

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2009-0526

MANDATORY PENALTY
IN THE MATTER OF

CITY OF STOCKTON
REGIONAL WASTEWATER CONTROL FACILITY
SAN JOAQUIN COUNTY

This Complaint is issued to the City of Stockton (hereafter Discharger) pursuant to California Water Code (CWC) section 13385, which authorizes the imposition of Administrative Civil Liability, CWC section 13323, and which authorizes the Executive Officer to issue this Complaint. This Complaint is based on findings that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Orders 94-324 and R5-2002-0083 and R5-2008-0154 (NPDES No. CA0079138).

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

1. The Discharger owns and operates a wastewater collection, treatment, and disposal system, and provides sewerage service to the City of Stockton, the Port of Stockton, and surrounding urbanized County areas. Treated municipal wastewater is discharged through a single outfall to the San Joaquin River, a navigable water of the United States and part of the Sacramento-San Joaquin Delta.
2. On 28 October 1994, the Central Valley Water Board issued WDRs 94-324 to regulate discharges of waste from the wastewater treatment plant. On 26 April 2002, the Board issued WDRs Order R5-2002-0083, which contained new requirements and rescinded Order 94-324. On 26 April 2002, the Central Valley Water Board also issued Cease and Desist Order (CDO) R5-2002-0084. This Order required the Discharger to comply with effluent ammonia limitations by 1 April 2007. On 23 October 2008, the Central Valley Water Board issued WDRs Order R5-2008-0154, which became effective 12 December 2008, contained new requirements, and rescinded order R5-2002-0083.
3. On 23 October 2008, the Central Valley Water Board issued Time Schedule Order (TSO) R5-2008-0155. This Order included, *inter alia*, interim effluent limitations for cyanide.
4. On 10 November 2008, the Assistant Executive Officer issued Administrative Civil Liability Complaint R5-2008-0606. Complaint R5-2008-0606 charged the Discharger with violations subject to mandatory minimum penalties that occurred from 1 January 2000 through 30 April 2008, and proposed a penalty of \$18,000. The Discharger subsequently waived its rights to a hearing within 90 days and entered into settlement discussions. At the request of the Discharger, this Complaint rescinds Complaint R5-2008-0606 and includes all violations that occurred from 1 January 2000 through 31 December 2008.

5. On 29 August 2008, Board staff sent the Discharger a draft Record of Violations for the period from 1 January 2000 through 30 April 2008. The Discharger responded on 19 September 2008, and agreed with the record. On 10 February 2009, Board staff sent the Discharger a draft Record of Violations for the period 1 May 2008 through 31 December 2008. The Discharger responded on 17 February 2009, and agreed that the ROV accurately reflected violations at the facility. In addition, the Discharger listed violations which had not been included in the ROV or the previous ACLC, as discussed in Attachment B and in Finding 13.
6. 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.

7. 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.

8. WDRs Order 94-324 Effluent Limitations No. B.1., states, in part:

Effluent shall not exceed the following limits:

<u>Constituents</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Daily Average</u>	<u>Daily Maximum</u>
Total Coliform Organisms	MPN/100 mL	23 (median)	--	--	500

9. WDRs Order R5-2002-0083 Effluent Limitations No. B.1. states, in part:

Effluent shall not exceed the following limitations:

<u>Constituents</u>		<u>Yearly Total</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Daily Maximum</u>
Oil and Grease	mg/L		10		15
	lbs/day ³		4,600		6,900
Ammonia-N	mg/L		2		5
Cyanide	µg/L ¹		4.0		9.2
Dibromochloromethane	(µg/L) (lbs/day ³)	--	--	--	23
)				10.6

¹ These are final effluent limits. Interim effluent limitations specified in B.6 are effective in lieu of final limits until Title 22 filtration/disinfection facilities are operational as mandated by Provision G.1. Final effluent limitations will become effective on 1 May 2006.

