

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

CEASE AND DESIST ORDER R5-2020-0005

REQUIRING CITY OF ALTURAS
CITY OF ALTURAS WASTEWATER TREATMENT PLANT
MODOC COUNTY

TO CEASE AND DESIST
FROM DISCHARGING CONTRARY TO REQUIREMENTS PRESCRIBED
IN ORDER R5-2020-0004 (NPDES PERMIT NO. CA0078921)

The California Regional Water Quality Control Board, Central Valley Region, (Central Valley Water Board) finds:

1. On 22 September 2006 the Central Valley Water Board adopted Waste Discharge Requirements (WDRs) Order R5-2006-0103 (NPDES Permit No. CA0078921) prescribing WDRs for the City of Alturas (hereinafter Discharger) at the Alturas Wastewater Treatment Plant (hereafter Facility), Modoc County.
2. WDRs Order R5-2006-0103 contained new copper and zinc effluent limitations based on the implementation of the California Toxics Rule, which were not prescribed in the previous WDRs Order 5-00-123, and that the Discharger could not immediately meet. Because the Discharger could not immediately meet the new effluent limitations, WDRs Order R5-2006-0103 also contained interim limits for copper and zinc with a final compliance date of 18 May 2010.
3. On 27 May 2010 the Central Valley Water Board issued Time Schedule Order (TSO) R5-2010-0905 to the Discharger setting new interim effluent limitations for copper and zinc. TSO R5-2010-0905 required compliance with final effluent limitations for copper and zinc by 27 May 2015.
4. On 27 March 2014 the Central Valley Water Board adopted WDRs Order R5-2014-0033 and rescinded WDRs Order R5-2006-0103. Immediate compliance with the final effluent limitations contained in WDRs Order R5-2014-0033 for copper, zinc, and total coliform was not possible.
5. TSO R5-2014-0034 was also adopted 27 March 2014 and replaced TSO R5-2010-0905 to include reference to the updated WDR R5-2014-0033. TSO R5-2014-0034 kept the copper and zinc compliance schedule from previous

TSO R5-2010-0905 that required final compliance by 27 March 2015 and added a compliance schedule to meet final effluent limitations for total coliform by 27 March 2019.

6. On 4 May 2015, the Discharger submitted a letter requesting additional time beyond that provided in TSO R5-2014-0034 to complete Facility improvements necessary to comply with final effluent limitations for copper, zinc, and total coliform. Additional time was required for the Discharger to construct improvements to convert from a surface water discharge to a land discharge as a means of complying with final effluent limitations for copper, zinc, and total coliform.
7. TSO R5-2014-0034 was amended by Order R5-2015-0111 on 18 August 2015 to become TSO R5-2014-0034-01, which extended the compliance schedule to meet final effluent limitations for copper and zinc 5 years to 18 May 2020, recalculated the interim effluent limitations for copper and zinc, and kept the compliance schedule to meet final effluent limitations for total coliform by 27 March 2019.
8. On 6 December 2017, the Discharger received Planning Grant Agreement No. D17-04002 (Planning Grant) for \$500,000 to evaluate options to bring the Facility into compliance with WDRs Order R5-2014-0033 and TSO R5-2014-0034-01.
9. On 20 February 2020 the Central Valley Water Board adopted WDRs Order R5-2020-0004 and rescinded WDRs Order R5-2014-0033.
10. WDRs Order R5-2020-0004 contains Final Effluent Limitations IV.A.1.a., which reads, in part, as follows:

Table 1 - Effluent Limitations

Parameter	Units	Average Monthly	Average Weekly	Maximum Daily
Copper, Total Recoverable	µg/L	6.7	--	15
Zinc, Total Recoverable	µg/L	26	--	40
Aluminum, Total Recoverable	µg/L	290	370	--

- g. Total Coliform Organisms
- i. Effluent total coliform organisms shall not exceed the following when less than 20:1 dilution is available within the receiving water. Compliance shall be measured immediately after disinfection.
 - (a) 2.2 most probable number (MPN) per 100 mL, as a 7-day median;
 - (b) 23 MPN/100mL, more than once in any 30-day period; and
 - (c) 240 MPN/100mL, at any time.

