

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

**CEASE AND DESIST ORDER (CDO) R7-2011-0058  
ISSUED TO  
SEELEY COUNTY WATER DISTRICT, OWNER/OPERATOR  
WASTEWATER TREATMENT PLANT  
IMPERIAL - IMPERIAL COUNTY**

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

1. Seeley County Water District (hereinafter the Discharger) owns and operates the Wastewater Treatment Plant (WWTP) and corresponding collection and disposal systems, located at 1898 West Main Street, Seeley, CA 92273. The treatment system consists of a lift station, a drum screen, a bar screen, a "Clemson" aerated pond system with surface aerators, pressure sand filters, and an ultraviolet (UV) disinfection system.
2. The Discharger's WWTP is a publicly owned treatment works (POTW), and provides sewerage service to the town of Seeley. Wastewater is discharged from the Discharging Point 001 of the WWTP to the New River, a water of the United States, tributary to the Salton Sea, and within the Salton Sea Transboundary watershed.
3. The Water Quality Control Plan for the Colorado River Basin, as amended to date, designates the beneficial uses of ground and surface waters in the Region.
4. The designated beneficial uses of waters in the New River are:
  - a. Fresh Water Replenishment of Salton Sea (FRSH)
  - b. Industrial Service Supply (IND)<sup>1</sup>
  - c. Water Contact Recreation (REC I)<sup>2</sup>
  - d. Non-Contact Water Recreation (REC II)
  - e. Warm Water Habitat (WARM)
  - f. Wildlife Habitat (WILD)
  - g. Preservation of Rare, Threatened, or Endangered Species (RARE)<sup>3</sup>
5. On September 19, 2007, the Regional Board adopted Waste Discharge Requirements (WDRs) Order R7-2007-0036 (NPDES Permit CA0105023) for the Discharger to regulate discharges of treated wastewater. WDRs Order R7-2007-0036 contains specific effluent limitations, prohibitions, specifications, and provisions that were necessary to protect the beneficial uses of the surface and ground waters within the Colorado River Basin Region.

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<sup>1</sup> Potential use

<sup>2</sup> Although some fishing occurs in the downstream reaches, the presently contaminated water in the river makes it unfit for any recreational use. An advisory has been issued by the Imperial County Health Department warning against the consumption of any fish caught from the river and the river has been posted with advisories against any body contact with the water.

<sup>3</sup> 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 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.

6. WDRs Order R7-2007-0036 (pages 11-12, section A.1.d) contains the following effluent discharge limitations:

**Bacteria:** The bacterial concentrations in the wastewater effluent discharged to the New River shall not exceed the following concentrations, as measured by the following bacterial Indicators

- i. ***E. Coli.*** The geometric mean bacterial density (based on a minimum of not less than five samples equally spaced over a 30-day period) shall not exceed a Most Probable Number (MPN) of 126 MPN per 100 milliliters, nor shall any sample exceed the maximum allowable bacterial density of 400 MPN per 100 milliliters.
  - ii. **Enterococci.** The geometric mean bacterial density (based on a minimum of not less than five samples equally spaced over a 30-day period) shall not exceed a MPN of 33 MPN per 100 milliliters, nor shall any sample exceed the maximum allowable bacterial density of 100 MPN per 100 milliliters.
  - iii. **Fecal Coliform.** The geometric mean bacterial density (based on a minimum of not less than five samples equally spaced over a 30-day period) shall not exceed a MPN of 200 MPN per 100 milliliters, nor shall more than ten percent of the total samples during any 30-day period exceed 400 MPN per 100 milliliters.
7. On March 1, 2011, the Regional Board Assistant Executive Officer issued Administrative Civil Liability (ACL) Complaint R7-2010-0030 to the Discharger for violations of the effluent limitations for Biochemical Oxygen Demand (BOD) and bacteria and that the Discharger reported in its Electronic Self-Monitoring Reports (eSMRs) from August 2009 to September 2010. Additional violations are found in eSMRs from March 2011 to August 2011, which are identified in Exhibit "A" attached hereto and incorporated herein by this reference.
  8. On July 6, 2011, Regional Board staff met with the Discharger in Seeley to discuss the discharge of effluent that exceeded the effluent limitations for bacteria set forth in WDRs Order R7-2007-0036.
  9. On September 28, 2011, the Assistant Executive Officer received a letter from the Discharger, which requested that the Regional Board issue a CDO for the Discharger's WWTP. The letter states in part: "Seeley County Water District proposes to make several improvements to our wastewater treatment facility that should bring our treatment plant back into compliance with our current NPDES Permit Requirements. Specifically, the wastewater plant improvements would address the violations directly related to ammonia toxicity, BOD, and bacteriological quality."
  10. 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 R7-2007-0036 set forth in Finding No. 7 above, for bacteria from August 2009 to September 2011. Discharger threatens continued and future violations of the final effluent limitations for bacteria set forth in WDRs Order R7-2007-0036.
  11. California Water Code (CWC) Section 13301 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.”

