



**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**



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Arnold Schwarzenegger
Governor

**TENTATIVE TIME SCHEDULE ORDER NO. R9-2010-0148
REQUIRING
THE CITY OF OCEANSIDE
MISSION BASIN DESALTING FACILITY
DISCHARGE TO THE PACIFIC OCEAN
TO COMPLY WITH REQUIREMENTS PRESCRIBED IN
ORDER NO. R9-2010-0120
(NPDES PERMIT NO. CA0107433)**

The California Regional Water Quality Control Board, San Diego Region (hereinafter San Diego Water Board) finds that:

1. On December 14, 2010, the San Diego Water Board adopted Waste Discharge Requirements Order No. R9-2010-0120 (NPDES No. CA0107433), for the City of Oceanside (hereinafter Discharger), for the discharge of up to 22.6 million gallons per day (MGD) of treated wastewater to the Oceanside Ocean Outfall (OOO) from the San Luis Rey Water Reclamation Facility (SLRWRF), the La Salina Wastewater Treatment Plant (SLWTP), and waste brine from the Mission Basin Desalting Facility (MBDF) through Discharge Point No. 001 to the Pacific Ocean, a water of the United States.
2. Order No. R9-2010-0120 includes Final Effluent Limitations in Section IV.A.1.b for the MBDF at monitoring location M-003, which reads, in part, as follows:

Parameters	Units	Effluent Limitations		
		Average Monthly	Average Weekly	Instantaneous Maximum
Turbidity	NTU	75	100	225

3. The above effluent limitations were established to implement Table A of the 2005 *Water Quality Control Plan for Ocean Waters of California, California Ocean Plan* (hereinafter Ocean Plan). Table A effluent limitations apply only to publicly owned treatment works and industrial discharges for which Effluent Limitations Guidelines have not been established pursuant to Sections 301, 302, 304, or 306 of the Federal Clean Water Act (CWA). At present, concentrate from desalination processes such as that employed by the City of Oceanside at MBDF are regulated through a default classification as an industrial waste under the Ocean Plan as well as the CWA because the Ocean Plan and the CWA do not have a specific separate classification addressing waste by-products such as brine generated by water treatment plants.

The above effluent limitations are being applied at a location (prior to mixing with any other effluent) which was not prescribed in previous Order No. R9-2005-0136, NPDES No. CA0107433, adopted by the San Diego Water Board on August 10, 2005.

4. California Water Code (CWC) 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."
5. The Discharger submitted a request for a Time Schedule Order with a proposed compliance schedule for achieving the final effluent limitations. This compliance schedule has been incorporated into this Time Schedule Order. The Discharger is investigating several methods of achieving compliance. Progress reports shall be submitted semiannually according to the schedule in Table E-16 of Monitoring and Reporting Program No. R9-2010-0120 and shall continue until compliance is achieved.
6. Section 13385(j)(3) states, in part, that mandatory minimum penalties do not apply to a violation of an effluent limitation where the waste discharge is in compliance with a time schedule order issued pursuant to Section 13300; the time schedule order was issued on or after July 1, 2000 and specifies the actions the discharger is required to take in order to correct the violations; and the Regional Board finds that the discharger is not able to consistently comply with the effluent limitations for any one of four reasons set forth in Section 13385(j)(3)(B), including that:

"The effluent limitation is a new, more stringent, or modified regulatory requirement that has become applicable to the waste discharge after the effective date of the waste discharge requirements and after July 1, 2000, new or modified control measures are necessary in order to comply with the effluent limitation, and the new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days."
7. In accordance with CWC section 13385(j)(3)(B), the San Diego Water Board finds that these effluent limitations shown in Finding No. 2 are new and more stringent because they are being applied differently, in a more stringent manner than in the previous Order. The effluent limitations in Finding No. 2 become applicable after the effective date of the waste discharge requirements (Order No. R9-2010-0120) which will be issued after July 1, 2000. New or modified control measures are necessary in order to comply with the effluent limitation and the Discharger reports that the new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.