Need for a Time Schedule and Legal Basis

11. In 2008, the Discharger upgraded several processes at the Facility to meet various effluent limitations. Facility improvements included headworks upgrades, primary clarification improvements, an additional secondary clarifier, expanded chlorine contact chamber capacity, new lined sludge drying beds, new and upgraded trickling filter media, new pumping and flow control upgrades, and a new operations building. Significant non-compliance with copper and zinc effluent limitations persisted after these Facility improvements. Some of the improvements did not operate properly and the Facility was in significant non-compliance with WDRs Order R5-2006-0103 from July 2008 through September 2009.
12. In 2008, the Discharger completed a site-specific translator study to help meet final effluent limitations for copper and zinc. However, the study indicated that additional measures were necessary to achieve full compliance.
13. In October 2009, the Discharger initiated an Interim Operations Plan (IOP) that included new use of coagulants and improved hydraulics control to increase removal efficiency of copper and zinc. Implementation of the IOP demonstrated improved discharge quality and significantly reduced the frequency of effluent limitation violations. Despite these efforts, the Discharger was still not able to consistently comply with final effluent limitations for copper and zinc by the final compliance date of 18 May 2010 included in WDRs Order R5-2006-0103.
14. Since October 2009, the Discharger has continued to implement an economically prohibitive IOP to improve discharge quality from the Facility. As the IOP is not economically sustainable, the Discharger has considered alternative Facility improvement projects, identified available land for Facility expansion (including right-of-ways), and pursued available financing options to identify a viable long-term final land discharge solution.

15. On 4 May 2015, the Discharger submitted a letter that requested additional time beyond that provided in TSO R5-2014-0034 to complete Facility improvements necessary to demonstrate compliance with final effluent limitations. The letter included justification for requesting additional time to comply, presented historical measures taken by the Discharger since 2006, provided an update on the economically prohibitive IOP, and outlined planned future actions.
16. On 25 November 2019, the Discharger submitted an infeasibility analysis that requested additional time beyond that provided in TSO R5-2014-0034-01 to complete Facility improvements necessary to comply with final effluent limitations for copper, zinc, and total coliform and requested a time schedule to meet the new final effluent limitations for aluminum. The Discharger is in the process of using Planning Grant money described in Finding 8 to evaluate options to bring the Facility into compliance with the current WDRs by converting from a surface water discharge to land discharge.
17. Elimination of surface water discharges from the Facility would allow the Discharger to meet the final effluent limitations by rescinding the current WDRs/NPDES permit. The Discharger would then be required to obtain WDRs for a discharge to land.
18. Additional time is required for the Discharger to continue evaluating options for complying with the current WDRs and potentially complete improvements to convert to land discharge. This Order provides a time schedule for the Discharger to complete an engineering report, environmental documents, and a rate study in accordance with the requirements of the current Planning Grant, as well as complete a financing plan for the selected compliance project.

Mandatory Minimum Penalties

19. California Water Code (CWC) sections 13385(h) and (i) require the Central Valley Water Board to impose mandatory minimum penalties (MMPs) upon dischargers that violate certain effluent limitations. CWC section 13385(j)(3) exempts the discharge from MMPs “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 or 13308, if all the [specified] requirements are met.”
20. Per the requirements of CWC section 13385(j)(3), the Central Valley Water Board finds that:

- a. This Order specifies the actions that the Discharger is required to take in order to correct the violations that would otherwise be subject to CWC sections 13385(h) and (i).
 - b. The Discharger is not able to consistently comply with one or more effluent limitations established in WDRs Order R5-2020-0004 because effluent limitations were new or more stringent regulatory requirements that became applicable to the waste discharge after the effective date of the WDRs and after 1 July 2000, and new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.
 - c. The Discharger is investigating suitable land sites to change from surface water disposal to land disposal and making modifications to the existing Facility to meet anticipated land discharge requirements. Due to the time needed to evaluate options and receive planning grant money to conduct engineering studies, the Discharger has requested additional time to comply with final effluent limitations.
 - d. This Order establishes 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 that are necessary to comply with the effluent limitations.
21. By statute, a Cease and Desist Order or TSO may provide protection from MMPs for no more than five years.
 22. Per the requirements of Water Code Section 13385(j)(3)(C)(ii)(II) following a public meeting, and upon showing that the Discharger is making diligent progress toward bringing the waste discharge into compliance with the final effluent limitation, the Central Valley Water Board may extend the time schedule for an additional five years beyond the initial five years, if the Discharger demonstrates that the additional time is necessary to comply with the final effluent limitation.
 23. Compliance with this Order exempts the Discharger from MMPs for violations of the final effluent limitations found in WDRs Order R5-2020-0004, or subsequently adopted WDRs Order, as follows:
 - a. Copper, Total Recoverable: Compliance schedules with interim effluent limitations were previously included in WDRs Order R5-2006-0103, TSO R5-2010-0905, TSO R5-2014-0034, and TSO R5-2014-0034-01. This