12. 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.”
13. Compliance with this Order exempts the Discharger from mandatory minimum 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.
14. Specifically, pursuant to CWC Section 13385(j)(3)(B)(iii), mandatory minimum penalties under 13385 (h) and (i) shall not apply to violations of effluent limitations for bacteria established in WDR Order R7-2007-0036 for the reasons detailed below:
  - a. Unanticipated changes in the quality of the municipal and industrial water supply available to the discharger are the cause of unavoidable changes in the composition of the waste discharge, which are the cause of the Discharger’s inability to comply with the effluent limitations;
  - b. No alternative water supply is reasonably available to the Discharger; and
  - c. New or modified control measures are necessary in order to comply with the effluent limitations; and
  - d. The new or modified control measures cannot be designed, installed, and put into operation within 30 days.
15. CWC Section 13385(j)(3) requires the Discharger to prepare and implement a pollution prevention plan pursuant to CWC Section 13263.3. Therefore, a pollution prevention plan for bacteria will be necessary in order to effectively reduce the effluent concentrations by source control measures.
16. 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 pollution prevention plan if:

(D) The discharger is subject to a cease and desist order issued pursuant to Section 13301...
17. Because the time schedule to complete the construction and implementation of WWTP improvements exceeds 1 year, this Order includes interim requirements and dates for their achievement as required by 13385 (j)(3)(c)(iii).

18. Issuance of this CDO 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.
19. 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 of this Order, 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](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 and implement a Pollution Prevention Plan pursuant to Section 13263.3 of the CWC. The Discharger must address all of the issues specified in CWC Section 13263.3(d)(3)(A) through (I) and shall take specific actions as indicated in the following time schedule to achieve compliance with all requirements of WDRs Order R7-2007-0036.

**Table 1: Time Schedule**

<b>Milestone</b>	<b>Milestone Description</b>	<b>Milestone Submittal</b>	<b>Completion Date</b>
1	Complete Pollution Prevention Plan (PPP)	Submit a copy of the PPP to the Regional Board	June 30, 2012
2	Complete Project Environmental Documents	Submit a copy of the Environmental Documents to the Regional Board	August 1, 2013
3	Complete Project Engineering and Design	Submit a copy of the Final Design Drawings to the Regional Board	July 1, 2014
4	Complete Construction of WWTP Improvements	Submit a summary and verification of construction completion	July 31, 2015