³ Based upon a permitted flow of 55 mgd

10. WDRs Order R5-2002-0083 Effluent Limitations No. B. 2. states, in part:

Effective immediately, effluent shall not exceed the following seasonal cBOD effluent limitations:

<u>Constituents</u>	<u>(Units)</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Daily Maximum</u>	<u>Effective Dates</u>
cBOD	(mg/L) ⁽¹⁾	10	20	25	1 April through 31 October

⁽¹⁾ 5-day, 20°C, carbonaceous biochemical oxygen demand, ascertained by 24-hour composite

11. WDRs Order R5-2002-0083 Effluent Limitations No. B.6. states, in part:

Interim effluent limits effective until 1 May 2006, when Title 22 filtration/disinfection is completed. The effluent shall not exceed the following limitations:

<u>Constituents</u>	<u>(Units)</u>	<u>Yearly Total</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Daily Maximum</u>
Total Coliform	(MPN/100 mL)	--	23 (median)	--	240

12. Time Schedule Order R5-2008-0155, Item 2, states, in part:

The following interim effluent limitations shall be effective immediately. The interim effluent limitations for ... cyanide shall be effective until 1 October 2013, or when the Discharger is able to come into compliance, whichever is sooner.

Parameter	Average Monthly Effluent Limitation (µg/L)	Maximum Daily Effluent Limitation (µg/L)
Cyanide (Total Recoverable)	4.1	9.2

13. As described in the technical memorandum mentioned in Finding No. 5, Central Valley Water Board staff made the following adjustments to the draft Record of Violations (all violation numbers reference those contained in the draft Record of Violations).
- Oil and Grease, New Violations 4-7. The Discharger provided documentation that these violations had not been included in ACLC R5-2008-0606. These violations were added.
 - Total Coliform Organisms, New Violations 10, 14-17. The Discharger provided documentation that these violations had not been included in ACLC R5-2008-0606. These violations were added.
14. According to the Discharger's self-monitoring reports, the Discharger committed four (4) serious Group I violations of the above effluent limitations contained in Orders 94-324 R5-2002-0083, and R5-2008-0154 during the period beginning 1 January 2000 and ending 31 December 2008. These 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 **twelve thousand dollars (\$12,000)**.
15. According to the Discharger's self-monitoring reports, the Discharger committed seven (7) serious Group II violations of the above effluent limitations contained in Orders 94-234, R5-2002-0083, and R5-2008-0154 during the period beginning 1 January 2000 and ending 31 December 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 **twenty-one thousand dollars (\$21,000)**.
16. According to the Discharger's self-monitoring reports, the Discharger committed twenty-one (21) non-serious violations of the above effluent limitations contained in Orders 94-324, R5-2002-0083, R5-2008-0154 and R5-2008-0155 during the period beginning 1 January 2000 and ending 31 December 2008. Nine (9) of these 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 **twenty-seven thousand dollars (\$27,000)**.

17. The total amount of the mandatory penalties assessed for the cited effluent violations is **sixty thousand dollars (\$60,000)**. A detailed list of the cited effluent violations is included in Attachment A, a part of this Complaint.
18. 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 CITY OF STOCKTON IS HEREBY GIVEN NOTICE THAT:

1. Administrative Civil Liability Complaint R5-2008-0606 is hereby rescinded.
2. The Executive Officer of the Central Valley Water Board proposes that the Discharger be assessed an Administrative Civil Liability in the amount of **sixty thousand dollars (\$60,000)**.
3. A hearing on this matter will be held at the Central Valley Water Board meeting scheduled on **11/12 June 2009**, unless the Discharger does either of the following by **29 April 2009**:
 - 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 **sixty thousand dollars (\$60,000)**; 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.
4. 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.

PAMELA C.CREEDON, Executive Officer

30 March 2009

**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 City of Stockton (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint R5-2009-0526 (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 **sixty thousand dollars (\$60,000)** by check, which will contain a reference to "ACL Complaint R5-2009-0526" 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 **29 April 2009** or this matter will be placed on the Central Valley Water Board's agenda for adoption at the **11/12 June 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 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 R5-2009-0526**

**City of Stockton
Regional Wastewater Control Facility**

**RECORD OF VIOLATIONS (1 January 2000 – 31 December 2008) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Programs 94-324, R5-2002-0083 and R5-2008-0154)**

