

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2008-0524

MANDATORY PENALTY
IN THE MATTER OF

CITY OF RIO VISTA AND ECO RESOURCES, INC.
CITY OF RIO VISTA MAIN (BEACH) WASTEWATER TREATMENT PLANT
SOLANO COUNTY

This Complaint is issued to the City of Rio Vista and ECO Resources, Inc. (hereafter collectively referred to as Discharger) pursuant to California Water Code (CWC) section 13385, which authorizes the imposition of Administrative Civil Liability (ACL), 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 Nos. 5-01-178 (NPDES No. CA0079588).

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

1. The Discharger owns and previously operated the Trilogy Wastewater Treatment Plant (WWTP). ECO Resources, Inc., operated the WWTP through 31 July 2005. On 1 August 2005, Veolia Water, Inc. became the new contract operator, but has not been named as a Discharger. The Rio Vista Main (Beach) Wastewater Treatment Plant provides sewerage service to part of the City of Rio Vista, in Solano County. Treated domestic, commercial and industrial wastewater is discharged to the Sacramento River, a water of the United States.
2. On 14 June 2001, the Regional Water Board adopted WDRs Order No. 5-01-178. The WDRs include effluent limitations and other requirements regarding the wastewater discharges.
3. CWC section 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. The Regional Water Board adopted Administrative Civil Liability Order No. R5-2001-0185 on 26 July 2001 in the amount of \$30,000 in Mandatory Minimum Penalties (MMPs) for effluent violations from 1 January 2000 through 28 February 2001. The Regional Water Board has acknowledged that the Discharger completed a compliance project in lieu of payment of the penalty, and considers this prior matter resolved.
- 6. The Executive Officer issued Administrative Civil Liability Complaint No. R5-2002-0513 on 10 July 2002 for MMPs in the amount of \$3,000 for effluent violations from 1 March 2001 and ending on 31 March 2002. The Regional Water Board has accepted payment and considers this prior matter resolved.
- 7. WDRs Order No. 5-01-178 Effluent Limitations No. B.1. include, in part, the following effluent limitations:

<u>Constituent</u>	<u>Unit</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Monthly Median</u>	<u>Daily Maximum</u>
BOD ^{1,2}	mg/L	30	45		60
	lbs/day ³	163	244		326
Total Suspended Solids ²	mg/L	30	45		60
	lbs/day ³	163	244		326
Settleable Solids	mL/L	0.1			0.2
Total Coliform Organisms	MPN/100 mL			23	500
Chlorine Residual	mg/L	0.01			0.02
	lbs/day ³	0.054			0.109

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

² To be ascertained by a 24-hour composite

³ Based upon a design treatment capacity of 0.65 mgd (Applicable May-Oct).

8. WDRs Order No. 5-01-178 Effluent Limitations No. B.2. include, in part, the following effluent limitations:

<u>Constituent</u>	<u>Unit</u>	<u>Daily Maximum</u>
Aluminum	µg/L	1053

9. WDRs Order No. 5-01-178 Effluent Limitations No. B.4 states that:

“The discharge shall not have a pH less than 6.5 nor greater than 8.5.”

10. According to the Discharger’s self-monitoring reports, the Discharger committed twenty-two (22) serious Group I violations of the above effluent limitations contained in Order No 5-01-178 during the period beginning 1 April 2002 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 **sixty-six thousand dollars (\$66,000)**.
11. According to the Discharger’s self-monitoring reports, the Discharger committed fourteen (14) serious violations of the above effluent limitations for Group II constituents contained in Order No. 5-01-178 during the period beginning 1 April 2002 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 **forty-two thousand dollars (\$42,000)**.
12. According to the Discharger’s self-monitoring reports, the Discharger committed sixty-four (64) non-serious violations of the above effluent limitations contained in Order No. 5-01-178 during the period beginning 1 April 2002 and ending 31 December 2007. Fifty-four (54) 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 **one hundred sixty-two thousand dollars (\$162,000)**.
13. The total amount of the mandatory penalties assessed for the cited effluent violations is **two hundred seventy thousand dollars (\$270,000)**. A detailed list of the cited effluent violations is included in Attachment A, a part of this Complaint.
14. CWC section 13385 (k)(1) states, in part:
- “In lieu of assessing all or a portion of the mandatory minimum penalties pursuant to subdivisions (h) and (i) against a publicly owned treatment works serving a small community, the state board or the regional board may elect to require the publicly owned treatment works to spend an equivalent amount towards the completion of a compliance project proposed by the publicly owned treatment works...”*
15. CWC section 13385 (k)(2) states, in part:
- “For the purposes of this subdivision, ‘a publicly owned treatment works serving a small community’ means a publicly owned treatment works serving a population of 10,000*

