

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

RESOLUTION R7-2014-0020

Approving the city of Brawley's Pretreatment Program Submission, Brawley, Imperial County.

WHEREAS, the California Regional Water Quality Control Board, Colorado River Basin Region (Colorado River Basin Water Board), finds that:

1. Federal pretreatment regulations set forth in Title 40 Code of Federal Regulations (40 CFR) Part 403 specify that publicly owned treatment works (POTW) with a total design flow greater than 5 million gallons per day (MGD), which discharge to waters of the United States and receive pollutants from industrial users that may pass through or interfere with the operation of the POTW, are required to establish a pretreatment program. The federal regulations were promulgated pursuant to the pretreatment provisions set forth in Section 307(b) of the federal Clean Water Act (33 U.S.C. Section 1317(b)).
2. The city of Brawley (Discharger) owns and operates a POTW that has a total design flow of 5.9 MGD and discharges to the New River, a water of the United States. Because the Discharger's POTW meets the total design flow and surface water discharge criteria, and receives pollutants from industrial users that may pass through or interfere with the operation of the POTW, the POTW is required to have an approved pretreatment program. The discharge is currently regulated pursuant to Board Order R7-2010-0022, NPDES No. CA0104523, adopted by the Board and effective on May 20, 2010.
3. On March 19, 2008, in a public hearing, the Colorado River Basin Water Board adopted Cease and Desist Order R7-2008-0008 (CDO), which was issued to the Discharger as owner and operator of the POTW for chronic violations of its previously issued NPDES permits, including its failure to timely develop an approved pretreatment program. In pertinent part, the CDO required the Discharger to prepare and submit a Pretreatment Program for Board approval that would address and ensure compliance with all prescriptive requirements specified in the pretreatment regulations set forth in 40 CFR Part 403.
4. With respect to the development and implementation of the Pretreatment Program, the CDO specified a schedule of milestone tasks and deadlines the Discharger was required to meet. These tasks included requiring the Discharger to develop and submit its proposed Pretreatment Program by December 15, 2008, and to develop and adopt local limits and a revised Pretreatment Ordinance by February 15, 2009.
5. The Discharger submitted its proposed Pretreatment Program in January 2013, more than four years after the milestone date specified in the CDO. Board staff, with assistance from Tetra Tech, Inc., the U.S. Environmental Protection Agency contractor assigned to help review the Pretreatment Program submission, reviewed the submission and found it was technically deficient. Accordingly, on March 22, 2013, Board staff notified the Discharger that it must be revised and resubmitted.

6. Due to the untimely completion of these tasks among other alleged violations, Administrative Civil Liability (ACL) Complaint R7-2013-0028 was issued on February 28, 2013, against the Discharger. The alleged violations described in the ACL Complaint were all resolved pursuant to settlement discussions, and a stipulated settlement agreement was entered into with proposed ACL Order R7-2013-0068, which incorporated the stipulation. The ACL Order was presented to the Board for consideration of adoption in a public hearing held on September 19, 2013. The Board adopted the proposed ACL Order.
7. On December 23, 2013, the Colorado River Basin Water Board received from the Discharger its resubmission of its proposed Pretreatment Program (Submission).
8. Board staff has reviewed the Submission and has determined that it has addressed all previously identified technical deficiencies described in the March 22, 2013 letter sent to the Discharger. Therefore, Board staff has recommended that the Board approve the Submission by adoption of proposed Resolution R7-2014-0020.
9. If approved, the Submission will be incorporated into the current NPDES permit, Board Order R7-2010-0022, through a permit modification, as required by 40 CFR Part 403, to make the pretreatment requirements enforceable conditions of the permit. The proposed permit modification will be publicly noticed and presented to the Board for consideration of adoption at another Board public hearing.
10. In accordance with the approval procedures, public participation, and public notice requirements prescribed in 40 CFR Section 403.11, the Colorado River Basin Water Board has notified the Discharger and interested agencies and persons of the Discharger's request for approval of its Submission, and has provided them with an opportunity to submit their written comments and recommendations on the Submission materials provided. Notification was also provided through publication in the Imperial Valley Press newspaper.
11. These notices also provided the public, interested stakeholders and other interested persons with the opportunity to submit their written comments and recommendations on this proposed Resolution. The notices included information regarding the date, time, and location of this public hearing, and invited the public to attend and express their views on this matter at the public hearing.
12. The Colorado River Basin Water Board in a public meeting heard and considered all comments pertaining to the Submission and this proposed Resolution.
13. This discretionary action to approve the Submission is not subject to the California Environmental Quality Act (CEQA, Public Resources Code Section 21000 et seq.) because the Submission is related to and will become incorporated into the Discharger's NPDES permit, which is statutorily exempt from CEQA pursuant to Water Code Section 13389.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Colorado River Basin Water Board hereby approves the Discharger's Submission.

2. The Board directs its Executive Officer to notify the Discharger, interested agencies, stakeholders, and other interested persons of its approval decision in accordance with the notification and publication requirements prescribed in the federal pretreatment regulations in 40 CFR Section 403.11.
3. The Board further directs its Executive Officer to prepare the necessary documents to modify Board Order R7-2010-0022 to incorporate the approved Submission to make the pretreatment requirements enforceable permit conditions, and to present the proposed modification at the next Board hearing, if possible.

I, Robert Perdue, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of the Resolution adopted by the California Regional Water Quality Control Board, Colorado River Basin Region, on March 20, 2014.



ROBERT PERDUE
Executive Officer