- Order keeps the extended compliance schedule included in TSO R5-2014-0034-01 with protection from MMPs for violations of final copper effluent limitations until 18 May 2020.
- b. Zinc, Total Recoverable: Compliance schedules with interim effluent limitations were previously included in WDRs Order R5-2006-0103, TSO R5-2010-0905, TSO R5-2014-0034, and TSO R5-2014-0034-01. This Order keeps the extended compliance schedule included in TSO R5-2014-0034-01 with protection from MMPs for violations of final zinc effluent limitations until 18 May 2020.
 - c. Aluminum, Total Recoverable: Final and interim effluent limitations were included in WDRs Order R5-2014-0033. More stringent effluent limitations were established in WDRs Order R5-2020-0004. This Order provides protection from MMPs for violations of final aluminum effluent limitations from 1 April 2020 to 31 March 2025.
 - d. Total Coliform: Compliance schedules with interim effluent limitations were previously included in TSO R5-2014-0034 and TSO R5-2014-0034-01. This Order extends the compliance schedule included in TSO R5-2014-0034-01 with protection from MMPs for violations of final total coliform effluent limitations from 1 April 2020 to 31 March 2025.
- 24. In accordance with Water Code section 13385(j)(3), the total length of protection from MMPs for copper, zinc, aluminum, and total coliform does not exceed ten years in length.
 - 25. Since the time schedule for completion of actions necessary to bring the waste discharge into compliance exceeds one year, this Order includes interim effluent limitations and interim requirements and dates for their achievement. The time schedule does not exceed 5 years.
 - 26. The compliance time schedule in this Order includes interim performance-based effluent limitations for copper, zinc, and aluminum. Interim effluent limitations consist of an average monthly effluent limitation (AMEL) and an average weekly effluent limitation (AWEL) or maximum daily effluent limitation (MDEL) concentration derived using sample data provided by the Discharger demonstrating actual treatment plant performance. In developing the performance-based interim AMEL, where there are 10 data points or more and only once per month sampling is required, sampling and laboratory variability is

accounted for by establishing interim effluent limitations that are based on normally distributed data where 99.9% of the data points will lie within 3.3 standard deviations (SD) of the mean (Basic Statistical Methods for Engineers and Scientists, Kennedy and Neville, Harper and Row, 3rd Edition, January 1986). When at least 80 percent of the data points are reported as non-detect (ND) values, or if there are less than 10 data points available, the interim AMEL is based on 3.11 times the maximum observed effluent concentration (MEC) when once per month sampling is required. Additionally, if either of these procedures result in an interim AMEL less than the MEC, the MEC is sometimes established as the interim AMEL. The interim MDEL or AWEL is calculated by multiplying the calculated interim AMEL by the MDEL/AMEL or AWEL/AMEL multiplier. The following table summarizes the calculation of the interim effluent limitations:

Table 2 – Calculation of Interim Effluent Limitations

Parameter	Units	# Effluent Samples	Mean	MEC	Interim AMEL	Interim AWEL	Interim MDEL
Copper, Total Recoverable	µg/L	38	6.1	28.7	29	--	65
Zinc, Total Recoverable	µg/L	38	22	50.4	50	--	76
Aluminum, Total Recoverable	µg/L	38	927	1390	2500	4600	--

27. Total coliform effluent limitations are not based on normally distributed data and the limit-setting procedures described above do not apply. The interim effluent limitations for total coliform are extended from previous TSO R5-2014-0034-01. The following table summarizes the interim effluent limitations for total coliform.

Table 3 – Calculation of Interim Effluent Limitations for Total Coliform

Parameter	Units	# Effluent Samples	Mean (Median)	MEC	Interim Limitation (7-day median)	Interim Limitation (Maximum Daily)
Total Coliform	MPN/100mL	152	5.7 (1)	261	23	500

28. The Central Valley Water Board finds that the Discharger can maintain compliance with the interim effluent limitations included in this Order. Interim effluent limitations are established when compliance with the final effluent limitations cannot be achieved by the existing Facility. Discharge of constituents in concentrations in excess of the final effluent limitations, but in compliance with the interim effluent limitations, can significantly degrade water quality and adversely affect the beneficial uses of the receiving stream on a long-term basis. The interim effluent limitations, however, establish an enforceable ceiling concentration until compliance with the final effluent limitation can be achieved.
29. If an interim effluent limitation contained in this Order is exceeded, then the Discharger is subject to MMPs for that particular exceedance as it will no longer meet the exemption in CWC section 13385(j)(3). It is the intent of the Board that a violation of an interim monthly effluent limitation subjects the Discharger to only one MMP for that monthly averaging period. In addition, a violation of an interim daily maximum effluent limitation subjects the Discharger to one MMP for the day in which the sample was collected.

Other Regulatory Requirements

30. CWC section 13301 states: "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... Cease and desist orders may be issued directly by a board, after notice and hearing."
31. CWC section 13267 states, in part: "In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to

be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.”