persons or fewer or a rural county, with a financial hardship as determined by the state board after considering such factors as median income of the residents, rate of unemployment, or low population density in the service area of the publicly owned treatment works.”

16. Staff at the State Water Resources Control Board has determined that the City of Rio Vista Main (Beach) Wastewater Treatment Plant is a publicly owned treatment works serving a small community.
17. The Discharger has spent \$1,179,744 for engineering design and construction of a secondary clarifier, bisulfite and hypochlorite system, and digester aeration, designed to correct the violations. The Discharger has completed the compliance project to address the effluent aluminum, BOD, chlorine residual, pH, total coliform organisms, total suspended solids, and settleable solids violations. With the completed compliance project, the Discharger has expended in excess of the mandatory minimum penalty that is required by CWC sections 13385(h) and (i).
18. The compliance project was performed in accordance with the State Water Resources Control Board Enforcement Policy.
19. 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 RIO VISTA AND ECO RESOURCES, INC ARE 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 **two hundred seventy thousand dollars (\$270,000)**.
2. The Regional Water Board considers payment of the above penalty satisfied through the completion of the compliance project described above in accordance with CWC section 13385(k).
3. A hearing on this matter will be held at the Regional Water Board meeting scheduled on **31 July/1 August 2008**, unless the Discharger agrees to waive the hearing by completing the attached form and returning it to the Regional Water Board by **4 June 2008**:
4. 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

5 May 2008

**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 City of Rio Vista and ECO Resources, Inc. (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint No. R5-2008-0524 (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 has expended an amount equal to or in excess of the assessed mandatory minimum penalties through completion of the compliance project specified in the Complaint. The Regional Water Board will accept the compliance project in lieu of monetary penalties.
5. I understand the completion of the above compliance project 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 Water Board receive new information during this comment period, the Regional Water Board may withdraw the complaint 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. R5-2008-0524**

City of Rio Vista and ECO Resources, Inc.

Beach Wastewater Treatment Plant

RECORD OF VIOLATIONS (1 April 2002 – 31 December 2007) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Program No. 5-01-178)

