

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

TIME SCHEDULE ORDER R5-2022-0900

REQUIRING  
CITY OF AUBURN  
CITY OF AUBURN WASTEWATER TREATMENT PLANT  
PLACER COUNTY

TO COMPLY WITH WASTE DISCHARGE REQUIREMENTS PRESCRIBED IN  
ORDER R5-2017-0085-02  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)  
GENERAL PERMIT CAG585001

**FINDINGS**

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

1. City of Auburn (Discharger), owns and operates the City of Auburn Wastewater Treatment Plant (Facility). The Facility discharges up to 1.67 million gallons per day (mgd) of tertiary treated domestic wastewater to Auburn Ravine, a tributary to the East Side Canal, Natomas Cross Canal, and the Sacramento River.
2. Effective 1 July 2022, the Central Valley Water Board Executive Officer authorized the Facility's discharge under Order R5-2017-0085-02, NPDES Permit CAG585001 through Notice of Applicability (NOA) R5-2017-0085-021, which included final effluent limitations for selenium and thallium.
3. NOA R5-2017-0085-021 section IV.A.1.a. includes Final Effluent Limitations IV.A.1 at Discharge Point 001 as shown in part as follows:

**Table 1. Effluent Limitations**

<b>Parameter</b>	<b>Units</b>	<b>Average Monthly Effluent Limitations</b>	<b>Maximum Daily Effluent Limitations</b>
Selenium, Total Recoverable	micrograms per liter (µg/L)	4.1	8.2
Thallium, Total Recoverable	µg/L	1.7	3.4

**NEED FOR TIME SCHEDULE AND LEGAL BASIS**

4. On 22 April 2022 the Discharger submitted an infeasibility analysis requesting additional time to comply with the existing final effluent limitations for selenium and thallium in NOA R5-2017-0085-021. For compliance with the final effluent limitations for selenium and thallium, the Discharger has proposed 1) effluent monitoring and data evaluation, 2) source control evaluation and 3) facility upgrades to control

thallium and selenium. The Discharger proposes to review the expanded dataset and confirm effluent levels prior to commencing steps two and/or three.

5. The Discharger cannot consistently comply with the selenium and thallium effluent limitations in NOA R5-2017-0085-021 and must implement additional actions to reach compliance. This Order contains a time schedule for compliance with final effluent limitations, sets interim limitations for certain constituents, and is intended to provide protection from mandatory minimum penalties (MMPs) for these constituents.

### **MANDATORY MINIMUM PENALTIES**

6. California Water Code (CWC) section 13385, subdivisions (h) and (i), requires the Central Valley Water Board to impose MMPs upon dischargers that violate certain effluent limitations. CWC section 13385(j)(3) exempts discharges from these 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...for the purposes of this subdivision, the time schedule may not exceed five years in length...
7. 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 section 13385(h) and (i).
  - b. To comply with final effluent limitations, the Discharger proposed that 4.5 years is necessary to allow for full implementation of 1) Additional Effluent Quality Monitoring and Data Evaluation, 2) Source Control Monitoring and Data Evaluation, and 3) Facility upgrades.
  - c. The final effluent limitations for selenium and thallium are new, more stringent, or modified regulatory requirements that became applicable to the waste discharge after the effective date of NOA R5-2017-0085-021 and after 1 July 2000. New or modified control measures are necessary in order to comply with the final effluent limitations for selenium and thallium. The new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.
  - 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.

8. By statute, a Cease and Desist Order or Time Schedule Order may provide protection from MMPs for no more than five years.
9. Compliance with this Order exempts the Discharger from mandatory minimum penalties for violations of the final effluent limitations for selenium and thallium found in NOA R5-2017-0085-021 from **1 July 2022** until **30 June 2027**. The Discharger has not previously been protected from mandatory minimum penalties for violations of the selenium and thallium effluent limitations.
10. In accordance with CWC section 13385(j)(3)(C), the total length of protection from mandatory minimum penalties for the final effluent limitations for selenium and thallium does not exceed five years.
11. This Order provides a time schedule for completing the actions necessary to ensure compliance with the final effluent limitations for selenium and thallium contained in NOA R5-2017-0085-021. 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.
12. This Order includes new performance-based interim effluent limitations for selenium and thallium. The Central Valley Water Board calculated interim average monthly effluent limitations (AMELs) for selenium and thallium based on the current treatment plant performance. When there are less than 10 sampling data points available, the interim performance based AMELs were established by multiplying the maximum effluent concentration by the multiplying factors from Table 3-1 of the U.S. EPA Technical Support Document for Water Quality-based Toxics Control ((EPA/505/2-90-001), TSD), based on the number of samples and a coefficient of variation of 0.6. Therefore, interim AMELs for selenium and thallium were calculated using the maximum effluent concentration multiplied by the factor of 4.7 from Table 3.1 of the TSD.

