

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
COLORADO RIVER BASIN REGION**

CEASE AND DESIST ORDER NO. R7-2010-0046
ISSUED TO
CITY OF WESTMORLAND, OWNER/OPERATOR
MUNICIPAL WASTEWATER TREATMENT PLANT,
COLLECTION AND DISPOSAL SYSTEMS
Westmorland — Imperial County

The California Regional Water Quality Control Board, Colorado River Basin Region, (hereinafter referred to as the Regional Board) finds that:

1. The City of Westmorland, 5295 Martin Rd, Westmorland CA 92281 (hereinafter, Discharger) owns and operates a municipal wastewater treatment plant (WWTP) that provides sewerage services to the City of Westmorland in Imperial County. The WWTP has a total design capacity of 0.5 million gallons per day (MGD) and consists of sewage pump station, an influent flow meter, an oxidation ditch, two twenty-eight foot clarifiers, chlorine contact chambers, and dechlorination operations.
2. The WWTP is a publicly owned treatment works (POTW) that discharges its effluent into the Trifolium Drain No. 6, which discharges into the New River and eventually into the Salton Sea. Trifolium Drain No. 6, the New River, and the Salton Sea are waters of the United States.
3. The following are designated beneficial uses of the Trifolium Drain No. 6:
 - a. Fresh Water Replenishment of Salton Sea (FRSH)
 - b. Water Contact Recreation (REC I)¹
 - c. Non-Contact Water Recreation (REC II)¹
 - d. Warm Freshwater Habitat (WARM)
 - e. Wildlife Habitat (WILD)
 - f. Preservation of Rare, Threatened, or Endangered Species (RARE)²
4. On September 19, 2007, the Regional Board adopted WDRs Order No. R7-2007-0034 (NPDES Permit No. CA0105007) for the Discharger to regulate discharges of treated wastewater from its WWTP. WDRs Order No. R7-2007-0034 rescinded WDRs Order No. R7-2002-0004, except for enforcement purposes. WDRs Order No. R7-2007-0034 specifies effluent limitations, prohibitions, specifications, and provisions necessary to protect the beneficial uses of the surface and ground waters within the Colorado River Basin Region. WDRs Order No. R7-2007-0034 became effective on September 19, 2007 and will expire on September 19, 2012.

¹ Unauthorized use.

² Rare, endangered, or threatened wildlife exists in or utilizes some of these waterway(s). If the RARE beneficial use may be affected by a water quality control decision, responsibility for substantiation of the existence of rare, endangered, or threatened species on a case-by-case basis is upon the California Department of Fish and Game on its own initiative and/or at the request of the Regional Board; and such substantiation must be provided within a reasonable time frame as approved by the Regional Board.

5. Effluent Limitation IV.A.1.a of WDRs Order No. R7-2007-0034 established final effluent limitations for copper at Discharge Point 001, with compliance measured at Monitoring Location EFF-001 as described in the MRP attached to WDRs Order No. R7-2007-0034 as Attachment E:

Parameter	Units	Final Effluent Limitations	
		Average Monthly	Maximum Daily
Copper, Total Recoverable ²	µg/L	2.9	5.8
	lbs/day ¹	0.012	0.024

¹ The mass-based effluent limitations are based on a design capacity of 0.50 MGD.

² The effluent limitations for Copper are applicable after May 18, 2010. The interim limitations establish in Section IV.A.2.a of Board Order R7-2007-0034 are applicable from September 19, 2007 through May 18, 2010.

