

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2008-0603

MANDATORY PENALTY
IN THE MATTER OF

SACRAMENTO REGIONAL COUNTY SANITATION DISTRICT
WASTEWATER TREATMENT PLANT
SACRAMENTO COUNTY

This Complaint is issued to the Sacramento Regional County Sanitation District (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 5-00-188 (NPDES No. CA0077682).

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

1. The Discharger owns and operates a wastewater treatment plant (WWTP), which provides sewerage service for the Sacramento metropolitan area. The WWTP discharges treated municipal wastewater to the Sacramento River, a water of the United States.
2. On 28 January 1994, the Central Valley Water Board adopted WDRs 94-006 to regulate discharges of waste from the WWTP. On 4 August 2000, the Central Valley Water Board adopted WDRs Order 5-00-188 which contained new requirements and rescinded WDRs 94-006.
3. On 11 December 2007, Central Valley Water Board staff sent the Discharger a draft Record of Violations. The Discharger responded on 4 August 2008. Board staff reviewed the submittal and prepared a technical memorandum, included as Attachment B, a part of this Complaint, and discussed in Finding No. 8 of this Complaint.
4. 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.

5. 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.

6. WDRs Order 5-00-188 Effluent Limitations No. B.1., include, in part, the following effluent limitations: “*The discharge of effluent in excess of the following limits is prohibited.*”

<u>Constituents</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Daily Average</u>	<u>Daily Maximum</u>
Chlorine Residual	mg/L	0.011	--	0.018	--
	lbs/day ²	17	--	27	--
	lbs/day ³	36	--	59	--
Settleable Matter	--	--	--	--	--
	mL/L	0.1	--	--	0.5
Total Coliform	MPN/100m	--	23 (median)	--	500 ⁴
Cyanide	L	--	--	--	--
	µg/L ⁵	--	--	(6.1) 10.8	--
	lbs/day ²	--	--	16	--

- ² Based upon a design average dry weather flow capacity of 181 mgd, applicable from May through October
³ Based upon design peak wet weather flow capacity of 392 mgd, applicable from November through April
⁴ Daily Maximum limit, shall not be exceeded in any two (2) consecutive days.
⁵ Trigger concentrations (in parenthesis) and interim limits per Effluent Limit B.9 and Information Sheet Item No. 10.6. Trigger concentrations are not subsequently expressed as mass limits.

7. WDRs Order 5-00-188 Effluent Limitations No. B.3. states, in part, *“The discharge shall not have a pH value of less than 6.0 nor greater than 8.5 as calculated by a running 20-minute average of continuously monitored effluent pH ...”*
8. As described in the technical memorandum mentioned in Finding No. 3, Central Valley Water Board staff has made the following adjustments to the draft Record of Violations (all violation numbers reference those contained in the draft Record of Violations).
- Cyanide, New Violations 7, 8. The Discharger provided evidence that it had violated both the concentration and mass limitation for cyanide. The violations were added.
 - Chlorine Residual, New Violations 17-24. The Discharger provided evidence that it had violated both the concentration and mass limitation for chlorine residual. The violations were added.
 - Settleable Solids, New Violation 26. The Discharger provided evidence that it had violated the settleable solids daily maximum limitations for settleable solids. The violation was added.
9. According to the Discharger’s self-monitoring reports, the Discharger committed two (2) serious Group I violations of the above effluent limitations contained in Order 5-00-188 during the period beginning 1 January 2000 and ending 30 April 2008. 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 **six thousand dollars (\$6,000)**.
10. According to the Discharger’s self-monitoring reports, the Discharger committed twelve (12) serious Group II violations of the above effluent limitations contained in Order 5-00-188 during the period beginning 1 January 2000 and ending 30 April 2008. These 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 **thirty-six thousand dollars (\$36,000)**.
11. According to the Discharger’s self-monitoring reports, the Discharger committed twelve (12) non-serious violations of the above effluent limitations contained in Order 5-00-188 during the period beginning 1 January 2000 and ending 30 April 2008. Four (4) 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 **twelve thousand dollars (\$12,000)**.

12. The total amount of the mandatory penalties assessed for the cited effluent violations is **fifty-four thousand dollars (\$54,000)**. A detailed list of the cited effluent violations is included in Attachment A, a part of this Complaint.
13. 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).

