

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2008-0523

MANDATORY PENALTY  
IN THE MATTER OF

CITY OF JACKSON  
WASTEWATER TREATMENT PLANT  
AMADOR COUNTY

This Complaint is issued to the City of Jackson (hereafter 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. 94-132 and 5-00-173 (NPDES No. CA0079391).

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 operates the City of Jackson Wastewater Treatment Plant (WWTP), which provides sewerage service to the City of Jackson in Amador County. Treated domestic, commercial and industrial wastewater is discharged to Jackson Creek a water of the United States, and tributary to Lake Amador.
2. On 20 May 1994, the Regional Water Board adopted Waste Discharge Requirements (WDRs) Order No. 94-132 to regulate discharges of waste from the WWTP. On 16 June 2000, the Regional Water Board adopted WDRs Order No. 5-00-173, which contained new requirements and rescinded Order No. 94-132. On 25 October 2007, the Regional Water Board adopted WDRs Order No. R5-2007-0133, which contained new requirements and rescinded Order No. 5-00-173.
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. 94-132 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>Daily Maximum</u>
Chlorine Residual	mg/L	--	--	0.02

6. WDRs Order No. 5-00-173 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>7-Day Median</u>	<u>Daily Maximum</u>
BOD <sup>1</sup>	mg/L	10 <sup>2</sup>	15 <sup>2</sup>		30 <sup>2</sup>
Total Suspended Solids	mg/L	10 <sup>2</sup>	15 <sup>2</sup>		30 <sup>2</sup>
Total Coliform	MPN/100mL			2.2	23
Turbidity <sup>4</sup>	NTU	2			5
Ammonia	mg-N/L	See Attachments A and B			
Nitrates (NO <sub>3</sub> ) <sup>5</sup>	mg/L	45			
<u>Total Chlorine Residual</u>	mg/L		0.01 <sup>6</sup>		0.02 <sup>7</sup>

<sup>1</sup> 5-day, 20°C biochemical oxygen demand (BOD)

<sup>2</sup> To be ascertained by a 24-hour composite

<sup>4</sup> Turbidity limit does not apply when the Jackson Creek flow provides a minimum 20:1 dilution. During these limited periods, the discharger must provide full secondary treatment and maximize the use of the filters. All other discharge limitations must be met.

<sup>5</sup> Nitrate limit becomes effective on 1 August 2002 in accordance with Provision No. 6.

<sup>6</sup> Four-day average.

<sup>7</sup> One-hour average

7. According to the Discharger's self-monitoring reports, the Discharger committed one (1) serious Group I violation of the above effluent limitations contained in Order Nos. 94-132 and 5-00-173 during the period beginning 1 January 2000 and ending 31 December 2007. The violation is defined as serious because the measured concentration of a Group I constituent exceeded maximum prescribed levels by more than 40 percent on this occasion. The mandatory minimum penalty for this serious violation is **three thousand dollars (\$3,000)**.
8. According to the Discharger's self-monitoring reports, the Discharger committed eight (8) serious Group II violations of the above effluent limitations contained in Order Nos. 94-132 and 5-00-173 during the period beginning 1 January 2000 and ending 30 November 2007. The violations are defined as serious because measured concentrations of Group II constituents exceeded maximum prescribed levels by more than 40 percent on these occasions. The mandatory minimum penalty for these serious violations is **twenty four thousand dollars (\$24,000)**.
9. According to the Discharger's self-monitoring reports, the Discharger committed seventy (70) non-serious violations of the effluent limitations contained in Order No 94-132 and Order No. 5-00-173 during the period beginning 1 January 2000 and ending 30 November 2007. Fifty-eight (58) 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 seventy-four thousand dollars (\$174,000)**.
10. The total amount of the mandatory penalties assessed for the cited effluent violations is **two hundred one thousand dollars (\$201,000)**. A detailed list of all the effluent violations is included in Attachment A, a part of this Complaint.
11. 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..."*
12. 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."*

13. Staff at the State Water Resources Control Board has determined that the City of Jackson Wastewater Treatment Plant is a publicly owned treatment works serving a small community.
14. The Discharger has spent \$234,000 on a compliance project to improve the wastewater treatment plant to correct the violations. The compliance project addressed the effluent violations for ammonia, BOD, chlorine residual, nitrate, total coliform, total suspended solids, and turbidity. 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).
15. The compliance project was performed in accordance with the State Water Resources Control Board Enforcement Policy.
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).