6. WDRs Order No. R7-2007-0034 states in Special Provision C.1.a: "This Order may be reopened for modification, or revocation and reissuance, as a result of the detection of a reportable priority pollutant generated by special conditions included in this Order. These special conditions may include, but are not limited to, fish tissue sampling, whole effluent toxicity, monitoring requirements on internal waste stream(s), and monitoring for surrogate parameters. Additional requirements may be included in this Order as a result of the special condition monitoring data."
7. Self-monitoring reports (SMRs) submitted by the Discharger to Regional Board staff show that wastewater discharged from the Discharger's WWTP violated the final effluent limitations in WDRs Order No. R7-2007-0034 for copper.
8. On June 25, 2010, Regional Board staff issued a Notice of Violation to the Discharger for violations of the final effluent limitation for copper that the Discharger reported in its May 2010 SMR.
9. On August 3, 2010, Regional Board staff met with the Discharger at the WWTP to discuss the issue of potential copper violations. The Discharger informed Regional Board staff of copper violations in its July 2010 monitoring results.
10. On August 3, 2010, Regional Board staff received a letter dated August 3, 2010 from the Discharger. The letter states in part: "As a result of [the City of Westmorland's] recent failure to comply with the monthly average effluent requirements for Copper during the month of May 2010, the City of Westmorland would like to request the issuance of a Cease and Desist Order for [its WWTP] from the Regional Water Quality Control Board."
11. Based on the information in the Discharger's letter and the Discharger's self-monitoring reports, the Discharger has violated current final effluent limitations in WDRs Order No. R7-2007-0034 for copper set forth in Finding 5 above and threatens continued violation of those final effluent limitations.
12. Section 13301 of the CWC states in relevant parts:

"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.”

“In the event of an existing or threatened violation of waste discharge requirements in the operation of a community sewer system, cease and desist orders may restrict or prohibit the volume, type, or concentration of waste that might be added to that system by dischargers who did not discharge into the system prior to the issuance of the cease and desist order.”

13. CWC Section 13385(h) and (i) require the Regional Board to impose mandatory minimum penalties upon dischargers that violate certain effluent limitations. CWC Section 13385(j) exempts certain violations from the mandatory minimum penalties. CWC 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, if all the [specified] requirements are met.”
14. Compliance with this Cease and Desist Order exempts the Discharger from mandatory penalties for violations of effluent limitations in accordance with CWC Section 13385(j)(3) from the date of this Order’s adoption by the Regional Board.
15. Specifically, pursuant to CWC Section 13385(j)(3), mandatory minimum penalties under Section 13385(h) and (i) will not apply to violations of effluent limitations for copper established in the waste discharge requirements where the waste discharge is in compliance with a Cease and Desist Order issued pursuant to CWC Section 13301 and all of the requirements specified in 13385(j)(3)(A)-(D) are met.
16. Subdivision (j)(3)(A) of Section 13385 has been met since this proposed Cease and Desist Order is issued after July 1, 2000, and specifies the actions the Discharger is required to take to correct the violations that would otherwise be subject to MMPs.
17. Subdivision (j)(3)(B) of Section 13385 requires that at least one of the reasons specified applies to why the Discharger has not been able to consistently comply with one or more effluent limitations. The reason specified in Subdivision (B)(i) applies, as explained below.
 - a. 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;
 - i. The effluent limitations for copper were new parameters established in WDRs Order R7-2007-0034, which Order rescinded WDRs Order No. R7-2002-0004, became effective on September 19, 2007, and prescribed the final effluent limitations for copper to become effective on May 18, 2010.
 - b. New or modified control measures are necessary in order to comply with the effluent limitations; and,

- c. The new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.
18. Subdivision (j)(3)(C) of Section 13385 requires the Regional Board to establish 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 necessary to comply with the limitations. The time schedule specified in this Cease and Desist Order to bring the Discharger into compliance with the final effluent limitations for copper meets this requirement in that it is as short as possible, being only 10 months long, and the Regional Board has developed this time schedule by considering the technological, operational, and economic factors involved in the control measures needed to achieve compliance.
19. Subdivision (j)(3)(D) of Section 13385 requires the Discharger to prepare and implement a pollution prevention plan pursuant to CWC Section 13263.3. Therefore, a pollution prevention plan will be necessary for copper in order to effectively reduce the effluent concentrations by source control measures.
20. CWC Section 13263.3(d)(1) states in relevant part:

“The state board, a regional board, or a POTW may require a discharger subject to its jurisdiction to complete and implement a pollution prevention plan if ...

