

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2008-0532

MANDATORY PENALTY
IN THE MATTER OF

NEVADA COUNTY SANITARY DISTRICT 1
LAKE WILDWOOD WASTEWATER TREATMENT PLANT
NEVADA COUNTY

This Complaint is issued to the Nevada County Sanitary District #1, Lake Wildwood (hereafter Discharger) pursuant to California Water Code (CWC) section 13385, which authorizes the imposition of Administrative Civil Liability, CWC section 13323, which authorizes the Executive Officer to issue this Complaint, and CWC section 7, which authorizes the delegation of the Executive Officer's authority to a deputy, in this case the Assistant Executive Officer. This Complaint is based on findings that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Order No. 95-115 and Order No. R5-2002-0093 (NPDES No. CA0077828).

The Assistant Executive Officer of the Central Valley Regional Water Quality Control Board (Regional Water Board) finds the following:

1. The Discharger owns and operates a wastewater collection, treatment, and disposal system, and provides sewerage service to the Lake Wildwood and Wildwood Estates Subdivisions. Treated municipal wastewater is discharged to Deer Creek, a water of the United States and tributary to the Yuba River.
2. On 26 May 1995, the Regional Water Board adopted WDRs Order No. 95-115 to regulate discharges of waste from the WWTP. On 7 June 2002, the Regional Water Board adopted WDRs Order No. R5-2002-0093, which contained new regulations and rescinded Order No. 95-115. The WDRs include effluent limitations and other requirements regarding the wastewater discharges.
3. CWC sections 13385(h) and (i) require assessment of mandatory penalties and state, in part, the following:

CWC section 13385(h)(1) states, "Notwithstanding any other provision of this division, and except as provided in subdivisions (j), (k), and (l), a mandatory minimum penalty of three thousand dollars (\$3,000) shall be assessed for each serious violation."

CWC section 13385 (h)(2) states, "For the purposes of this section, a 'serious violation' means any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements 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."

CWC section 13385(i)(1) states, *“Notwithstanding any other provision of this division, and except as provided in subdivisions (j), (k), and (l), a mandatory minimum penalty of three thousand dollars (\$3,000) shall be assessed for each violation whenever the person does any of the following four or more times in any period of six consecutive months, except that the requirement to assess the mandatory minimum penalty shall not be applicable to the first three violations:*

- 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.*
- 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.”*

4. CWC section 13323 states, in part:

“Any executive officer of a regional board may issue a complaint to any person on whom administrative civil liability may be imposed pursuant to this article. The complaint shall allege the act or failure to act that constitutes a violation of law, the provision authorizing civil liability to be imposed pursuant to this article, and the proposed civil liability.”

5. WDRs Order No. 95-115 Effluent Limitations No. B.1. include, in part, the following effluent limitations: *“During the months of May through October, the discharge of an effluent in excess of the following limits is prohibited:”*

<u>Constituents</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Monthly Median</u>	<u>Daily Maximum</u>
Total Coliform Organisms	MPN/100 mL	--	--	2.2	23
Turbidity	NTU	3	--	--	10

6. WDRs Order No. 95-115 Effluent Limitations No. B.2. include, in part, the following effluent limitations: *“During the months of November through April, the discharge of an effluent in excess of the following limits is prohibited:”*

<u>Constituents</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Monthly Median</u>	<u>Daily Maximum</u>
BOD ¹	mg/L	30 ²	45 ²	--	60 ²
Chlorine Residual	mg/L	--	--	--	0.02
Total Coliform Organisms	MPN/100 mL		--	23	230

¹ 5-day, 20°C biochemical oxygen demand (BOD)

² To be ascertained by a 24-hour composite

7. WDRs Order No. 95-115 Effluent Limitations No. B.5. requires that *“The discharge shall not have a pH less than 6.5 nor greater than 8.5.”*

8. WDRs Order No. R5-2002-0093 Effluent Limitations B.1. include, in part: “... the effluent shall not exceed the following limits when flow in Deer Creek provides less dilution than 20:1 (stream flow:effluent):”

<u>Constituents</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>7-day Median</u>	<u>Daily Maximum</u>	<u>1-hour Average</u>
Chlorine Residual	mg/L		0.010	--	--	0.019
Total Suspended Solids	mg/L	10 ²	15 ²	--	30 ²	--
Total Coliform Organisms	MPN/100 mL	2.2		--	23	--
Turbidity	NTU	3	--	--	10	--

² To be ascertained by a 24-hour flow proportional composite sampler.

