

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2014-0574

MANDATORY PENALTY
IN THE MATTER OF

CITY OF CHICO,
CHICO WATER POLLUTION CONTROL PLANT
BUTTE COUNTY

WDID NO. 5A040102001

This Administrative Civil Liability Complaint (Complaint) is issued to the City of Chico (Discharger), Chico Water Pollution Control Plant pursuant to California Water Code (Water Code) section 13385, which authorizes the imposition of Administrative Civil Liability, and Water Code section 13323, which authorizes the Assistant Executive Officer to issue this Complaint. This Complaint is based on findings that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Order No. R5-2010-0019 (NPDES No. CA0079081).

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

1. The Discharger owns and operates a secondary wastewater treatment plant. Treated wastewater is discharged from Discharge Point D-003 to the Sacramento River. The Sacramento River is a water of the United States.
2. On 29 January 2010, effective the same day, the Central Valley Water Board issued WDRs Order R5-2010-0019, which contained new requirements and rescinded WDRs Orders R5-2004-0073, except for enforcement purposes.
3. This Complaint addresses administrative civil liability for effluent violations that occurred during the period from 23 October 2013 through 27 October 2013. These violations are specifically identified in Attachment A to this Complaint and are incorporated herein by this reference.
4. On 14 August 2014 Central Valley Water Board staff issued the Discharger a Notice of Violation and draft Record of Violations for effluent limitation violations occurring during the period of 23 October 2013 through 27 October 2013.
5. Water Code sections 13385(h) and (i) require the assessment of mandatory penalties and state, in part, the following:

Water Code 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.

Water Code 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.

Water Code section 13385(i)(1) states

Notwithstanding any other provisions 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 requirements 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 California Water Code section 13260;
- c) files an incomplete report pursuant to California Water Code section 13260; or
- d) violates a toxicity effluent limitation contained in the applicable waste discharge pollutant-specific effluent limitations for toxic pollutants.

6. Water Code 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.

7. WDR's Order No. R5-2010-0019 Final Effluent Limitations IV.A. states, in part:

1. Final Effluent Limitations – Discharge Point No. D-001, D-002, and D-003
 - a. The Discharger shall maintain compliance with the following effluent limitations at Discharge Point No. D-001, D-002, and D-003, with compliance measured at Monitoring Location EFF-001 as described in the Monitoring and Reporting Program:

Table 6. Effluent Limitations

Parameter	Units	Effluent Limitation				
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
Total Residual Chlorine	mg/L	--	0.01 ³	0.02 ⁴		


³ 4-day average.
⁴ 1-hour average.

8. According to the Discharger's self-monitoring reports, the Discharger committed nineteen (19) serious Group II violations of the above effluent limitations contained in WDR Order No. R5-2010-0019, as shown in Attachment A. These violations are defined as serious because measured concentrations of Group II constituents exceeded the effluent limitation in the WDRs by 20 percent or more. The mandatory minimum penalty for these serious violations is three thousand dollars (\$3,000) per violation. However, an exceedance of a single effluent limitation based on an hourly average is assessed as no more than one mandatory minimum penalty per day.
9. Therefore, total amount of the mandatory penalties assessed for the alleged effluent violations is **twenty-one thousand dollars (\$21,000)**. As stated herein, a detailed list of the alleged effluent violations is included in Attachment A. The Complaint addresses administrative civil liability for violations that are specifically identified in Attachment A as subject to mandatory minimum penalties.
10. Issuance of this Administrative Civil Complaint to enforce Water Code Division 7, Chapter 5.5 is exempt from 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 subsection (a)(2).