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measured</u>	<u>Period</u>	<u>Remarks</u>	<u>CIWQS</u>
1	23-Apr-00	Coliform	MPN/100 mL	500	1600	Daily	3	174273
2	28-Apr-00	Coliform	MPN/100 mL	500	520	Daily	3	174145
3	10-Dec-02	Coliform	MPN/100 mL	240	830	Daily	3	226327
4	2-Dec-02	Oil and Grease	mg/L	15 690	89	Daily	1	807297
5	2-Dec-02	Oil and Grease	lbs/day	0	28050	Daily	1	807298
6	31-Dec-02	Oil and Grease	mg/L	10 460	22	Monthly	1	807295
7	31-Dec-02	Oil and Grease	lbs/day	0	6770	Monthly	1	807296
8	3-May-05	Coliform	MPN/100 mL	240	1600	Daily	3	369494
9	5-May-05	Coliform	MPN/100 mL	240	500	Daily	3	369496
10	1-Dec-05	Coliform	MPN/100 mL	240	1600	Daily	3	807299
11	9-Apr-06	Coliform	MPN/100 mL	240	900	Daily	3	793633
12	31-Jul-06	cBOD	mg/L	25	30	Daily	3	793634
13	11-Oct-06	Dibromochloromethane	µg/L	23	29	Daily	2	793719
14	30-Jul-07	Coliform	MPN/100 mL	240	280	Daily	3	807300
15	31-Jul-07	Coliform	MPN/100 mL	240	900	Daily	3	807301
16	1-Aug-07	Coliform	MPN/100 mL	240	300	Daily	3	807302
17	9-Aug-07	Coliform	MPN/100 mL	240	1600	Daily	4	807303
18	16-Aug-07	Dibromochloromethane	µg/L	23	56	Daily	2	793720
19	16-Aug-07	Dibromochloromethane	lbs/day	10.6	12.4	Daily	4	793724
20	5-Sep-07	Dibromochloromethane	µg/L	23	53	Daily	2	793725
21	5-Sep-07	Dibromochloromethane	lbs/day	10.6	13.5	Daily	2	793727
22	10-Oct-07	Dibromochloromethane	µg/L	23	35	Daily	2	793728
23	10-Oct-07	Dibromochloromethane	lbs/day	10.6	10.8	Daily	4	793729
24	18-Jun-08	Cyanide	µg/L	9.2	13	Daily	2	805154
25	25-Jun-08	Cyanide	µg/L	9.2	11	Daily	3	805159
26	30-Jun-08	Cyanide	µg/L	4	7.4	Monthly	2	805784
27	31-Jul-08	Cyanide	µg/L	4	4.8	Monthly	4	805161
28	29-Aug-08	Coliform	MPN/100 mL	23	50	Daily	4	805162
29	2-Sep-08	Coliform	MPN/100 mL	23	50	Daily	4	805164
30	12-Oct-08	Ammonia	mg/L	5	5.6	Daily	4	805165
31	13-Oct-08	Ammonia	mg/L	5	5.5	Daily	4	805168
32	31-Oct-08	Cyanide	µg/L	4.1	4.2	Monthly	4	805169

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.

<u>VIOLATIONS AS OF:</u>	<u>12/31/2008</u>
Group I Serious Violations:	4
Group II Serious Violations:	7
Non-Serious Exempt from MPs:	12
Non-serious Violations Subject to MPs:	9
<u>Total Violations Subject to MPs:</u>	<u>20</u>

Mandatory Minimum Penalty = (11 Serious Violations + 9 Non-Serious Violations) x \$3,000 = \$60,000



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

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



Arnold
Schwarzenegger
Governor

TO: Wendy Wyels, Supervisor
Compliance and Enforcement Section

FROM: Barry Hilton, WRCE
Compliance and Enforcement

DATE: 17 March 2009

SIGNATURE: _____

SUBJECT: CITY OF STOCKTON REGIONAL WASTEWATER CONTROL FACILITY,
RESPONSE TO NOV AND ASSESSMENT OF MMPS

On 10 November 2008, the Assistant Executive Officer issued Administrative Civil Liability Complaint R5-2008-0606 (ACLC) to the City of Stockton (Discharger). The Discharger signed a waiver of hearing within 90 days and entered into settlement discussions.

On 10 February 2009, Central Valley Water Board staff sent the Discharger a draft Record of Violations (ROV) for the period of 1 May 2008 through 31 December 2008. The Discharger responded by letter dated 17 February 2009, and agreed to the violations. In addition, the Discharger pointed out violations which had not been included in the ROV or the previous ACLC. The Discharger agreed to combine the two ACLCs into one. The following discusses the comments and any changes I made to the ROV based on the Discharger's comments.

Additional Violations

New Violations 4-7, Oil and Grease. The Discharger provided evidence for oil and grease violations for December 2002 which were not in ACLC R5-2008-0606. I added these violations.

