Water Quality Control Plan for the Colorado River Basin Region (Basin Plan) prohibits discharges from OWTS in areas of the town of Yucca Valley (Prohibition) that overlie the Warren Subbasin, the details of which are described below.
3. Chapter 4, Section H.2.iii. of the Basin Plan prohibits the discharge of wastewater from OWTS within areas of the Town (Phases 1 and 2) in accordance with the following schedule:
  - a. For Phase 1: by December 31, 2023;
  - b. For Phase 2:
    - i. by December 31, 2028 if western Joshua tree is not listed as threatened or endangered by the California Fish and Game Commission;
    - ii. by December 31, 2031 if western Joshua tree is listed as threatened or endangered by the California Fish and Game Commission;
  - c. Or when a municipal sewage collection system becomes available, whichever comes first.

4. For residential parcels, a municipal sewage collection system (sewer system) is considered "available" when the public sewer or any building or exterior drainage facility connected thereto is located less than 200 feet from any existing or proposed building or exterior drainage facility on the parcel, and the parcel abuts and is served by such public sewer.
5. For non-residential parcels, a sewer system is considered "available" when the public sewer or any building or exterior drainage facility connected thereto is located less than 500 feet from any existing or proposed building or exterior drainage facility on the parcel, and the parcel abuts and is served by such public sewer.
6. Chapter 4, Section H.2.iii (b) of the Basin Plan requires Dischargers to connect to the sewer system and cease discharging from OWTS within 180 days from when the sewer system becomes available.

### **VIOLATIONS AND PROGRESSIVE ENFORCEMENT**

7. The sewer system at 57478 Encelia Drive, Yucca Valley, APN: 059521215 (Property) has been available since July 31, 2020. Therefore, the Discharger was required to connect to the sewer system no later than January 27, 2021.
8. In accordance with Chapter 4, Section H.2.iii (c) of the Basin Plan, the Hi-Desert Water District (HDWD) provided the Discharger with several notices, including; upcoming sewer system availability, ability to connect to the sewer system, and additional notices if not connected.
9. On December 11, 2020, the Regional Water Board issued the Discharger a Notice of Violation notifying her of the Prohibition of Onsite Wastewater Treatment Systems for the Town of Yucca Valley and directing her to connect to the sewer system, as required by the Basin Plan.
10. On November 19, 2021, the Regional Water Board issued the Discharger a second Notice of Violation notifying her of the Prohibition of Onsite Wastewater Treatment Systems for the Town of Yucca Valley and again directing her to connect to the sewer system, as required by the Basin Plan.
11. On May 16, 2023, Regional Water Board staff attempted to contact the Discharger about the existing violation via phone as a part of progressive enforcement implementation consistent with the State Water Board's Quality Enforcement Policy.
12. On August 14, 2023, Regional Water Board staff issued an additional certified letter in an attempt to contact the Discharger.

13. On September 21, 2023, Regional Water Board staff attempted to contact the Discharger via site visit.
14. The Discharger has not responded to communications from the Regional Water Board.

### REGULATORY CONSIDERATIONS

15. According to the Basin Plan, discharge from the OWTS is to groundwater within the Yucca Valley OWTS Prohibition area defined in the Basin Plan as the Joshua Tree Hydrologic Unit.
16. Beneficial uses (BUs) of the groundwater are defined in the Basin Plan. The BUs of Joshua Tree Hydrologic unit are Municipal and Domestic Supply (MUN), and Industrial Service Supply (IND).
17. Water Code 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."
18. 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).
19. After due notice to the Discharger, and all other affected persons, the Regional Water Board will conduct a public hearing on **December 10, 2024**, at which evidence may be received to consider this Cease and Desist Order under Water Code section 13301 to establish a time schedule to achieve compliance with Yucca Valley OWTS Prohibition.
20. The Regional Water Board finds that Nancy Ann Kennedy owns property on which an OWTS is located that is being used or could be used, and that a discharge of waste from the OWTS to groundwater is taking place or threatening to take place in violation of the Basin Plan, as described in the Basin Plan Prohibition section of this Order. This Order requires the Discharger to take appropriate remedial action and to comply in accordance with the time schedule set forth below.

**IT IS HEREBY ORDERED** that, pursuant to section 13301 of the Water Code, Nancy Ann Kennedy shall implement the following measures in order to achieve compliance with the Yucca Valley OWTS Prohibition:

1. By **January 13, 2025**, submit at minimum one of the following; 1) cost estimates of sewer connection, 2) cost estimate of Joshua tree certification, or 3) cost estimate of septic tank removal/abandonment.
2. By **February 14, 2025**, submit a certificate of connection issued by Hi-Desert Water District.
3. No later than **March 1, 2025**, the Discharger shall comply with all aspects of the Yucca Valley OWTS Prohibition.
4. The Regional Water Board has transitioned to a paperless office. Therefore, all technical reports required by this Order must be converted to a searchable pdf file and submitted via email to [RB7-wdrs\\_paperless@waterboards.ca.gov](mailto:RB7-wdrs_paperless@waterboards.ca.gov).
5. 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 workplans for investigations and studies, 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 bear the professional's signature and stamp.
6. 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 Executive Officer or her delegee may extend the deadlines contained in this Order if the Discharger demonstrates that circumstances beyond the Discharger's control, provided that the Discharger continues to undertake all appropriate measures to meet the deadlines. The Discharger shall make any deadline extension request in writing

atleast 30 days prior to the deadline. The Discharger must obtain written approval from the Executive Officer or her delegee for any departure from the time schedule shown above. Failure to obtain written approval for any departures may result in further enforcement action.

If, in the opinion of the Executive Officer or her delegee, the Discharger fails to comply with the provisions of this Order, the Executive Officer or her delegee 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.

Any person aggrieved by this action of the Regional 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., 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](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

I, MICHAEL PLACENCIA, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order issued by the California Regional Water Quality Control Board, Colorado River Basin, on December 10, 2024.

Original signed by  
MICHAEL PLACENCIA, Executive Officer