

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

ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R7-2008-0071
IN THE MATTER OF
COACHELLA SANITARY DISTRICT, OWNER/OPERATOR
MUNICIPAL WASTEWATER TREATMENT PLANT
RIVERSIDE COUNTY

This Order to assess Administrative Civil Liability (ACL), pursuant to California Water Code (CWC) Section 13385, is issued to Coachella Sanitary District, based on a finding of violations of Waste Discharge Requirements (WDRs) Order No. R7-2005-0083, National Pollutant Discharge Elimination System (NPDES) Permit No. CA0104493.

The Colorado River Basin Regional Water Quality Control Board (Regional Board) finds the following:

1. The Coachella Sanitary District (hereinafter, Discharger) owns and operates a sewage collection system and wastewater treatment plant (WWTP) that provides service to the community of the City of Coachella in Riverside County. The WWTP is a publicly owned treatment works (POTW) that discharges its effluent into the Coachella Valley Stormwater Channel (Channel), which is a tributary to the Salton Sea. The Channel and the Salton Sea are waters of the United States.
2. The WWTP has a rated capacity of 2.4 million gallons per day (mgd) and consists of a wet well, bar screen and comminutor, two activated sludge treatment trains, two oxidation ponds, and chlorination and dechlorination facilities. The Discharger is upgrading its WWTP capacity to 4.5 mgd by building an oxidation ditch system. After completion of this system, the Discharger proposes to abandon the oxidation ponds.
3. The discharge from the WWTP is governed by WDRs Order No. R7-2005-0083 (NPDES Permit No. CA0104493).
4. WDRs Order No. R7-2005-0083 prescribes the following effluent limitations for the discharge from the oxidation pond system:
 - a. Provision IV.A.1.a:
Average monthly flow: 0.9 MGD
 - b. Provision IV.A.1.a.i:
Percent Removal: "The average monthly percent removal of BOD 5-day 20 °C and total suspended solids shall not be less than 65 percent."
5. WDRs Order No. R7-2005-0083 prescribes the following effluent limitations for the discharge from the activated sludge system:
 - a. Provision IV.A.1.b:
Average monthly flow: 1.5 MGD
 - b. Provision IV.A.1.b.i:
Percent Removal: "The average monthly percent removal of BOD 5-day 20 °C and Total Suspended Solids shall not be less than 85 percent."

6. WDRs Order No. R7-2005-0083 prescribes the following Copper, 4,4' DDE, Bis(2-Ethylhexyl) Phthalate, Residual Chlorine, BOD 5-day 20 °C and Total Suspended Solids effluent limitations for the discharge of treated wastewater from the WWTP (with compliance measured at Monitoring Location M-001):

- a. Provision IV.A.1.c (Final Effluent Limitations):

| Parameter | Units | Effluent Limitations | |
|------------------------|---------|----------------------|----------------|
| | | Average Monthly | Average weekly |
| Residual Chlorine | mg/L | 0.01 | - |
| | lbs/day | 0.20 | - |
| BOD 5-day 20 °C | mg/L | 36 | 52 |
| | lbs/day | 720 | 1041 |
| Total Suspended Solids | mg/L | 36 | 52 |
| | lbs/day | 720 | 1041 |

- b. Provision IV.A.2.a (Interim Effluent Limitations):

| Parameter | Units | Effluent Limitations | |
|----------------------------|---------|----------------------|---------------|
| | | Average Monthly | Maximum Daily |
| Copper | µg/L | 12 | 12 |
| | lbs/day | 0.24 | 0.24 |
| 4,4' DDE | µg/L | 0.0027 | 0.0027 |
| | lbs/day | 0.000054 | 0.000054 |
| Bis(2-Ethylhexyl)Phthalate | µg/L | 8.5 | 11.8 |
| | lbs/day | 0.17 | 0.24 |

7. Section IV.C of Attachment E (Monitoring and Reporting Program) of WDRs Order No. R7-2005-0083 states, in relevant part, the following:

"[Monitoring Location M-001C, Section IV.C.1] The Discharger shall monitor the combined effluent from the treatment systems (i.e., prior to completion of the oxidation ditches, from the activated sludge and oxidation pond, and upon completion of the oxidation ditches, from the activated sludge and oxidation ditches) at M-001C as follows:"

| Parameter | Units | Sample Type | Minimum Sampling Frequency | Required Analytical Test Method |
|-------------------|-------|-------------|----------------------------|---------------------------------|
| Chlorine Residual | mg/L | Continuous | 1x/Day ² | ¹ |

¹Pollutants shall be analyzed using the analytical methods described in 40 CFR section 136; for priority pollutants the methods must meet the lowest minimum levels (MLs) specified in Attachment 4 of the SIP, where no methods are specified for a given pollutant, by methods approved by this Regional Water Board or the State Water Board.