5	Achieve full compliance with WDRs Order R7-2007-0036	Submit written certification that WWTP is in compliance with WDRs Order R7-2007-0036 (NPDES Permit CA0105023)	August 31, 2015
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2. Wastewater discharged to the New River shall not exceed the following interim effluent limitations for E. coli, Fecal coliform, and Enterococci. The interim effluent limits are based on plant performance data, reference data from representative wastewater treatment facilities, and Best Professional Judgment (BPJ).
  - i. **E. Coli.** The geometric mean bacterial density (based on a minimum of not less than five samples equally spaced over a 30-day period) shall not exceed a Most Probable Number (MPN) of 1,500 MPN per 100 milliliters, nor shall any sample exceed the maximum allowable bacterial density of 4,000 MPN per 100 milliliters.
  - ii. **Enterococci.** The geometric mean bacterial density (based on a minimum of not less than five samples equally spaced over a 30-day period) shall not exceed a MPN of 500 MPN per 100 milliliters, nor shall any sample exceed the maximum allowable bacterial density of 2,000 MPN per 100 milliliters.
  - iii. **Fecal Coliform.** The geometric mean bacterial density (based on a minimum of not less than five samples equally spaced over a 30-day period) shall not exceed a MPN of 2,000 MPN per 100 milliliters, nor shall more than ten percent of the total samples during any 30-day period exceed 4,000 MPN per 100 milliliters.”
3. The Discharger shall submit quarterly reports, due by the 15th of January, April, July, and October of each year, on the status of the preparation and implementation of the Pollution Prevention Plan and associated Milestones listed in Table 1 above.
4. Plans and schedules are subject to the approval of the Regional Board’s Executive Officer prior to implementation. Failure to comply with the terms of this 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. Any person signing a document submitted under this Order shall make the following certification: *“I certify under penalty of perjury under the laws of the State of California 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."*

7. In addition, if in the opinion of the Regional Board's Executive Officer, the discharger fails to comply with this Order, the Regional Board's Executive Officer may issue a complaint against the discharger under Article 2.5, Chapter 5, Division 7 of the California Water Code, and seek the appropriate administrative civil liability and/or request the Attorney General to take appropriate action against the discharger including injunction 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 November 17, 2011.

  
ROBERT PERDUE  
Executive Officer

**EXHIBIT "A"**

Summary of Violations and Mandatory Minimum Penalties (MMPs)

<b>Violation ID<sup>1</sup></b>	<b>Date Occurred</b>	<b>Description of Violation</b>	<b>Serious Violation Defined by CWC 13385(h)</b>	<b>Amount Assessed Dollars (\$)</b>
860336	08/19/2009	Exceeded daily maximum limit of 400 MPN/100 mL for E. coli Reported 687 MPN/100 mL	No	0 <sup>2</sup>
860307	08/26/2009	Exceeded daily maximum limit of 100 MPN/100 mL for Enterococci Reported 300 MPN/100 mL	No	0 <sup>2</sup>
860338	08/26/2009	Exceeded daily maximum limit of 400 MPN/100 mL for Fecal coliform Reported 1,600 MPN/100 mL	No	0 <sup>2</sup>
860339	08/26/2009	Exceeded daily maximum limit of 400 MPN/100 mL for E. coli Reported 2,420 MPN/100 mL	No	3,000
860340	08/31/2009	Exceeded 30-day geometric mean limit of 126 MPN/100 mL for E. coli Reported 134 MPN/100 mL	No	3,000
860377	11/16/2009	Exceeded daily maximum limit of 400 MPN/100 mL for E. coli Reported 517 MPN/100 mL	No	3,000
860378	11/16/2009	Exceeded daily maximum limit of 400 MPN/100 mL for Fecal coliform Reported 1,600 MPN/100 mL	No	3,000
860379	11/23/2009	Exceeded daily maximum limit of 100 MPN/100 mL for Enterococci Reported 170 MPN/100 mL	No	3,000
862005	12/07/2009	Exceeded daily maximum limit of 400 MPN/100 mL for E. coli Reported 1,990 MPN/100 mL	No	3,000
862006	12/07/2009	Exceeded daily maximum limit of 100 MPN/100 mL for Enterococci Reported 1,600 MPN/100 mL	No	3,000
862007	12/07/2009	Exceeded daily maximum limit of 400 MPN/100 mL for Fecal coliform Reported 1,600 MPN/100 mL	No	3,000
862008	12/14/2009	Exceeded daily maximum limit of 100 MPN/100 mL for Enterococci Reported 280 MPN/100 mL	No	3,000
862009	12/31/2009	Exceeded 30-day geometric mean limit of 33 MPN/100 mL for Enterococci Reported 133 MPN/100 mL	No	3,000

<sup>1</sup> California Integrated Water Quality System (CIWQS)