9. WDRs Order No. R5-2002-0093 Effluent Limitations B.2. include, in part: “In addition to the above, the effluent shall not exceed the following limitations from **1 June 2006** forward:”

<u>Constituents</u>	<u>Units</u>	<u>Daily Average</u>	<u>Weekly Average</u>	<u>7-day Median</u>	<u>Daily Maximum</u>	<u>1-hour Average</u>
Total Coliform Organisms ¹	MPN/100 mL	--	--	2.2	23	--
Turbidity ²	NTU	2	--	--	5	--

¹ The total coliform organisms concentration shall not exceed 23 MPN/100 mL more than once in any 30-day period. No sample shall exceed a concentration of 240 MPN/100 mL.

² The turbidity shall not exceed 5 NTU more than 5 percent of the time within a 24-hour period. At no time shall the turbidity exceed 10 NTU.

10. WDRs Order No. R5-2002-0093 Effluent Limitations B.3. include, in part: “When flows in Deer Creek provides (sic) a minimum dilution ratio of 20:1 (stream flow:effluent)) full secondary treatment shall be provided and the coagulation system and filters shall be used to the maximum extent possible and effluent shall not exceed the following limits:

<u>Constituents</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>7-day Median</u>	<u>Daily Maximum</u>	<u>1-hour Average</u>
Nitrate + Nitrite (as N) ⁵	mg/L	10	--	--	--	--
Total Coliform Organisms	MPN/100 mL	23	--	--	240	--

⁵ The Effluent Limitations for ammonia, nitrate and nitrite (sic) are not in effect until 30 April 2007. See Cease and Desist Order No. R5-2002-0094 for details.

11. WDRs Order No. R5-2002-0093 Effluent Limitations No. B.5. requires that “The discharge shall not have a pH less than 6.5 nor greater than 8.5.”

12. According to the Discharger’s self-monitoring reports, the Discharger committed twelve (12) serious Group I violations of the above effluent limitations contained in Order Nos. 95-115 and R5-2002-0093 during the period beginning 1 January 2000 and ending 31 December 2007. The violations are defined as serious because measured

concentrations of Group I constituents exceeded maximum prescribed levels by more than 40 percent on these occasions. The mandatory minimum penalty for these serious violations is **thirty-six thousand dollars (\$36,000)**.

13. According to the Discharger's self-monitoring reports, the Discharger committed six (6) serious Group II violations of the above effluent limitations contained in Order Nos. 95-115 and R5-2002-0093 during the period beginning 1 January 2000 and ending 31 December 2007. The violations are defined as serious because measured concentrations of Group II constituents exceeded maximum prescribed levels by more than 20 percent on these occasions. The mandatory minimum penalty for these serious violations is **eighteen thousand dollars (\$18,000)**.
14. According to the Discharger's self-monitoring reports, the Discharger committed ninety-two (92) non-serious violations of the above effluent limitations contained in Order Nos. 95-115 and R5-2002-0093 during the period beginning 1 January 2000 and ending 31 December 2007. Eighty-three (83) of the non-serious violations are subject to mandatory penalties under CWC section 13385(i)(1) because these violations were preceded by three or more similar violations within a six-month period. The mandatory minimum penalty for these non-serious violations is **two hundred forty-nine thousand dollars (\$249,000)**.
15. The total amount of the mandatory penalties assessed for the cited effluent violations is **three hundred three thousand dollars (\$303,000)**. A detailed list of the cited effluent violations is included in Attachment A, a part of this Complaint.
16. Issuance of this Administrative Civil Liability Complaint to enforce CWC Division 7, Chapter 5.5 is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code section 21000 et seq.), in accordance with California Code of Regulations, title 14, section 15321(a)(2).

NEVADA COUNTY SANITARY DISTRICT 1, LAKE WILDWOOD, IS HEREBY GIVEN NOTICE THAT:

1. The Assistant Executive Officer of the Regional Water Board proposes that the Discharger be assessed an Administrative Civil Liability in the amount of **three hundred three thousand dollars (\$303,000)**.
2. A hearing on this matter will be held at the Regional Water Board meeting scheduled on **11/12 September 2008**, unless the Discharger agrees to complete the following by **16 July 2008**:
 - a) Waive the hearing by completing the attached form and returning it to the Regional Water Board; and
 - b) Pay the proposed civil liability of **three hundred three thousand dollars (\$303,000)** in full.

3. If a hearing on this matter is held, the Regional Water Board will consider whether to affirm, reject, or modify the proposed Administrative Civil Liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.