²The Discharger shall collect five samples per week.

8. Section V.C of Attachment E (Monitoring and Reporting Program) of WDRs Order No. R7-2005-0083 states, in relevant part, the following:

"[Accelerated Monitoring Requirements, Section V.C] The Discharger shall implement an accelerated monitoring frequency consisting of performing three toxicity tests in a nine-week period beginning from the date the Discharger receives the results indicating an initial exceedance of the chronic or acute toxicity triggers described below:

Any chronic toxicity test that exceeds 2 chronic toxicity units (TU_c) or a three (3)-sample¹ median (consecutive samples) that exceeds 1 TU_c shall trigger an accelerated monitoring frequency. In addition, any acute toxicity test results showing high toxicity shall trigger an accelerated monitoring frequency. High acute toxicity is defined as follows:

- a. Less than 80% survival when acute toxicity is calculated from results of the chronic toxicity test (only for *Pimephales promelas*), or
- b. Less than 90% survival when acute toxicity is calculated from the results of the acute toxicity test, or
- c. Results of acute toxicity t-test for 100 percent effluent concentration that is reported as failed."

9. Section V.D of Attachment E (Monitoring and Reporting Program) of WDR Order No. R7-2005-0083 states, in relevant part, the following:

"[Conducting Toxicity Identification Evaluations and Toxicity Reduction Evaluations, Section V.D]

1. A Toxicity Identification Evaluation (TIE) shall be triggered if testing from the accelerated monitoring frequency indicates any of the following:
 - a. Two of the three accelerated chronic toxicity tests are reported as failed tests meeting any of the conditions specified in Attachment E, Section V.C; or
 - b. Two of the three acute toxicity tests are reported as failed tests meeting any of the conditions specified in Attachment E, Section V.C.
 - c. The TIE shall be initiated within 15 days following failure of the second accelerated monitoring test.
 - d. If a TIE is triggered prior to the completion of the accelerated testing, the accelerated testing schedule may be terminated, or used as necessary in performing the TIE.
2. The TIE shall be conducted to identify and evaluate toxicity in accordance with procedures recommended by the United States Environmental Protection Agency (USEPA) which include the following:
 - a. Toxicity Identification Evaluation: Characterization of Chronically Toxic Effluents, Phase I, (USEPA, 1992a);
 - b. Methods for Aquatic Toxicity Identification Evaluations: Phase I Toxicity Characterization Procedures, Second Edition (USEPA, 1991a);

¹ 3-Sample median is defined as follows: The middle value of 3 consecutive samples arranged from the low value to the high value.

- c. Methods for Aquatic Toxicity Identification Evaluations: Phase II Toxicity Identification Procedures for Sampling Exhibiting Acute and Chronic Toxicity (USEPA, 1993a);
 - d. Methods for Aquatic Toxicity Identification Evaluations: Phase III Toxicity Confirmation Procedures for Samples Exhibiting Acute and Chronic Toxicity (USEPA, 1993b);
 3. As part of the TIE investigation, the Discharger shall be required to implement its Toxicity Reduction Evaluation (TRE) workplan. The Discharger shall take all reasonable steps to control toxicity once the source of the toxicity is identified. A failure to conduct required toxicity tests or a TRE within a designated period shall result in the establishment of numerical effluent limitations for chronic toxicity in a permit or appropriate enforcement action. Recommended guidance in conducting a TRE include the following:
 - a. Toxicity Reduction Evaluation Guidance for Municipal Wastewater Treatment Plants, August 1999, EPA/833B-99/002;
 - b. Clarifications Regarding Toxicity Reduction and Identification Evaluations in the National Pollutant Discharge Elimination System Program dated March 27, 2001, USEPA Office of Wastewater Management, Office of Regulatory Enforcement."
10. Monitoring reports submitted by the Discharger show that the wastewater discharged from the Discharger's WWTP has been in violation of the effluent limitations cited in Finding Nos. 4, 5, and 6, above.
11. Chlorine residual monitoring was not performed on a continuous basis; therefore, the Discharger was in violation of Board Order No. R7-2005-0083 as cited in Finding 7, above; however, the 'continuous monitoring' violation is not subject to a Mandatory Minimum Penalty (MMP) and is not included in Attachment "A".
12. Monitoring report submitted by the Discharger for the 2006 2nd Quarter indicated that the wastewater discharged from the Discharger's WWTP has exceeded the acute and chronic toxicity of the effluent limitations cited in Board Order No. R7-2005-0083. In a notice of noncompliance sent by the staff on August 4, 2006, the Discharger was required to perform a Toxicity Identification Evaluation (TIE) and/or Toxicity Reduction Evaluation in accordance with Section V of the Monitoring and Reporting Program of Board Order No. R7-2005-0083. The Discharger failed to comply with the accelerated monitoring requirements and toxicity evaluations cited in Finding Nos. 8-9, above; therefore, a penalty of ten thousand dollars (\$10,000) is imposed per CWC 13385(c). \$10,000 is an average cost for conducting a TIE, Phases I, II, and III, according to local laboratories.
13. A summary of each violation of Board Order No. R7-2005-0083 is contained in Attachment "A" which is incorporated herein and made a part of this Administrative Civil Liability Order No. R7-2008-0071 by reference.