THE SACRAMENTO REGIONAL COUNTY SANITATION DISTRICT IS HEREBY GIVEN NOTICE THAT:

1. The Assistant Executive Officer of the Central Valley Water Board proposes that the Discharger be assessed an Administrative Civil Liability in the amount of **fifty-four thousand dollars (\$54,000)**.
2. A hearing on this matter will be held at the Central Valley Water Board meeting scheduled on **5/6 February 2009**, unless the Discharger does either of the following by **10 December 2008**:
 - a) Waives the hearing by completing the attached form (checking off the box next to item #4) and returning it to the Central Valley Water Board, along with payment for the proposed civil liability of **fifty-four thousand dollars (\$54,000)**; or
 - b) Agrees to enter into settlement discussions with the Central Valley Water Board and requests that any hearing on the matter be delayed by signing the enclosed waiver (checking off the box next to item #5) and returning it to the Central Valley Water Board along with a letter describing the issues to be discussed.
3. If a hearing on this matter is held, the Central Valley 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

10 November 2008

**WAIVER OF 90-DAY HEARING REQUIREMENT FOR
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

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

1. I am duly authorized to represent the Sacramento Regional County Sanitation District (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint R5-2008-0603 (hereinafter the "Complaint");
2. I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served" with the Complaint;
3. I hereby waive any right the Discharger may have to a hearing before the Central Valley Regional Water Quality Control Board (Central Valley Water Board) within ninety (90) days of service of the Complaint; and
4. **(Check here if the Discharger will waive the hearing requirement and will pay the fine)**
 - a. I certify that the Discharger will remit payment for the proposed civil liability in the amount of **fifty-four thousand dollars (\$54,000)** by check, which will contain a reference to "ACL Complaint R5 2008-0603" and will be made payable to the "State Water Pollution Cleanup and Abatement Account." Payment must be received by the Central Valley Water Board by **10 December 2008** or this matter will be placed on the Central Valley Water Board's agenda for adoption at the **5/6 February 2009** Central Valley Water Board meeting.
 - b. 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 Central Valley Water Board receive new information or comments during this comment period, the Central Valley Water Board's Assistant Executive Officer may withdraw the complaint, return payment, and issue a new complaint. New information or comments include those submitted by personnel of the Central Valley Water Board who are not associated with the enforcement team's issuance of the Complaint.
 - c. 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.

-or-

5. **(Check here if the Discharger will waive the 90-day hearing requirement, but will not pay at the current time. The Central Valley Water Board must receive information from the Discharger indicating a controversy regarding the assessed penalty at the time this waiver is submitted, or the waiver may not be accepted.)** I certify that the Discharger will promptly engage the Central Valley Water Board staff in discussions to resolve the outstanding violation(s). By checking this box, the Discharger is *not* waiving its right to a hearing on this matter. By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing so that the Discharger and Central Valley Water Board staff can discuss settlement. It remains within the discretion of the Central Valley Water Board to agree to delay the hearing. A hearing on the matter may be held before the Central Valley Water Board if these discussions do not resolve the liability proposed in the Complaint. The Discharger agrees that this hearing may be held after the 90-day period referenced in California Water Code section 13323 has elapsed.
6. If a hearing on this matter is held, the Central Valley Water Board will consider whether to issue, reject, or modify the proposed Administrative Civil Liability Order, or whether to refer the matter to the Attorney General for recovery of judicial civil liability. Modification of the proposed Administrative Civil Liability Order may include increasing the dollar amount of the assessed civil liability.

(Print Name and Title)

(Signature)

(Date)

**ATTACHMENT A
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2008-0603**

**Sacramento Regional County Sanitation District
Wastewater Treatment Plant**

RECORD OF VIOLATIONS (1 January 2000 – 30 April 2008) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Program No. 5-00-188)