JACK E. DEL CONTE, Assistant Executive Officer

16 June 2008

Attachment A: Record of Violations
BLH: 06/16/08

**WAIVER OF HEARING FOR
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

By signing this waiver, I affirm and acknowledge the following:

1. I am duly authorized to represent the Nevada County Sanitary District 1, Lake Wildwood (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint No. R5-2008-0532 (hereinafter the "Complaint");
2. I am informed of the right provided by California Water Code section 13323, subdivision (b), to a hearing within ninety (90) days of service of the Complaint;
3. I hereby waive the Discharger's right to a hearing before the California Regional Water Quality Control Board, Central Valley Region, within ninety (90) days of the date of service of the Complaint; and
4. I certify that the Discharger will remit payment for the civil liability imposed in the amount of **three hundred three thousand dollars (\$303,000)** by check, which contains a reference to "ACL Complaint No. R5-2008-0532" and is made payable to the "*State Water Pollution Cleanup and Abatement Account.*"
5. I understand the payment of the above amount constitutes a settlement of the Complaint, and that any settlement will not become final until after the 30-day public notice and comment period mandated by Federal regulations (40 CFR 123.27) expires. Should the Regional Board receive new information during this comment period, the Regional Board may withdraw the complaint, return payment, and issue a new complaint.
6. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

(Print Name and Title)

(Signature)

(Date)

ATTACHMENT A
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2008-0532

Nevada County Sanitation District 1
Lake Wildwood Wastewater Treatment Plant

RECORD OF VIOLATIONS (1 January 2000 – 31 December 2007) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Program Nos. 95-115 and R5-2002-0093)

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measured</u>	<u>Period Type</u>	<u>Remark</u>
1	14-Feb-00	pH	pH Units	6.5	6.3	1-Day Minimum	3
2	12-Oct-00	Total Coliform	MPN/100 ml	2.3	1600	Daily Maximum	3
3	23-Nov-00	Chlorine Residual	mg/l	0.02	4.5	Daily Maximum	2
4	24-Nov-00	Chlorine Residual	mg/l	0.02	2.2	Daily Maximum	2
5	25-Nov-00	BOD	mg/l	15	17	Weekly Average	4
6	28-Nov-00	Total Coliform	MPN/100 ml	230	1600	Daily Average	4
7	30-Nov-00	Total Coliform	MPN/100 ml	230	1600	Daily Average	4
8	1-Dec-00	pH	pH Units	6.5	6.2	1-Day Minimum	4
9	5-Dec-00	Total Coliform	MPN/100 ml	230	1600	Daily Maximum	4
10	6-Dec-00	Total Coliform	MPN/100 ml	230	1600	Daily Maximum	4
11	7-Dec-00	Total Coliform	MPN/100 ml	230	1600	Daily Maximum	4
12	8-Dec-00	Total Coliform	MPN/100 ml	230	1600	Daily Maximum	4
13	3-Jul-01	pH	pH Units	6.5	6.3	1-Day Minimum	3
14	18-Dec-01	pH	pH Units	6.5	6.3	1-Day Minimum	3
15	23-Jan-02	Total Coliform	MPN/100 ml	230	1600	Daily Maximum	3
16	23-Jan-02	Chlorine Residual	mg/l	0.02	0.3	Daily Maximum	2
17	23-Apr-02	pH	pH Units	8.5	8.9	1-Day Maximum	4
18	31-May-02	Turbidity	NTU	3	4	Monthly Average	4
19	6-Jun-02	pH	pH Units	6.5	6.3	1-Day Minimum	4
20	1-Aug-02	pH	pH Units	6.5	6.3	1-Day Minimum	4
21	6-Aug-02	pH	pH Units	6.5	6.4	1-Day Minimum	4
22	27-Aug-02	pH	pH Units	6.5	6.4	1-Day Minimum	4
23	22-Nov-02	Total Coliform	MPN/100 ml	23	1600	Daily Maximum	4
24	4-Dec-02	pH	pH Units	6.5	6.4	1-Day Minimum	4
25	5-Dec-02	pH	pH Units	6.5	6.2	1-Day Minimum	4
26	31-Dec-02	Turbidity	NTU	3	5	Monthly Average	1
27	27-Feb-03	pH	pH Units	6.5	6.4	1-Day Minimum	4
28	27-May-03	pH	pH Units	6.5	6.2	1-Day Minimum	4
29	3-Jun-03	pH	pH Units	8.5	8.8	1-Day Maximum	4
30	9-Jul-03	pH	pH Units	8.5	10.3	1-Day Maximum	4
31	17-Jul-03	pH	pH Units	8.5	10.3	1-Day Maximum	4
32	12-Aug-03	pH	pH Units	8.5	8.7	1-Day Maximum	4
33	31-Aug-03	Turbidity	NTU	3	4	Monthly Average	4
34	9-Sep-03	TSS	mg/l	30	34	Daily Maximum	4
35	29-Sep-03	Chlorine Residual	mg/l	0.019	0.35	1-Hour Average	2
36	6-Nov-03	pH	pH Units	6.5	6.1	1-Day Minimum	4
37	19-Nov-03	Total Coliform	MPN/100 ml	23	50	Daily Maximum	4
38	25-Nov-03	Total Coliform	MPN/100 ml	23	110	Daily Maximum	4
39	26-Nov-03	pH	pH Units	6.5	6.2	1-Day Minimum	4