14. California Water Code (CWC) Section 13385(a) states, in part, that:

“Any person who violates any of the following shall be liable civilly in accordance with this section: . . . (2) Any waste discharge requirements issued pursuant to this chapter . . . (3) Any [monitoring and reporting requirements] established”

15. CWC Section 13385(c) states:

“Civil liability may be imposed administratively by the state board or a regional board pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 in an amount not to exceed the sum of both of the following:

“(1) Ten thousand dollars (\$10,000) for each day in which the violation occurs.

“(2) Where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.”

16. CWC Section 13385(h)(1) requires the Regional Board to assess a MMP of three thousand dollars (\$3,000) for each serious violation.

17. CWC Section 13385(h)(2) states, in part, the following:

“For the purpose of this section, a ‘serious violation’ means any waste discharge that violates the effluent limitations . . . for a Group II pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 20 percent or more or for a Group I pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 40 percent or more.”

18. CWC Section 13385(i)(1) also requires the Regional Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each violation, not counting the first three violations, if the discharger does any of the following four or more times in a six-month period:

- a. Violates a waste discharge requirement effluent limitation;
- b. Fails to file a report pursuant to Section 13260;
- c. Files an incomplete report pursuant to Section 13260; or
- d. Violates a toxicity effluent limitation contained in the applicable waste discharge requirements where the waste discharge requirements do not contain pollutant specific effluent limitations for toxic pollutants.

19. CWC Section 13385(i)(2) states:

“For the purpose of this section [13385], a ‘period of six consecutive months’ means the period commencing on the date that one of the violations described in this subdivision occurs and ending 180 days after that date.”

20. As shown in Attachment "A", the Discharger has violated waste discharge requirements. The Regional Board has discretionary authority under CWC 13385(c) and may assess liability pursuant to this section for the violations of waste discharge requirements. However, the Regional Board must assess the mandatory minimum civil liability prescribed under California Code Sections 13385(h)(1) and (i)(1) for the serious and chronic effluent violations.
21. The mandatory minimum civil liability the Regional Board must assess for the serious and chronic effluent violations shown in Attachment "A" is one hundred and seventy four thousand dollars (\$174,000). Additionally, a penalty of ten thousand dollars (\$10,000) is imposed per CWC 13385(c) (see Finding No. 12, above). Furthermore, Regional water board staff cost associated with this enforcement action may amount to \$15,000 (120 hours x \$125/hour) at the time this matter is settled, including staff to tally violations and prepare this Order, public notices, public hearing, response to comments, and evaluation and tracking of a CP or SEP through completion.
22. The total maximum civil maximum liability authorized by CWC Section 13385(c) for the violations shown in Attachment "A" is over nineteen billion and one hundred and thirty eight million dollars (>\$19,138,000,000). Attachment "A", which is incorporated herein and made a part of this Order by reference, shows sample calculations used in determining the maximum civil liability available to the Board for the violations.
23. If the Regional Board exercises its discretion and assesses civil liability under CWC Section 13385(c), CWC Section 13385(e) requires the Regional Board, in determining the amount of any liability, to consider the nature, circumstances, extent, and gravity of the violations; whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge; and with respect to the violator, the ability to pay, the effect on its ability to continue its business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters that justice may require. At a minimum, liability must be assessed at a level that recovers the economic benefits derived from the acts that constitute the violation.
24. CWC Section 13385(l) states:
 - "(1) In lieu of assessing penalties pursuant to subdivision (h) or (i), the state board or regional board, with the concurrence of the discharger, may direct a portion of the penalty amount to be expended on a supplemental environmental project in accordance with the enforcement policy of the state board. If the penalty amount exceeds fifteen thousand dollars (\$15,000), the portion of the penalty amount that may be directed to be expended on a supplemental environmental project may not exceed fifteen thousand dollars (\$15,000) plus 50 percent of the penalty amount that exceeds fifteen thousand dollars (\$15,000).
 - "(2) For the purposes of this section, a 'supplemental environmental project' means an environmentally beneficial project that a person agrees to undertake, with the approval of the regional board, that would not be undertaken in the absence of an enforcement action under this section."