CITY OF CHICO, CHICO WATER POLLUTION CONTROL PLANT IS HEREBY GIVEN NOTICE THAT:

1. The Executive Officer of the Central Valley Water Board proposes that the Discharger be assessed an Administrative Civil Liability in the amount of **twenty one thousand dollars (\$21,000)**.
2. A hearing on this matter will be conducted at the Central Valley Water Board meeting scheduled on **5/6 February 2015**, unless either of the following occurs by **5 December 2014**:
 - a) The Discharger waives its right to a hearing by completing the attached form (checking off the box next to Option #1) and returning it to the Central Valley Water Board, along with payment for the proposed civil liability of **twenty-one thousand dollars (\$21,000)**; or

- b) The Central Valley Water Board agrees to postpone the hearing after the Discharger waives its right to a hearing within 90-days of the date of this Complaint and requests to engage in settlement discussions by checking off the box next to Option #2 on the attached form, and returns it to the Board along with a letter describing the issues to be discussed; or
 - c) The Central Valley Water Board agrees to postpone the hearing after the Discharger waives its right to a hearing within 90-days of the date of this Complaint and requests a continuance by checking off the box next to Option #3 on the attached form, and returns it to the Board along with a letter describing the issues to be discussed.
3. If a hearing on this matter is conducted, 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.

 for

CLINT E. SNYDER, Assistant Executive Officer
11-7-2014

(date)

Attachment A: Record of Violations

**WAIVER FORM
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

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

I am duly authorized to represent the City of Chico, Chico Water Pollution Control Plant (Discharger) in connection with Administrative Civil Liability Complaint **R5-2014-0574** - (Complaint). 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. The person who has been issued a complaint may waive the right to a hearing."

(OPTION 1: Check here if the Discharger waives the hearing requirement and will pay in full.)

- a. I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board.
- b. I certify that the Discharger will remit payment for the proposed civil liability in the full amount of **twenty-one thousand dollars (\$21,000)** by check that references "ACL Complaint **R5-2014-0574**" made payable to the *State Water Pollution Cleanup and Abatement Account*. The check shall be sent to, "State Water Resources Control Board, Division of Administrative Services, ATTN: ACL Payment, P.O. Box 1888, Sacramento, California 95812-1888. Payment must be received by **5 December 2014**.
- c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after a 30-day public notice and comment period. Should the Central Valley Water Board receive significant 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. I also understand that approval of the settlement will result in the Discharger having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
- d. 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.

(OPTION 2: Check here if the Discharger waives the 90-day hearing requirement in order to engage in settlement discussions.) I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board within 90 days after service of the complaint, but I reserve the ability to request a hearing in the future. I certify that the Discharger will promptly engage the Central Valley Water Board Prosecution Team in settlement discussions to attempt to resolve the outstanding violation(s). By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing so that the Discharger and the Prosecution Team can discuss settlement. It remains within the discretion of the Central Valley Water Board to agree to delay the hearing. Any proposed settlement is subject to the conditions described above under "Option 1."

(OPTION 3: Check here if the Discharger waives the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines. Attach a separate sheet with the amount of additional time requested and the rationale.) I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board within 90 days after service of the complaint. By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing and/or hearing deadlines so that the Discharger may have additional time to prepare for the hearing. It remains within the discretion of the Central Valley Water Board to approve the extension.

(Print Name and Title)

(Signature)

(Date)

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2014-0574

CITY OF CHICO, CHICO WATER POLLUTION CONTROL PLANT

CALCULATION OF MANDATORY MINIMUM PENALTIES

RECORD OF VIOLATION (23 October 2013 – 27 October 2013) MANDATORY PENALTIES

(Data reported under Monitoring and Reporting Program No. R5-2010-0019)