ATTACHMENT A
NEVADA COUNTY SANITARY DISTRICT 1
LAKE WILDWOOD WASTEWATER TREATMENT PLANT
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2008-0532

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measured</u>	<u>Period Type</u>	<u>Remark</u>
40	26-Nov-03	Total Coliform	MPN/100 ml	23	220	Daily Maximum	4
41	30-Nov-03	Total Coliform	MPN/100 ml	2.2	4	Monthly Average	4
42	31-Jan-04	Total Coliform	MPN/100 ml	2.2	4	Monthly Average	4
43	29-Jun-04	Total Coliform	MPN/100 ml	23	30	Daily Maximum	3
44	30-Jun-04	Turbidity	NTU	3	5	Monthly Average	1
45	6-Jul-04	Chlorine Residual	mg/l	0.019	4	1-Hour Average	2
46	31-Aug-04	Turbidity	NTU	3	7	Monthly Average	1
47	30-Sep-04	Turbidity	NTU	3	6	Monthly Average	1
48	30-Nov-04	Total Coliform	MPN/100 ml	2.2	4	Monthly Average	4
49	31-Dec-04	Total Coliform	MPN/100 ml	2.2	4	Monthly Average	4
50	31-Dec-04	Turbidity	NTU	3	4	Monthly Average	4
51	3-Jan-05	Total Coliform	MPN/100 ml	23	170	Daily Maximum	4
52	4-Jan-05	Total Coliform	MPN/100 ml	23	50	Daily Maximum	4
53	5-Jan-05	Total Coliform	MPN/100 ml	23	50	Daily Maximum	4
54	31-Jan-05	Total Coliform	MPN/100 ml	2.2	4	Monthly Average	4
55	30-Apr-05	Total Coliform	MPN/100 ml	2.2	4	Monthly Average	4
56	31-May-05	Total Coliform	MPN/100 ml	2.2	4	Monthly Average	4
57	30-Jun-05	Total Coliform	MPN/100 ml	2.2	3	Monthly Average	4
58	11-Jul-05	Chlorine Residual	mg/l	0.019	5.5	1-Hour Average	2
59	4-Aug-05	pH	pH Units	8.5	8.9	1-Day Maximum	4
60	22-Aug-05	pH	pH Units	8.5	9.2	1-Day Maximum	4
61	27-Oct-05	pH	pH Units	8.5	11.6	1-Day Maximum	4
62	31-Oct-05	Total Coliform	MPN/100 ml	2.2	4	Monthly Average	4
63	5-Sep-06	pH	pH Units	8.5	9.2	1-Day Maximum	4
64	9-Sep-06	pH	pH Units	8.5	9.2	1-Day Maximum	4
65	10-Sep-06	Turbidity	NTU	5	13	Daily Maximum	1
66	27-Sep-06	Total Coliform	MPN/100 ml	2.2	4	7-Day Median	3
67	7-Oct-06	pH	pH Units	8.5	8.8	1-Day Maximum	4
68	11-Oct-06	pH	pH Units	8.5	8.7	1-Day Maximum	4
69	11-Oct-06	Turbidity	NTU	5	20	Daily Maximum	1
70	12-Oct-06	pH	pH Units	8.5	9.2	1-Day Maximum	4
71	12-Oct-06	Turbidity	NTU	5	20	Daily Maximum	1
72	26-Oct-06	pH	pH Units	8.5	8.6	1-Day Maximum	4
73	26-Oct-06	Total Coliform	MPN/100 ml	2.2	3	7-Day Median	3
74	30-Oct-06	Total Coliform	MPN/100 ml	2.2	4	7-Day Median	3
75	31-Oct-06	Total Coliform	MPN/100 ml	2.2	4	7-Day Median	4
76	9-Nov-06	pH	pH Units	6.5	0.9	1-Day Minimum	4
77	15-Nov-06	Total Coliform	MPN/100 ml	2.2	8	7-Day Median	4
78	20-Nov-06	Total Coliform	MPN/100 ml	2.2	4	7-Day Median	4
79	21-Nov-06	Total Coliform	MPN/100 ml	2.2	4	7-Day Median	4