32. The Discharger owns and operates the Facility which is subject to this Order. The technical reports required by this Order are necessary to assure that compliance with the WDRs will be achieved. The actions and reports required by this Order are directly related to the Discharger’s compliance with the WDRs and do not require expenses that are not already required pursuant to the WDRs. The expenses will not affect the Discharger’s ability to operate the Facility. The burden of these actions and reports bears a reasonable relationship to the need for the actions and reports.
33. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) (“CEQA”) pursuant to Water Code section 13389, since the adoption or modification of a NPDES permit for an existing source is statutorily exempt and this Order only serves to implement a NPDES permit. (*Pacific Water Conditioning Ass’n, Inc. v. City Council of City of Riverside* (1977) 73 Cal.App.3d 546, 555 556.).
34. On 20 February 2020, in Rancho Cordova, California, after due notice to the Discharger and all other affected persons, the Central Valley Water Board conducted a public hearing at which evidence was received to consider this Cease and Desist Order under CWC section 13301 to establish a time schedule to achieve compliance with WDRs.

IT IS HEREBY ORDERED THAT:

1. TSO R5-2014-0034-01 is rescinded upon the effective date of this Order, except for enforcement purposes.
2. Pursuant to CWC section 13301, the Discharger shall cease and desist from discharging, or threatening to discharge, in violation of WDRs Order R5-2020-0004. The Discharger shall maintain compliance in accordance with the schedule below:

Table 4 – Compliance Schedule

Task	Compliance Date
Final Compliance. Achieve compliance with final copper and zinc effluent limitations.	18 May 2020
Engineering Report – FINAL. Submit a final Preliminary Engineering Report with detailed cost breakdown per requirements of Planning Grant. Include a Pollution Prevention Plan pursuant to CWC section 13263.3.	1 June 2020
Environmental Documents (CEQA). Submit the CEQA documentation required for the proposed method of compliance per requirements of Planning Grant.	1 December 2020
Rate Study. Submit a rate study per requirements of Planning Grant.	1 September 2020
Financing Plan. Submit a financing plan for the selected compliance project(s) and a schedule for obtaining funding. The Financing Plan shall include information from the Rate Study submitted per requirements of the Planning Grant.	1 April 2021
Final Compliance. Achieve compliance with final total coliform and aluminum effluent limitations.	31 March 2025
Annual Progress Reports. Submit annual progress reports documenting the steps taken to comply with this Order, describing the completion of tasks, evaluation of the effectiveness of the implemented measures of the PPP, and an assessment of whether additional measures are necessary to meet the final compliance date.	1 February 2021 1 February 2022 1 February 2023 1 February 2024 1 February 2025

3. Discharge from Discharge Point 001 shall not exceed the following interim effluent limitations. The interim effluent limitations are in effect starting 1 April 2020 and shall apply in lieu of the corresponding final effluent limitations in WDRs Order R5-2020-0004. The following interim effluent limitations shall be effective until **18 May 2020**.

Table 5 – Interim Effluent Limitations for Copper and Zinc

Parameter	Units	Interim AMEL	Interim AWEL	Interim MDEL
Copper, Total Recoverable	µg/L	29	--	65
Zinc, Total Recoverable	µg/L	50	--	76

4. Discharge from Discharge Point 001 shall not exceed the following interim effluent limitations. The interim effluent limitations are in effect starting 1 April 2020 and shall apply in lieu of the corresponding final effluent limitations in WDRs Order R5-2020-0004. The following interim effluent limitations shall be effective until **31 March 2025**.

Table 6 – Interim Effluent Limitations for Total Coliform

Parameter	Units	Interim Limitation (7-day median)	Interim Limitation (Maximum Daily)
Total Coliform	MPN/100mL	23	500

Table 7 – Interim Effluent Limitations for Aluminum

Parameter	Units	Interim AMEL	Interim AWEL	Interim MDEL
Aluminum, Total Recoverable	µg/L	2500	4600	--

5. During the term of this Order the Discharger shall operate and maintain, as efficiently as possible, all facilities and systems necessary to comply with all prohibitions, effluent limitations, and requirements identified in WDRs Order R5-2020-0004 and any future WDRs issued to the Discharger.
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.”
7. 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 work plans for, 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 the professional's signature and/or stamp of the seal.

8. If, in the opinion of the Executive Officer, the Discharger fails to comply with the provisions of this Order, the Executive Officer 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. Failure to comply with this Order or with the WDR may result in the assessment of Administrative Civil Liability of up to \$10,000 per violation, per day, depending on the violation, pursuant to the Water Code, including sections 13268, 13350 and 13385. The Central Valley Water Board reserves its right to take any enforcement actions authorized by law.
9. Any person aggrieved by this action of the Central Valley Water Board may petition the 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 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](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) (http://www.waterboards.ca.gov/public_notices/petitions/water_quality) applicable to filing petitions may be found on the Waterboards webpage, or will be provided upon request.

I, PATRICK PULUPA, 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, Central Valley Region, on 20 February 2020. This Order shall become effective upon the effective date of WDRs Order R5-2020-0004 on **1 April 2020**.

PATRICK PULUPA, Executive Officer