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measure</u> <u>d</u>	<u>Period Type</u>	<u>Flow</u> <u>Rate*</u>	<u>Remarks</u>
1	4-Sep-02	Coliform	MPN/100ml	500	1600	daily		3
2	23-Dec-02	Coliform	MPN/100ml	500	900	daily		3
3	16-Jun-03	Coliform	mg/L	500	1600	daily		3
4	16-Dec-03	BOD	mg/L	45	48	7-day		3
5	7-Jan-04	pH	pH unit	6.5	6.1	instantaneous		3
6	8-Jan-04	pH	pH unit	6.5	6	instantaneous		3
7	18-Aug-04	Aluminum	µg/L	1053	1300	daily		3
8	19-Aug-04	TSS	mg/L	60	74	daily		3
9	25-Aug-04	TSS	mg/L	45	52	weekly		3
10	31-Aug-04	BOD	mg/L	45	45.5	weekly		4
11	31-Aug-04	BOD	mg/L	30	34	monthly		4
12	31-Aug-04	BOD	mg/L	60	72	daily		4
13	31-Aug-04	Coliform	MPN/100mL	23	240	monthly		4
14	31-Aug-04	TSS	mg/L	30	51	monthly		1
15	31-Aug-04	TSS	mg/L	60	84	daily		1
16	31-Aug-04	TSS	mg/L	45	57	weekly		4
17	4-Oct-04	Chlorine	mg/L	0.02	15	daily		4
18	4-Oct-04	Chlorine	lbs/day	0.109	18	daily	0.431	4
19	31-Oct-04	Coliform	mg/L	23	31.5	monthly		1
20	30-Nov-04	Coliform	mg/L	23	40	monthly		4
21	28-Feb-05	Coliform	MPN/100mL	23	39	Mthly mdn		4
22	31-Mar-05	Coliform	MPN/100mL	23	130	Mthly mdn		4
23	28-Apr-05	Coliform	MPN/100mL	500	1600	daily		1
24	19-Jun-05	Coliform	MPN/100mL	500	1600	Daily		4
25	30-Jun-05	Coliform	MPN/100mL	23	37	Mthly mdn		4
26	12-Jul-05	Sett. Solids	mL/L	0.2	4	Daily		1
27	13-Jul-05	Coliform	MPN/100mL	500	1600	Daily		4
28	14-Jul-05	Chlorine	lbs/day	0.109	0.3	Daily	0.893	2
29	14-Jul-05	Chlorine	mg/L	0.02	0.04	Daily		2
30	21-Jul-05	Chlorine	lbs/day	0.109	0.43	Daily	**	2
31	21-Jul-05	Chlorine	mg/L	0.02	4.9	Daily		2
32	1-Aug-05	Chlorine	lbs/day	0.109	35.4	Daily	0.424	2
33	1-Aug-05	Chlorine	mg/L	0.02	10	Daily		2
34	2-Aug-05	Chlorine	lbs/day	0.109	17.4	Daily	0.463	2
35	2-Aug-05	Chlorine	mg/L	0.02	4.5	Daily		2
36	4-Aug-05	Chlorine	lbs/day	0.109	22	Daily	0.432	2
37	4-Aug-05	Chlorine	mg/L	0.02	5	Daily		2
38	10-Aug-05	Chlorine	lbs/day	0.109	23	Daily	0.452	2

Attachment A
City of Rio Vista and Eco Resources, Inc.
Beach (Main) WWTF
Record of Violations

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measure</u> <u>d</u>	<u>Period Type</u>	<u>Flow</u> <u>Rate*</u>	<u>Remarks</u>
39	10-Aug-05	Chlorine	mg/L	0.02	6.1	Daily		2
40	18-Aug-05	BOD	lbs/day	326	421	Daily	0.52	4
41	18-Aug-05	BOD	mg/L	60	97	Daily		1
42	20-Aug-05	BOD	lbs/day	244	421	Weekly	0.478	1
43	20-Aug-05	BOD	mg/L	45	97	Weekly		1
44	31-Aug-05	Chlorine	lbs/day	0.054	4	Monthly	0.452	2
45	31-Aug-05	Chlorine	mg/L	0.01	1.07	Monthly		2
46	2-Sep-05	Sett. Solids	mL/L	0.2	0.6	Daily		1
47	3-Sep-05	Coliform	MPN/100mL	500	1600	Daily		4
48	8-Sep-05	Coliform	MPN/100mL	500	1600	Daily		4
49	12-Sep-05	Sett. Solids	mL/L	0.2	0.3	Daily		1
50	30-Sep-05	Coliform	MPN/100mL	23	500	Monthly		4
51	31-Dec-05	Coliform	MPN/100mL	23	33	Monthly		4
52	31-Jan-06	Coliform	MPN/100mL	23	28	Monthly		4
53	1-May-06	Sett. Solids	mL/L	0.2	45	Daily		1
54	3-May-06	TSS	lbs/day	326	1213	Daily	0.535	1
55	3-May-06	TSS	mg/L	60	300	Daily		1
56	5-May-06	Sett. Solids	mL/L	0.2	1	Daily		1
57	6-May-06	TSS	lbs/day	244	644	Weekly	0.54	1
58	6-May-06	TSS	mg/L	45	159	Weekly		1
59	10-May-06	TSS	mg/L	60	62	Daily		4
60	12-May-06	Coliform	MPN/100mL	500	1600	Daily		4
61	13-May-06	TSS	mg/L	45	62	Weekly		4
62	18-May-06	Coliform	MPN/100mL	500	1600	Daily		4
63	25-May-06	Coliform	MPN/100mL	500	920	Daily		4
64	31-May-06	Coliform	MPN/100mL	23	1260	Monthly		4
65	31-May-06	TSS	lbs/day	163	365	Monthly	0.522	1
66	31-May-06	TSS	mg/L	30	84	Monthly		1
67	6-Jun-06	Sett. Solids	mL/L	0.2	0.6	Daily		1
68	15-Jun-06	Coliform	MPN/100mL	500	1600	Daily		4
69	22-Jun-06	Coliform	MPN/100mL	500	540	Daily		4
70	30-Jun-06	Coliform	MPN/100mL	23	90	Monthly		4
71	6-Jul-06	Coliform	MPN/100mL	500	1600	Daily		4
72	26-Jul-06	Coliform	MPN/100mL	500	1600	Daily		4
73	31-Jul-06	Coliform	MPN/100mL	23	170	Monthly		4
74	2-Aug-06	TSS	mg/L	60	72	Daily		4
75	5-Aug-06	TSS	mg/L	45	72	Weekly		1
76	16-Aug-06	TSS	lbs/day	244	258	Weekly	0.468	4
77	16-Aug-06	TSS	mg/L	60	66	Daily		4