<sup>2</sup> This is a supporting violation

Seeley County Water District WWTP  
Cease and Desist Order R7-2011-0058

<b>Violation ID<sup>1</sup></b>	<b>Date Occurred</b>	<b>Description of Violation</b>	<b>Serious Violation Defined by CWC 13385(h)</b>	<b>Amount Assessed Dollars (\$)</b>
869361	01/04/2010	Exceeded daily maximum limit of 100 MPN/100 mL for Enterococci Reported 1,600 MPN/100 mL	No	3,000
869359	01/04/2010	Exceeded daily maximum limit of 400 MPN/100 mL for Fecal coliform Reported 1,600 MPN/100 mL	No	3,000
869357	01/04/2010	Exceeded daily maximum limit of 400 MPN/100 mL for E. coli Reported 2,420 MPN/100 mL	No	3,000
869363	01/06/2010	Exceeded daily maximum limit of 100 MPN/100 mL for Enterococci Reported 1,600 MPN/100 mL	No	3,000
869360	01/06/2010	Exceeded daily maximum limit of 400 MPN/100 mL for Fecal coliform Reported 1,600 MPN/100 mL	No	3,000
869358	01/06/2010	Exceeded daily maximum limit of 400 MPN/100 mL for E. coli Reported 2,420 MPN/100 mL	No	3,000
878203	04/29/2010	Exceeded 30-day geometric mean limit of 33 MPN/100 mL for Enterococci Reported 130 MPN/100 mL	No	3,000
877096	05/12/2010	Exceeded weekly average limit of 65 mg/L for Biochemical Oxygen Demand (BOD); Reported 84 mg/L	No	3,000
877454	05/31/2010	Exceeded monthly average limit of 45 mg/L for Biochemical Oxygen Demand (BOD); Reported 46.7 mg/L	No	3,000
884261	09/08/2010	Exceeded daily maximum limit of 100 MPN/100 mL for Enterococci Reported 170 MPN/100 mL	No	3,000
884277	09/13/2010	Exceeded daily maximum limit of 400 MPN/100 mL for Fecal coliform Reported 1,600 MPN/100 mL	No	3,000
884262	09/13/2010	Exceeded daily maximum limit of 100 MPN/100 mL for Enterococci Reported 500 MPN/100 mL	No	3,000
884272	09/13/2010	Exceeded 30-day geometric mean limit of 33 MPN/100 mL for Enterococci Reported 133 MPN/100 mL	No	3,000
884282	09/22/2010	Exceeded daily maximum limit of 400 MPN/100 mL for Fecal coliform Reported 1,600 MPN/100 mL	No	3,000



Seeley County Water District WWTP  
Cease and Desist Order R7-2011-0058

<b>Violation ID<sup>1</sup></b>	<b>Date Occurred</b>	<b>Description of Violation</b>	<b>Serious Violation Defined by CWC 13385(h)</b>	<b>Amount Assessed Dollars (\$)</b>
884278	09/22/2010	Exceeded daily maximum limit of 400 MPN/100 mL for E. coli; Reported 1,300 MPN/100 mL	No	3,000
898677	03/09/2011	Exceeded weekly average limit of 65 mg/L for Biochemical Oxygen Demand (BOD); Reported 120 mg/L	Yes	3,000
905255	05/18/2011	Exceeded daily maximum limit of 126 MPN/100 mL for E. coli Reported 1,120 MPN/100 mL	No	3,000
905256	05/31/2011	Exceeded monthly average limit of 45 mg/L for Biochemical Oxygen Demand (BOD); Reported 48.8 mg/L	No	3,000
905621	06/22/2011	Exceeded daily maximum limit of 100 MPN/100 mL for Enterococci Reported 900 MPN/100 mL	No	3,000
905623	06/30/2011	Exceeded 30-day geometric mean limit of 33 MPN/100 mL for Enterococci Reported 57 MPN/100 mL	No	3,000
905619	07/12/2011	Exceeded daily maximum limit of 400 MPN/100 mL for Fecal coliform Reported 500 MPN/100 mL	No	3,000
910266	08/09/2011	Exceeded daily maximum limit of 100 MPN/100 mL for Enterococci Reported 220 MPN/100 mL	No	3,000