

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

ADDENDUM NO. 3 TO
CEASE AND DESIST ORDER NO. 96-52

INTERNATIONAL BOUNDARY AND WATER COMMISSION
U.S. SECTION

INTERNATIONAL WASTEWATER TREATMENT PLANT
SOUTH BAY OCEAN OUTFALL
SAN DIEGO COUNTY

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


1. The International Boundary and Water Commission (IBWC) continues to discharge inadequately treated wastewater from the International Wastewater Treatment Plant (IWTP) to the Pacific Ocean through the South Bay Ocean Outfall in violation of waste discharge requirements contained in Order No. 96-50 and in violation of Section 301 of the federal Clean Water Act (CWA, 33 USC 1311). Violations of waste discharge requirements contained in Order No. 96-50 include routine or recurring exceedence of effluent limits for total suspended solids (TSS), 5-day biochemical oxygen demand (BOD5), acute toxicity, chronic toxicity, ammonia, and total chlorinated dibenzodioxins and chlorinated dibenzofurans (TCDD equivalents) as described in more detail in findings 5 through 9, below.
2. Cease and Desist Order No. 96-52 requires the IBWC to cease and desist from such violations by December 31, 2000, according to a time schedule which includes intermediate milestones that have been extended twice by Addenda Nos. 1 and 2 to Cease and Desist Order No. 96-52; the December 31, 2000 deadline has not been extended. In addition Cease and Desist Order No. 96-52 contains interim effluent limits applicable to existing treatment facilities at the IWTP.
3. The IBWC failed to achieve critical intermediate milestones for compliance with the extended time schedule:
 - a. IBWC failed to adopt a Record of Decision (ROD) setting forth its selected alternative for secondary treatment by May 1, 1999.
 - b. IBWC has failed and continues to fail to complete design and specifications for the selected secondary treatment alternative with construction bid documents for construction of secondary treatment facilities by August 1, 1999.

4. The IBWC will not be able to complete construction of facilities capable of providing secondary treatment for wastewater from the IWTP by December 31, 2000, the deadline set by Cease and Desist Order No. 96-52. Therefore IBWC threatens to continue to discharge inadequately treated wastewater that will continue to exceed effluent limits for TSS, CBOD5, acute toxicity, chronic toxicity, and ammonia after December 31, 2000, in violation of the waste discharge requirements in Order No. 96-50, the requirements of Section 301 of the federal Clean Water Act, and the requirements of Cease and Desist Order No. 96-52.
5. The discharge from the IWTP has continually violated the limits for TSS in Order No. 96-50. These limits include percent removal, maximum at any time, weekly average, and monthly average. These violations occurred every month since discharge began in January 1999; without secondary treatment these violations will continue.
6. The discharge from the IWTP has continually violated the limits for CBODS in Order No. 96-50. These limits include percent removal, maximum at any time, weekly average, and monthly average. The percent removal violation occurred every month since February 1999; the other violations occurred every month since discharge began in January 1999; without secondary treatment these violations will continue.
7. The discharge from the IWTP has continually violated the limits for acute toxicity in Order No. 96-50. These limits include maximum at any time, 7-day average, and 30-day average. These violations occurred every month since discharge began in January 1999; without secondary treatment these violations will continue.
8. The discharge from the IWTP has frequently/routinely violated the limits for chronic toxicity in Order No. 96-50. These violations occurred in 17 of the last 20 months; without secondary treatment these violations will continue.
9. The discharge from the IWTP has frequently/routinely violated the concentration and mass loading limits for ammonia in Order No. 96-50. These violations occurred in 15 of the last 20 months; without secondary treatment these violations will continue.
10. The cost of building the secondary treatment facilities is estimated at \$30 million. Six percent of \$30 million per month is an amount of a coercive civil penalty reasonably necessary to assure compliance.
11. A coercive civil penalty of ten thousand dollars (\$10,000) per day for each violation identified in findings 4 through 9, which amounts to a total amount of \$60,000 per day or approximately \$1.8 million per month is necessary to compel IBWC to make the necessary commitment to avoid continuous multiple violations due to the failure to spend the amount the IBWC needs to build the secondary treatment facilities described in its ROD. This monthly amount is 6% of the estimated cost of building the secondary treatment facilities. This amount does not include any amount intended to punish or redress previous violations. A lesser amount would not provide the IBWC with the incentive to do the work necessary to prevent these violations.
12. The issuance of this Order is an enforcement action taken by a regulatory agency and is exempt from certain provisions of the California Environmental Quality Act (CEQA) in accordance with Section 15321, Chapter 3, Title 14 of the California Code of Regulations.

IT IS HEREBY ORDERED, That pursuant to Section 13301 and Section 13308 of the California Water Code:

1. Directive five (5) of Cease and Desist Order No. 96-52 is modified as follows:
Until December 31, 2000, the IBWC shall comply with the effluent limitations listed in Directive six (6) of Cease and Desist Order No. 96-52. After December 31, 2000, the IBWC shall comply with all portions of Order No. 96-50 and Monitoring and Reporting Program No. 96-50, regardless of the discharge location.
2. Except as expressly provided herein, no term or condition of Order No. 96-50 Waste Discharge Requirements, or any subsequent order prescribing waste discharge requirements for this facility, or Cease and Desist Order No. 96-52 is superceded by this addendum. The terms and condition of Order No. 96-50 and Cease and Desist Order No. 96-52 shall remain in full force and effect.
3. The IBWC shall incur a civil penalty of **ten thousand dollars (\$10,000)** for each day the IBWC violates the limits for TSS in Order No. 96-50 after December 31, 2000.
4. The IBWC shall incur a civil penalty of **ten thousand dollars (\$10,000)** for each day the IBWC violates the limits for CBOD5 in Order No. 96-50 after December 31, 2000.
5. The IBWC shall incur a civil penalty of **ten thousand dollars (\$10,000)** for each day the IBWC violates the limits for acute toxicity in Order No. 96-50 after December 31, 2000.
6. The IBWC shall incur a civil penalty of **ten thousand dollars (\$10,000)** for each day the IBWC violates the limits for chronic toxicity in Order No. 96-50 after December 31, 2000.
7. The IBWC shall incur a civil penalty of **ten thousand dollars (\$10,000)** for each day the IBWC violates the limits for ammonia in Order No. 96-50 after December 31, 2000.
8. The IBWC shall incur a civil penalty of **ten thousand dollars (\$10,000)** for each day after December 31, 2000, the IBWC fails to complete the secondary treatment process facilities and discharge secondary treated effluent.

I, John H. Robertus, Executive Officer, do hereby certify the forgoing is a full, true, and correct copy of an Addendum adopted by the California Regional Water Quality Control Board, San Diego Region, on November 8, 2000.



JOHN H. ROBERTUS
Executive Officer