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measure</u> <u>d</u>	<u>Period Type</u>	<u>Remarks</u>
1	30-Dec-00	Coliform	MPN/100m L	23	30	Weekly	3
2	20-Jan-01	Coliform	MPN/100m L	23	30	Weekly	3
3	10-Feb-01	Coliform	MPN/100m L	23	24	Weekly	3
4	26-Feb-01	Chlorine Residual	mg/L	0.018	0.054	Daily	2
5	26-Feb-01	Chlorine Residual	lbs/day MPN/100m	59	81	Daily	2
6	21-Apr-01	Coliform	L	23	30	Weekly	4
7	29-Aug-02	Cyanide	µg/L	10.8	134	Daily	2
8	29-Aug-02	Cyanide	lbs/day MPN/100m	16	172	Daily	2
9	22-Sep-02	Coliform	L	23	30	Weekly	3
10	5-Oct-02	Coliform	MPN/100m L	23	80	Weekly	4
11	10-Nov-02	Coliform	MPN/100m L	23	30	Weekly	4
12	15-Nov-02	pH	pH units MPN/100m	6.0	5.9	20-min avg.	4
13	3-May-03	Coliform	L	23	30	Weekly	3
14	7-Jun-03	Coliform	MPN/100m L	23	27	Weekly	3
15	22-Aug-03	Coliform	MPN/100m L	23	30	Weekly	3
16	23-May-04	Settleable Matter	mL/L	0.5	1.5	Daily	1
17	10-Jun-05	Chlorine Residual	mg/L	0.018	0.07	Daily	2
18	10-Jun-05	Chlorine Residual	lbs/day	27	84	Daily	2
19	2-Sep-05	Chlorine Residual	mg/L	0.018	0.047	Daily	2
20	2-Sep-05	Chlorine Residual	lbs/day	27	51	Daily	2
21	5-Sep-05	Chlorine Residual	mg/L	0.018	0.03	Daily	2
22	5-Sep-05	Chlorine Residual	lbs/day	27	33	Daily	2
23	30-Sep-05	Chlorine Residual	mg/L	0.018	0.022	Daily	2
24	18-Apr-07	Chlorine Residual	mg/L	0.018	0.03	Daily	2
25	30-Jun-07	Coliform	MPN/100m L	23	30	Weekly	3
26	4-Apr-08	Settleable Matter	mL/L	<0.1	2.5	Daily	1

Remarks:

1. Serious Violation: For Group I pollutants that exceed the effluent limitation by 40 percent or more.
2. Serious Violation: For Group II 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.

ATTACHMENT A
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2008-0569
MANDATORY PENALTY
CITY OF LINCOLN
WASTEWATER TREATMENT PLANT
PLACER COUNTY

<u>VIOLATIONS AS OF:</u>	<u>4/30/2008</u>
Group I Serious Violations:	2
Group II Serious Violations:	12
Non-Serious Exempt from MPs:	8
Non-serious Violations Subject to MPs:	4
<u>Total Violations Subject to MPs:</u>	<u>18</u>

Mandatory Minimum Penalty = (14 Serious Violations + 4 Non-Serious Violations) x \$3,000 = \$54,000



Linda S. Adams
Secretary for
Environmental Protection

ATTACHMENT B

California Regional Water Quality Control Board Central Valley Region

Karl E. Longley, ScD, P.E., Chair



Arnold
Schwarzenegger
Governor

11020 Sun Center Drive #200, Rancho Cordova, California 95670-6114
Phone (916) 464-3291 • FAX (916) 464-4645
<http://www.waterboards.ca.gov/centralvalley>

TO: Patricia Leary, Senior Engineer
NPDES Compliance and Enforcement

FROM: Barry Hilton, WRCE
NPDES Compliance and Enforcement

DATE: 16 October 2008

SIGNATURE: _____

SUBJECT: SACRAMENTO REGIONAL WASTEWATER TREATMENT PLANT, RESPONSE TO NOV AND ASSESSMENT OF MMPS

On 8 August 2008, Central Valley Water Board staff sent the Sacramento Regional Wastewater Plant (Discharger) a draft Record of Violations (ROV) for the period of 1 January 2000 through 30 April 2008. The Discharger responded by letter dated 8 September 2008. The following discusses the comments and any changes I made to the Record of Violations based on the Discharger's comments.

Total Coliform Organisms

Violations 3, 13. The Discharger provided evidence that the alleged median value was incorrect. I corrected the reported values. These did not change the number of violations subject to MMPs.

Cyanide

New Violations 7, 8. The Discharger provided evidence that it had violated both the concentration and mass limitation for cyanide. I added the violations.

Chlorine Residual

New Violations 17-24. The Discharger provided evidence that it had violated both the concentration and mass limitation for chlorine residual. I added the violations.

Settleable Solids

New Violation 26. The Discharger provided evidence that it had violated the settleable solids daily maximum limitations for settleable solids. I added the violation.

Summary

The total number of Group 1 violations is increased from 1 to 2.

California Environmental Protection Agency

The total number of Group 2 violations is increased from 4 to 12.