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City of Rio Vista and Eco Resources, Inc.
Beach (Main) WWTF
Record of Violations

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measure</u> <u>d</u>	<u>Period Type</u>	<u>Flow Rate*</u>	<u>Remarks</u>
78	19-Aug-06	TSS	mg/L	45	66	Weekly		1
79	31-Aug-06	Coliform	MPN/100mL	23	110	Monthly		4
80	31-Aug-06	TSS	mg/L	30	42	Monthly		1
81	5-Sep-06	Coliform	MPN/100mL	500	540	Daily		4
82	7-Sep-06	TSS	mg/L	45	56	Weekly		4
83	12-Sep-06	Coliform	MPN/100mL	500	920	Daily		4
84	13-Sep-06	Coliform	MPN/100mL	500	1600	Daily		4
85	19-Sep-06	Coliform	MPN/100mL	500	920	Daily		4
86	20-Sep-06	Coliform	MPN/100mL	500	1600	Daily		4
87	26-Sep-06	Coliform	MPN/100mL	500	920	Daily		4
88	30-Sep-06	Coliform	MPN/100mL	23	64	Monthly		4
89	5-Oct-06	Coliform	MPN/100mL	500	1600	Daily		4
90	31-Oct-06	Coliform	MPN/100mL	24	28	Monthly		4
91	30-Nov-06	Coliform	MPN/100mL	23	33	Monthly		4
92	30-Jan-07	Coliform	MPN/100mL	23	33	Monthly		4
93	4-May-07	Coliform	MPN/100mL	500	540	Daily		3
94	10-May-07	Coliform	MPN/100mL	500	540	Daily		4
95	30-May-07	Coliform	MPN/100mL	23	220	Monthly		4
96	30-Jun-07	Coliform	MPN/100mL	23	49	Monthly		4
97	5-Jul-07	Coliform	MPN/100mL	500	1600	Daily		4
98	27-Jul-07	Coliform	MPN/100mL	500	540	Daily		4
99	31-Jul-07	Coliform	MPN/100mL	23	49	Monthly		4
100	30-Nov-07	Coliform	MPN/100mL	23	26	Monthly		4

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.
5. Mass rate limitation exceedances due only to wet weather not assessed MMPs pursuant to State Water Board Order WQO 2004-0013.

<u>VIOLATIONS AS OF:</u>	<u>12/31/2007</u>
Group I Serious Violations:	22
Group II Serious Violations:	14
Non-Serious Exempt from MPs:	10
Non-serious Violations Subject to MPs:	54
Mass Limit Violations Not Subject to MPs:	0
<u>Total Violations Subject to MPs:</u>	90

Mandatory Minimum Penalty = (36 Serious Violations + 54 Non-Serious Violations) x \$3,000 = \$270,000

* Arithmetic mean of all 1-day flow rates (in MGD) while discharging to surface waters during limitation period. Values greater than the design dry weather flow rate (0.65 MGD) are considered wet weather for purposes of applying SWRCB Order WQO 2004-0013.

Attachment A
City of Rio Vista and Eco Resources, Inc.
Beach (Main) WWTF
Record of Violations

** Exceeded chlorine residual for 30-minutes.