New Violations 10, 14-17, Total Coliform Organisms. The Discharger provided evidence for total coliform violations which were not included in ACLC R5-2008-0606. I added the violations.

Summary

The total number of Group 1 violations is increased from 0 to 4.

The total number of Group 2 violations is increased from 5 to 7.

The total number of non-serious violations is increased from 9 to 21; 9 are subject to MMPs.

The total number of violations subject to MMPs is increased from 6 to 20.

The ACL increases from \$18,000 to \$60,000.

**City of Stockton
Regional Wastewater Control Facility**

RECORD OF VIOLATIONS (1 January 2000 – 31 December 2008) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Programs 94-324, R5-2002-0083 and R5-2008-0154)
(Violations which have been added are shown in bold)

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measured</u>	<u>Period</u>	<u>Remarks</u>	<u>CIWQS</u>
1	23-Apr-00	Coliform	MPN/100 mL	500	1600	Daily	3	174273
2	28-Apr-00	Coliform	MPN/100 mL	500	520	Daily	3	174145
3	10-Dec-02	Coliform	MPN/100 mL	240	830	Daily	3	226327
4	2-Dec-02	Oil and Grease	mg/L	15	89	Daily	1	807297
5	2-Dec-02	Oil and Grease	lbs/day	0	28050	Daily	1	807298
6	31-Dec-02	Oil and Grease	mg/L	10	22	Monthly	1	807295
7	31-Dec-02	Oil and Grease	lbs/day	0	6770	Monthly	1	807296
48	3-May-05	Coliform	MPN/100 mL	240	1600	Daily	3	369494
59	5-May-05	Coliform	MPN/100 mL	240	500	Daily	3	369496
10	1-Dec-05	Coliform	MPN/100 mL	240	1600	Daily	3	807299
611	9-Apr-06	Coliform	MPN/100 mL	240	900	Daily	3	793633
712	31-Jul-06	cBOD	mg/L	25	30	Daily	3	793634
813	11-Oct-06	Dibromochloromethane	µg/L	23	29	Daily	2	793719
14	30-Jul-07	Coliform	MPN/100 mL	240	280	Daily	3	807300
15	31-Jul-07	Coliform	MPN/100 mL	240	900	Daily	3	807301
16	1-Aug-07	Coliform	MPN/100 mL	240	300	Daily	3	807302
17	9-Aug-07	Coliform	MPN/100 mL	240	1600	Daily	4	807303
918	16-Aug-07	Dibromochloromethane	µg/L	23	56	Daily	2	793720
401	16-Aug-07	Dibromochloromethane	lbs/day	10.6	12.4	Daily	4	793724
442	5-Sep-07	Dibromochloromethane	µg/L	23	53	Daily	2	793725
422	5-Sep-07	Dibromochloromethane	lbs/day	10.6	13.5	Daily	2	793727
432	10-Oct-07	Dibromochloromethane	µg/L	23	35	Daily	2	793728
442	10-Oct-07	Dibromochloromethane	lbs/day	10.6	10.8	Daily	4	793729
24	18-Jun-08	Cyanide	µg/L	9.2	13	Daily	2	805154
25	25-Jun-08	Cyanide	µg/L	9.2	11	Daily	3	805159
26	30-Jun-08	Cyanide	µg/L	4	7.4	Monthly	2	805784
27	31-Jul-08	Cyanide	µg/L	4	4.8	Monthly	4	805161
28	29-Aug-08	Coliform	MPN/100 mL	23	50	Daily	4	805162
29	2-Sep-08	Coliform	MPN/100 mL	23	50	Daily	4	805164
30	12-Oct-08	Ammonia	mg/L	5	5.6	Daily	4	805165
31	13-Oct-08	Ammonia	mg/L	5	5.5	Daily	4	805168
32	31-Oct-08	Cyanide	µg/L	4.1	4.2	Monthly	4	805169

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 FROM 1/1/2000 THROUGH 12/31/2008

Group I Serious Violations:	4
Group II Serious Violations:	7
Non-Serious Exempt from MPs:	12
Non-serious Violations Subject to MPs:	9
<u>Total Violations Subject to MPs:</u>	<u>20</u>

Mandatory Minimum Penalty = (11 Serious Violations + 9 Non-Serious Violations) x \$3,000 = \$60,000