8. Pursuant to CWC section 13267(b), the San Diego Water Board may require the Discharger to furnish, under penalty of perjury, technical or monitoring program reports. Monitoring reports and other technical reports are necessary to determine compliance with the NPDES permit and with this Order.
9. This Time Schedule Order is issued in accordance with CWC section 13300 and establishes a time schedule for compliance.
10. Compliance with this Order exempts the Discharger from mandatory minimum penalties for violations of effluent limitations for the constituents in Finding 2 only in accordance with CWC section 13385(j)(3).
11. CWC section 13385(j)(3)(A) requires this Order to specify the actions that the Discharger is required to take in order to correct the violations that would otherwise be subject to mandatory minimum penalties. This Order requires the Discharger to develop and implement new or modified control measures to comply with the effluent limitations prescribed in Order No. R9-2010-0120 and summarized in Finding 2. This Order requires the Discharger to submit a feasibility study to determine the appropriate new or modified control measures necessary to bring the discharge into compliance, complete the required design, permitting and construction activities, and achieve full compliance with Order No. R9-2010-0120.
12. This enforcement action is being taken for the protection of the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.) in accordance with section 15308, Chapter 3, Title 14 of the California Code of Regulations. The issuance of this Order is also an enforcement action taken by a regulatory agency and is exempt from the provisions of CEQA pursuant to section 15321(a)(2), Chapter 3, Title 14 of the California Code of Regulations. Finally, issuance of this Order is exempt from the provisions of CEQA because the Order does not constitute approval of a project.
13. Any person adversely affected by this action of the San Diego Water Board may petition the State Water Resources Control Board (State Water Board) to review the action. The petition must be received by the State Water Board within 30 days of the date on which the action was taken. Copies of the law and regulations applicable to filing petitions will be provided on request.

IT IS HEREBY ORDERED THAT pursuant to CWC sections 13300 and 13267 that the City of Oceanside shall comply with the following time schedule to ensure compliance with the turbidity effluent limitation at M-003 as contained in Order No. R9-2010-0120:

Table 1. Compliance Schedule

Task	Compliance Date
1. Prepare and submit a proposed work plan that outlines the tasks and the approach to achieve compliance with the turbidity effluent limitation at M-003 as prescribed in Order No. R9-2010-0120 and summarized in Finding 2.	No later than 6 months after the adoption date of this Order
2. Submit plan and alternatives analysis for ensuring compliance with the turbidity effluent limitation at M-003 as prescribed in Order No. R9-2010-0120 and summarized in Finding 2. The proposed plan shall include a schedule for completion that reflects a realistic assessment of the shortest practicable time required to perform each task.	No later than 18 months after the adoption date of this Order
3. Complete financial arrangements for selected alternative	No later than 30 months after the adoption date of this Order
4. Initiate construction of any required facilities	No later than 36 months after the adoption date of this Order
5. Complete construction of required facilities and initiate facilities start-up	No later than 48 months after the adoption date of this Order
6. Identify and implement operational refinements and confirm compliance with the turbidity effluent limitation at M-003 as prescribed in Order No. R9-2010-0120 and summarized in Finding 2.	No later than 60 months after the adoption date of this Order
7. Achieve full compliance with the turbidity effluent limitation at M-003 as prescribed in Order No. R9-2010-0120 and summarized in Finding 2.	December 1, 2015

1. The Discharger shall submit to the San Diego Water Board on or before each compliance 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 San Diego Water Board by letter when it returns to compliance with the time schedule.

If the Discharger pursues a method other than a treatment system to achieve compliance, the compliance schedule above is not applicable, but progress reports in accordance with Item 2 below are required to document that compliance has been achieved.

2. Progress reports shall be submitted semiannually according to the schedule in Table E-16 of Attachment E to Order No. R9-2010-0120 and shall continue until compliance is achieved.
3. The following interim effluent limitations¹ at Monitoring Location M-003, as described in Order No. R9-2010-0120, shall be effective until **December 1, 2015** or when the Discharger achieves compliance, whichever is earlier:

Table 2. Interim Effluent Limitations for Turbidity at M-003

Parameters	Units	Interim Effluent Limitations ¹		
		Average Monthly	Average Weekly	Instantaneous Maximum
Turbidity	NTU	150	175	225

4. Within one year after the adoption of this Order, the Discharger shall develop, implement, and submit to the Regional Water Board, a Pollution Prevention Plan (PPP) pursuant to CWC Section 13263.3 for turbidity.
5. If, in the opinion of the Executive Officer, the Discharger fails to comply with the provisions of this Order, the Executive Officer may apply to the Attorney General for judicial enforcement or issue a complaint for Administrative Civil Liability. If compliance with these effluent limitations is not achieved by the Full Compliance Date, the discharge would not be exempt from mandatory minimum penalties for violation of the effluent limitations and would be subject to issuance of a Cease and Desist Order in accordance with CWC section 13301.
6. As required by the California Business and Professions Code Sections 6735, 7835, and 7835.1, all technical reports required herein shall be prepared by, or under the supervision of, a California Registered Engineer or Registered Geologist (as applicable) and shall be signed by the registered professional..
7. 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."

¹ The Interim effluent limitations are based on effluent performance data from February 2, 2010 through December 1, 2015 for the Discharger.

I, David W. Gibson, 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, San Diego Region, on December 14, 2010.

Tentative

DAVID W. GIBSON
Executive Officer