25. On August 27, 2008, the Regional Board Assistant Executive Officer issued ACLC No. R7-2008-0016, proposing that the Discharger pay three thousand dollars (\$3,000) for each of the serious and chronic violations identified in Attachment "A." The total Administrative Civil Liability against the Discharger is one hundred and ninety-nine thousand dollars (\$199,000). The Assistant Executive Officer also indicated that he would consider offsetting a portion of this ACL amount by the monetary value of a SEP proposed by the Discharger in an amount not to exceed \$104,500 calculated as follows: $15,000 + 0.5 (174,000 - 15,000) + 10,000$ (see Finding No. 12) = \$104,500.
26. The Regional Board has notified the Discharger and the general public of its intent to hold a hearing on this matter within 90 days from the date the Complaint was issued unless the Discharger waives its right to a hearing under CWC Section 13323(b). By letter dated September 27, 2008, the Discharger waived its right to a hearing on this matter (see Attachment "B").
27. On October 22, 2008, the Discharger proposed the implementation of two SEPs, as described below:
 - a. An overflow drain project for a city park, consisting of vertical drain systems to two drywell systems will be assembled to address local flooding. The proposed SEP is described in Attachment "B", which is made a part of this ACL Order by reference. The Discharger proposed to apply \$59,942 on this Project. The SEP will be completed by July 31, 2009.
 - b. Construction of catch basins on Valley Road Drainage System to address street flooding. The proposed SEP is described in Attachment "B", which is made a part of this ACL Order by reference. The Discharger proposed to apply \$64,020 on this Project. The SEP will be completed by July 31, 2009.
28. On February 19, 2002, the State Water Resources Control Board adopted Resolution No. 2002-0040 amending the Water Quality Enforcement Policy (Enforcement Policy). The Enforcement Policy, which was approved by the Office of Administrative Law and became effective on July 30, 2002, establishes criteria for Supplemental Environmental Projects (SEPs).
29. Issuance of this Administrative Civil Liability Order to enforce CWC Division 7, Chapter 5.5, is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.), in accordance with Section 15321(a)(2) ("Enforcement Actions by Regulatory Agencies"), Title 14, California Code of Regulations.
30. Any person aggrieved by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with CWC Section 13320 and California Code of Regulations, Title 23, Sections 2050 and following. The State Water 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. Copies will also be provided upon request.

IT IS HEREBY ORDERED, pursuant to CWC Section 13385, the Discharger is assessed \$199,000 in ACL penalties. In lieu of paying an ACL penalty in the amount of \$199,000, the Discharger shall pay a reduced penalty amount of \$94,500 in accordance with CWC Section 13385(l) and shall implement the proposed Drainage System & Catch Basin SEP as described in Attachment "B", attached to and made a part of this Order by reference, in accordance with the following:

1. The Discharger shall comply with the State Water Board Enforcement Policy relating to implementation of SEPs.
2. This SEP shall be implemented in accordance with the time schedule stipulated in Attachment "C", attached to and made a part of this Order by reference. The Regional Board Executive Officer may modify the stipulated completion date and approve an alternative completion date for this phase of the SEP if he determines that a delay is necessary for a timely return of the Discharger to full and sustained compliance with its WDR and is beyond the reasonable control of the Discharger. (I deleted the sentence about completion within 5 years, because I this applies only to CPs).
3. The suspended portion of the proposed ACL penalty of \$199,000 that is hereby directed to be expended on this SEP may not exceed **\$104,500**. The Discharger shall pay within thirty (30) days of the date of this Order the remaining penalty portion of **\$94,500**. Payment by check of this amount shall be made payable to the "State Water Pollution Cleanup and Abatement Account" and mailed to the address shown in paragraph 7 below.
4. If the Discharger completes this SEP to the satisfaction of the Executive Officer by the approved date, the corresponding portion of the ACL penalty indicated in Attachment "C" for this SEP shall be permanently suspended. Similarly, if the Discharger fails to complete this SEP to the satisfaction of the Executive Officer by the approved date, and the Executive Officer has not approved an extension in the completion date, the corresponding portion of the ACL penalty shall become due and payable by the Discharger within 30 days of being so informed in writing by the Executive Officer.
5. Previously suspended amounts do not relieve the discharger of the independent obligation to take necessary actions to achieve compliance.
6. Completion of this SEP shall be certified in writing by the Executive Officer. No portion of the ACL shall be suspended without a written certification issued by the Executive Officer.

7. The Discharger shall submit all unsuspended ACL penalty amounts, made payable to the "State Water Pollution Cleanup and Abatement Account", to the following address:

California Regional Water Quality Control Board
Colorado River Basin Region
73-720 Fred Waring Drive, Suite 100
Palm Desert, CA 92260

I, Robert Perdue, 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, Colorado River Basin Region, on November 19, 2008.

A handwritten signature in black ink, appearing to read "Robert Perdue", is written over a horizontal line.

ROBERT PERDUE, Executive Officer