ATTACHMENT A
 NEVADA COUNTY SANITARY DISTRICT 1
 LAKE WILDWOOD WASTEWATER TREATMENT PLANT
 ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2008-0532

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measured</u>	<u>Period Type</u>	<u>Remark</u>
80	27-Nov-06	Total Coliform	MPN/100 ml	2.2	8	7-Day Median	4
81	28-Nov-06	Total Coliform	MPN/100 ml	2.2	8	7-Day Median	4
82	29-Nov-06	Total Coliform	MPN/100 ml	2.2	7	7-Day Median	4
83	13-Dec-06	Total Coliform	MPN/100 ml	2.2	9	7-Day Median	4
84	18-Dec-06	Total Coliform	MPN/100 ml	2.2	9	7-Day Median	4
85	19-Dec-06	Total Coliform	MPN/100 ml	2.2	4	7-Day Median	4
86	20-Dec-06	Total Coliform	MPN/100 ml	2.2	9	7-Day Median	4
87	22-Nov-06	Total Coliform	MPN/100 ml	2.2	7	7-Day Median	4
88	26-Dec-06	Total Coliform	MPN/100 ml	2.2	4	7-Day Median	4
89	27-Dec-06	Total Coliform	MPN/100 ml	2.2	13	7-Day Median	4
90	28-Dec-06	Total Coliform	MPN/100 ml	2.2	9	7-Day Median	4
91	31-Dec-06	pH	pH Units	8.5	11.1	1-Day Maximum	4
92	17-Jan-07	Turbidity	NTU	5	11	Daily Maximum	1
93	29-Jan-07	Total Coliform	MPN/100 ml	23	30	Daily Maximum	4
94	30-Jan-07	Total Coliform	MPN/100 ml	2.2	8.7	Monthly Average	4
95	10-Feb-07	Turbidity	NTU	5	6	Daily Maximum	4
96	10-Feb-07	Turbidity	NTU	10	20	Maximum	1
97	11-Feb-07	Turbidity	NTU	5	17	Daily Maximum	1
98	21-Feb-07	Total Coliform	MPN/100 ml	23	130	Daily Maximum	4
99	22-Feb-07	Turbidity	NTU	5	23	Daily Maximum	1
100	5-Mar-07	Total Coliform	MPN/100 ml	2.2	17	7-Day Median	4
101	6-Mar-07	Total Coliform	MPN/100 ml	2.2	11	7-Day Median	4
102	7-Mar-07	Total Coliform	MPN/100 ml	2.2	13	7-Day Median	4
103	12-Mar-07	Total Coliform	MPN/100 ml	2.2	9	7-Day Median	4
104	13-Mar-07	Total Coliform	MPN/100 ml	2.2	9	7-Day Median	4
105	14-Mar-07	Total Coliform	MPN/100 ml	2.2	9	7-Day Median	4
106	19-Mar-07	Total Coliform	MPN/100 ml	2.2	4	7-Day Median	4
107	20-Mar-07	Total Coliform	MPN/100 ml	2.2	9	7-Day Median	4
108	21-Mar-07	Total Coliform	MPN/100 ml	2.2	4	7-Day Median	4
109	28-Mar-07	Total Coliform	MPN/100 ml	23	130	Daily Maximum	4
110	24-Apr-07	Turbidity	NTU	5	12	Daily Maximum	1

ATTACHMENT A
NEVADA COUNTY SANITARY DISTRICT 1
LAKE WILDWOOD WASTEWATER TREATMENT PLANT
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2008-0532

Remarks:

1. Serious Violation: For Group 1 pollutants that exceed the effluent limitation by 40 percent or more.
2. Serious Violation: For Group 2 pollutants that exceed the effluent limitation by 20 percent or more.
3. Non-serious violations falls within the first three violations in a six-month period, thus is exempt.
4. Non-serious violation subject to mandatory penalties.

<u>VIOLATIONS AS OF:</u>	<u>12/31/2007</u>
Group 1 Serious Violations:	12
Group 2 Serious Violations:	6
Non-Serious Exempt from MPs:	9
Non-serious Violations Subject to MPs:	83
<u>Total Violations Subject to MMPs:</u>	<u>101</u>

Mandatory Minimum Penalty = (18 Serious Violations + 83 Non-Serious Violations) x \$3,000 = \$303,000