The interim maximum daily effluent limitations (MDELs) were calculated using the MDEL/AMEL multiplier per Table 2 of the Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California. Effluent data between June 2018 through May 2021 was used to calculate the interim effluent limitations for selenium and thallium. The following table summarizes the calculation of the interim effluent limitations for selenium and thallium:

**Table 2. Interim Effluent Limitations**

<b>Parameter</b>	<b>Units</b>	<b>Interim AMEL</b>	<b>Interim MDEL</b>
Selenium, Total Recoverable	µg/L	29	57
Thallium, Total Recoverable	µg/L	15	30

13. 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. However, the interim effluent limitations establish an enforceable ceiling concentration until compliance with the final effluent limitation can be achieved.
14. If an interim effluent limit 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 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 limit subjects the Discharger to one MMP for the day in which the sample was collected.

#### **OTHER REGULATORY REQUIREMENTS**

15. CWC section 13300 states, in part:

“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.”

16. CWC section 13383 states, in part:

“[A] regional board may establish monitoring, inspection, entry, reporting, and recordkeeping requirements . . . for any person who discharges, or proposes to discharge, to navigable waters, any person who introduces pollutants into a publicly owned treatment works, any person who owns or operates, or proposes to own or operate, a publicly owned treatment works or other treatment works treating domestic sewage, or any person who uses or disposes, or proposes to use or dispose, of sewage sludge.”

17. The Discharger owns and operates the City of Auburn, Wastewater Treatment Plant. The technical and monitoring reports required by this Order are necessary to determine compliance with the requirements in this Order, NOA R5-2017-0085-021 and subsequent NOAs.

18. 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.).
19. On 6 May 2022, Central Valley Water Board staff issued a notice of public hearing and provided a 30-day comment period for consideration of adopting a TSO under section 13300 of the Water Code to establish a time schedule for achieving compliance with waste discharge requirements. The notice stated that any member of the public may request an oral hearing before the Executive Officer, and if no hearing is requested, the Executive Officer’s review of the administrative record, including any written comments received shall constitute the public hearing.

### BOARD ACTION

#### IT IS HEREBY ORDERED THAT:

1. Pursuant to California Water Code Sections 13300 and 13383, the Discharger shall comply with the following time schedule to submit reports and ensure completion of the compliance project described in Finding 7.b, above:

**Table 3. Compliance Time Schedule**

<b>Task</b>	<b>Compliance Date</b>
<b>i. Submit Annual Progress Reports.</b> The progress reports shall detail the steps taken to comply with this Order, including documentation, showing completion of tasks, construction progress, evaluation of the effectiveness of the implemented measures, and assessment of whether additional measures are necessary to meet the compliance dates.	28 February, annually
<b>ii. Submit Pollution Prevention Plan.</b> Submit and implement a Pollution Prevention Plan (PPP) pursuant to CWC section 13263.3 for selenium and thallium.	31 December 2022
<b>iii. Submit Selenium and Thallium Effluent Data Report.</b> This report includes data results and updated reasonable potential analysis from an additional year of selenium and thallium effluent data collection.	31 December 2023

Task	Compliance Date
<b>iv. Submit Source Control Sampling Workplan (if necessary).</b> If the Selenium and Thallium Effluent Data Report (task iii) concludes that selenium and/or thallium have reasonable potential to cause or contribute to an exceedance of their respective water quality criteria in the receiving water, then the Discharger shall submit a workplan to conduct a study to evaluate potential sources of selenium and/or thallium to determine if implementing source control measures will result in compliance.	31 March 2024
<b>v. Submit Selenium and Thallium Evaluation Source Control Study Report (if necessary).</b> If the Discharger submits the Source Control Sampling Workplan (task iv), then this report shall present the study results and determination whether the Discharger can implement source control alone to comply with the final selenium and/or thallium effluent limitations.	31 March 2025
<b>vi. Submit Facility Upgrade Workplan (if necessary).</b> If the Source Control Study Report (task v) determines that source control alone is not sufficient to result in compliance, the Discharger shall submit a workplan to evaluate Facility upgrades designed to comply with final selenium and/or thallium effluent limitations.	30 September 2025
<b>vii. Submit Upgraded Facility Completion Report (if necessary).</b> If the Discharger submitted the Facility Upgrade Workplan (task vi), the Discharger shall submit a Report with the proposed Facility upgrades and schedule to comply with final selenium and/or thallium effluent limitations.	31 March 2027
<b>viii.</b> Comply with final effluent limits for selenium and thallium.	30 June 2027

2. The following interim effluent limitations for selenium and thallium shall be effective **1 July 2022**. The Discharger shall comply with the following interim effluent limitations through **30 June 2027**, or when the Discharger is able to come into compliance with the final effluent limitations, whichever is sooner.

**Table 4. Interim Effluent Limitations**

Parameter	Units	Interim AMEL	Interim MDEL
Selenium, Total Recoverable	µg/L	29	57
Thallium, Total Recoverable	µg/L	15	30

- 3 Any person signing a document submitted under this TSO 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.”

4. 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.

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 Order 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 13350 and 13385. The Central Valley Water Board reserves its right to take any enforcement actions authorized by law.

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. Links to the laws and regulations applicable to filing petitions may be found on the [Water Quality Petitions Page](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) ([http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality)) or will be provided upon request.

This Order is effective upon the date of signature.

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PATRICK PULUPA, Executive Officer