Violation Date	Discharge Point	Pollutant/Parameter	Units	Effluent Limit	Analytical/Calculated Result	Percentage Over	Period	Violation Type	CIWQS Violation ID	MMP Amount
10/23/2013	D-003	Total Chlorine Residual	mg/L	0.02	0.27 (10 AM – 11 AM)	1,250	1-hour average	Serious Group II	974128	\$3,000
10/23/2013	D-003	Total Chlorine Residual	mg/L	0.02	4.32 (11 AM – 12 AM)	21,500	1-hour average	Serious Group II	960860	1
10/23/2013	D-003	Total Chlorine Residual	mg/L	0.02	1.22 (12 PM – 1 PM)	6,000	1-hour average	Serious Group II	974131	1
10/23/2013	D-003	Total Chlorine Residual	mg/L	0.02	0.11 (8 PM – 9 PM)	450	1-hour average	Serious Group II	974146	1
10/23/2013	D-003	Total Chlorine Residual	mg/L	0.02	0.35 (10 PM – 11 PM)	1,650	1-hour average	Serious Group II	974150	1
10/23/2013	D-003	Total Chlorine Residual	mg/L	0.02	1.07 (11 PM – 12 PM)	5,250	1-hour average	Serious Group II	974153	1
10/23/2013	D-003	Total Chlorine Residual	mg/L	0.01	0.07	600	4-day average	Serious Group II	960862	\$3,000
10/24/2013	D-003	Total Chlorine Residual	mg/L	0.02	0.82 (12 AM – 1 AM)	4,000	1-hour average	Serious Group II	974158	\$3,000
10/24/2013	D-003	Total Chlorine Residual	mg/L	0.02	0.39 (1 AM – 2 AM)	1,850	1-hour average	Serious Group II	974159	1
10/24/2013	D-003	Total Chlorine Residual	mg/L	0.02	2.78 (2 AM – 3 AM)	13,800	1-hour average	Serious Group II	974160	1
10/24/2013	D-003	Total Chlorine Residual	mg/L	0.02	4.99 (3 AM – 4 AM)	24,850	1-hour average	Serious Group II	960861	1

Violation Date	Discharge Point	Pollutant/Parameter	Units	Effluent Limit	Analytical/Calculated Result	Percentage Over	Period	Violation Type	CIWQS Violation ID	MMP Amount
10/24/2013	D-003	Total Chlorine Residual	mg/L	0.02	4.97 (4 AM – 5 AM)	24,750	1-hour average	Serious Group II	974161	1
10/24/2013	D-003	Total Chlorine Residual	mg/L	0.02	4.96 (5 AM – 6 AM)	24,700	1-hour average	Serious Group II	974162	1
10/24/2013	D-003	Total Chlorine Residual	mg/L	0.02	4.95 (6 AM – 7 AM)	24,650	1-hour average	Serious Group II	974163	1
10/24/2013	D-003	Total Chlorine Residual	mg/L	0.02	0.23 (7 AM – 8 AM)	2,200	1-hour average	Serious Group II	974164	1
10/24/2013	D-003	Total Chlorine Residual	mg/L	0.01	0.32	3,100	4-day average	Serious Group II	960863	\$3,000
10/25/2013	D-003	Total Chlorine Residual	mg/L	0.01	0.32	3,100	4-day average	Serious Group II	960864	\$3,000
10/26/2013	D-003	Total Chlorine Residual	mg/L	0.01	0.32	3,100	4-day average	Serious Group II	960865	\$3,000
10/27/2013	D-003	Total Chlorine Residual	mg/L	0.01	0.25	2,400	4-day average	Serious Group II	960866	\$3,000
									TOTAL:	\$21,000

¹ An exceedance of a single effluent limitation based on instantaneous maximums or hourly averages are assessed as no more than one mandatory minimum penalty per day.

Notes: Serious Group I: any waste discharge that exceeds the effluent limitations for a group I pollutant by 40% or more.

Serious Group II: any waste discharge that exceeds the effluent limitations for a group II pollutant by 20% or more.

Non-Serious Violation: A non-serious violation occurs if the discharger does any one of the following four or more times in any period of 180 days:

- (a) violates a WDR effluent limitation;
- (b) fails to file a report of waste discharge pursuant to California Water Code section 13260;
- (c) files an incomplete report of waste discharge pursuant to California Water Code section 13260; or
- (d) violates a whole effluent toxicity limitation where the WDRs do not contain pollutant-specific effluent limitations for any toxic pollutants.