The total number of non-serious violations is 12; 4 are subject to MMPs.

The total number of violations subject to MMPs is 18.

The ACL is increased to \$54,000.

**Sacramento Regional County Sanitation District
Wastewater Treatment Plant**

RECORD OF VIOLATIONS (1 January 2000 – 30 April 2008) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Program Nos. R5-2000-0188)

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measure</u> <u>d</u>	<u>Period Type</u>	<u>Remarks</u>
1	30-Dec-00	Coliform	MPN/100m L	23	30	Weekly	3
2	20-Jan-01	Coliform	MPN/100m L	23	30	Weekly	3
3	10-Feb-01	Coliform	MPN/100m L	23	24 34	Weekly	3
4	26-Feb-01	Chlorine Residual	mg/L	0.018	0.054	Daily	2
5	26-Feb-01	Chlorine Residual	lbs/day	59	81	Daily	2
6	21-Apr-01	Coliform	MPN/100m L	23	30	Weekly	4
	<u>29-Aug-02</u>	<u>Cyanide</u>	<u>µg/L</u>	<u>10.8</u>	<u>134</u>	<u>Daily</u>	<u>2</u>
	<u>29-Aug-02</u>	<u>Cyanide</u>	<u>lbs/day</u>	<u>16</u>	<u>172</u>	<u>Daily</u>	<u>2</u>
7	22-Sep-02	Coliform	MPN/100m L	23	30	Weekly	3
8	5-Oct-02	Coliform	MPN/100m L	23	80	Weekly	4 3
9	10-Nov-02	Coliform	MPN/100m L	23	30	Weekly	4 3
10	15-Nov-02	pH	pH units	6.0	5.9	20-min avg.	4
11	3-May-03	Coliform	MPN/100m L	23	30	Weekly	3
12	7-Jun-03	Coliform	MPN/100m L	23	27	Weekly	3
13	22-Aug-03	Coliform	MPN/100m L	23	30 27	Weekly	3
14	23-May-04	Settleable Matter	mL/L	0.5	1.5	Daily	1
15	10-Jun-05	Chlorine Residual	mg/L	0.018	0.07	Daily	2
16	10-Jun-05	Chlorine Residual	lbs/day	27	84	Daily	2
	<u>2-Sep-05</u>	<u>Chlorine Residual</u>	<u>mg/L</u>	<u>0.018</u>	<u>0.047</u>	<u>Daily</u>	<u>2</u>
	<u>2-Sep-05</u>	<u>Chlorine Residual</u>	<u>lbs/day</u>	<u>27</u>	<u>51</u>	<u>Daily</u>	<u>2</u>
	<u>5-Sep-05</u>	<u>Chlorine Residual</u>	<u>mg/L</u>	<u>0.018</u>	<u>0.03</u>	<u>Daily</u>	<u>2</u>
	<u>5-Sep-05</u>	<u>Chlorine Residual</u>	<u>lbs/day</u>	<u>27</u>	<u>33</u>	<u>Daily</u>	<u>2</u>
	<u>30-Sep-05</u>	<u>Chlorine Residual</u>	<u>mg/L</u>	<u>0.018</u>	<u>0.022</u>	<u>Daily</u>	<u>2</u>
	<u>18-Apr-07</u>	<u>Chlorine Residual</u>	<u>mg/L</u>	<u>0.018</u>	<u>0.03</u>	<u>Daily</u>	<u>2</u>

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measure</u> <u>d</u>	<u>Period Type</u>	<u>Remarks</u>
17	30-Jun-07	Coliform	MPN/100m L	23	30	Weekly	3
	<u>4-Apr-08</u>	<u>Settleable Matter</u>	<u>mL/L</u>	<u><0.1</u>	<u>2.5</u>	<u>Daily</u>	<u>1</u>

Remarks:

1. Serious Violation: For Group I pollutants that exceed the effluent limitation by 40 percent or more.
2. Serious Violation: For Group II 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.

VIOLATIONS AS OF: 4/30/2008

Group I Serious Violations:	24
Group II Serious Violations:	124
Non-Serious Exempt from MPs:	840
Non-serious Violations Subject to MPs:	42
Total Violations Subject to MPs:	<u>18</u>

Mandatory Minimum Penalty = (~~145~~ Serious Violations + ~~42~~ Non-Serious Violations) x \$3,000 = \$~~2454,000~~