(D) The discharger is subject to a cease and desist order issued pursuant to Section 13301”
21. Issuance of this Cease and Desist Order to enforce CWC Division 7, Chapter 5.5 is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, § 21000 et seq.), in accordance with Section 15321 (“Enforcement Actions by Regulatory Agencies”), Title 14, California Code of Regulations.
22. Any person aggrieved by this action of the Regional Board may petition the State Water Resources Control Board to review the action in accordance with CWC Section 13320 and California Code of Regulations, Title 23, Section 2050 and following. The State Board must receive the petition no later than 5:00 p.m., thirty (30) days after the date on which this Order issued, 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_ Copies will also be provided upon request.

IT IS HEREBY ORDERED, that in order to meet the provisions contained in Division 7 of the CWC and regulations adopted there under, the Discharger shall comply with the following:

1. The Discharger is required to prepare a Biological Assessment of the Trifolium Drain No. 6 at the point of discharge (Discharge 001) and submit its findings to USEPA for consideration of alternative freshwater aquatic life criteria in accordance with 40 CFR

131.38(c)(3). Further, the Discharger is required to prepare and implement a Pollution Prevention Plan pursuant to CWC Section 13263.3(d)(3), and shall take specific actions as indicated in the time schedule set forth in Table 1 below to achieve compliance with all requirements of WDRs Order No. R7-2007-0034.

Table 1: Time Schedule

Milestone	Milestone Description	Milestone Submittal	Completion Date
1	Complete Biological Assessment	Submit a Copy of Draft Biological Assessment to USEPA and the Regional Board	November 15, 2010
2	Post Final Biological Assessment with USEPA and Regional Board for 30-day Public Comment period	Submit Final Biological Assessment as approved by USEPA	January 15, 2011
3	Complete Pollution Prevention Plan	Submit a Copy of the Pollution Prevention Plan to the Regional Board	April 15, 2011
4	Achieve full compliance with Order No. R7-2007-0034 (NPDES Permit No. CA0105007)	Submit written certification that WWTP is in compliance with Order No. R7-2007-0034 (NPDES Permit No. CA0105007)	July 15, 2011

2. Wastewater discharged to the Trifolium Drain No. 6 shall not exceed the interim effluent limitations for copper set forth in this Cease and Desist Order (summarized in Table 2 below). The interim effluent limitations are based on plant performance data, reference data from representative wastewater treatment facilities, and Best Professional Judgment (BPJ) and are anticipated to be the final effluent limitations for copper if USEPA approves the use of alternative aquatic freshwater life criteria for the Trifolium Drain No. 6 at the point of discharge:

Table 2: Interim Effluent Limitations for Copper

Parameter	Units	Effluent Limitations	
		Average Monthly	Maximum Daily
Copper	µg/L	25	50
	lbs/day ¹	0.10	0.21

3. The Discharger shall submit quarterly reports, due by the 15th of January, April, and July of 2011, on the status of the preparation and implementation of the Pollution Prevention Plan and associated Milestones listed in the time schedule set forth in Table 1 above.

4. Plans and schedules are subject to the prior approval of the Regional Board's Executive Officer. Failure to comply with the terms of this Cease and Desist Order may result in administrative civil liability of up to \$10,000 per day for each violation pursuant to Sections 13263.3(g), 13385(c)(1), and/or 13308 of the CWC.
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 California registered professionals (i.e., civil engineer, engineering geologist, geologist, etc.) competent and proficient in the fields pertinent to the required activities. All technical reports specified herein that contain workplans, 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 a statement of qualifications of the responsible licensed professional(s) as well as the professional's signature and/or stamp of the seal.
6. In addition, if in the opinion of the Regional Board's Executive Officer, the Discharger fails to comply with this Order, the Executive Officer may issue a complaint against the Discharger under Article 2.5, Chapter 5, Division 7 of the CWC, and seek the appropriate administrative civil liability and/or request the Attorney General to take appropriate action against the Discharger, including injunctive relief and civil monetary liability as deemed appropriate.

I, Robert Perdue, Executive Officer, do hereby certify that the foregoing is a full, true and correct copy of an Order adopted by the Regional Water Quality Control Board, Colorado River Basin Region, on September 16, 2010.


ROBERT PERDUE
Executive Officer