**THE CITY OF JACKSON 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 **two hundred one thousand dollars (\$201,000)**.
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.

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JACK E. DEL CONTE, Assistant Executive Officer

5 May 2008

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**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 Jackson (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint No. R5-2008-0523 (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 completion of the above compliance project 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.

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(Print Name and Title)

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(Signature)

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(Date)

**ATTACHMENT A  
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2008-0523**

**City of Jackson  
Wastewater Treatment Plant**

RECORD OF VIOLATIONS (1 January 2000 – 31 December 2007) MANDATORY PENALTIES  
(Data reported under Monitoring and Reporting Program Nos. 94-132, 5-00-173, and R5-2007-0133.)

	<u>Date</u>	<u>Constituent</u>	<u>Units</u>	<u>Limit</u>	<u>Result</u>	<u>Period</u>	<u>Remarks</u>
1	25-May-00	Chlorine	mg/L	0.02	0.04	1-hour	2
2	11-Oct-00	Coliform	L	2.2	5	7-day median	3
3	13-Oct-00	Coliform	L	23	130	Daily	3
4	13-Oct-00	Coliform	L	2.2	69	7-day median	4
5	16-Oct-00	Coliform	L	2.2	8	7-day median	4
6	30-Oct-00	Coliform	L	23	30	Daily	4
7	30-Oct-00	Coliform	L	2.2	8	7-day median	4
8	3-Nov-00	Coliform	L	23	130	Daily	4
9	3-Nov-00	Coliform	L	2.2	30	7-day median	4
10	6-Nov-00	Coliform	L	2.2	17	7-day median	4
11	8-Nov-00	Coliform	L	2.2	17	7-day median	4
12	13-Nov-00	Coliform	L	2.2	12.5	7-day median	4
13	15-Nov-00	Coliform	L	23	30	Daily	4
14	15-Nov-00	Coliform	L	2.2	26.5	7-day median	4
15	17-Nov-00	Coliform	L	2.2	23	7-day median	4
16	20-Nov-00	Coliform	L	2.2	4	7-day median	4
17	21-Nov-00	Coliform	L	2.2	9	7-day median	4
18	22-Nov-00	Coliform	L	2.2	6	7-day median	4
19	27-Nov-00	Coliform	L	2.2	8	7-day median	4
20	4-Dec-00	Coliform	L	2.2	4	7-day median	4
21	6-Dec-00	Coliform	L	2.2	8	7-day median	4
22	8-Dec-00	Coliform	L	2.2	4	7-day median	4
23	15-Dec-00	Coliform	L	23	2400	Daily	4
24	15-Dec-00	Coliform	L	2.2	22	7-day median	4
25	18-Dec-00	Coliform	L	2.2	22	7-day median	4

## ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2008-0523

City of Jackson WWTP.

## Record of Violations

	<u>Date</u>	<u>Constituen</u> <u>t</u>	<u>Units</u>	<u>Limit</u>	<u>Resul</u> <u>t</u>	<u>Period</u>	<u>Remarks</u>
26	20-Dec-00	Coliform	MPN/100m L	2.2	4	7-day median	4
27	3-Jan-01	Coliform	MPN/100m L	2.2	4	7-day median	4
28	5-Jan-01	Coliform	MPN/100m L	2.2	4	7-day median	4
29	12-Jan-01	Coliform	MPN/100m L	2.2	8	7-day median	4
30	16-Jan-01	Coliform	MPN/100m L	2.2	8	7-day median	4
31	17-Jan-01	Coliform	MPN/100m L	2.2	4	7-day median	4
32	19-Jan-01	Coliform	MPN/100m L	23	50	Daily	4
33	19-Jan-01	Coliform	MPN/100m L	2.2	4	7-day median	4
34	22-Jan-01	Coliform	MPN/100m L	2.2	8.5	7-day median	4
35	24-Jan-01	Coliform	MPN/100m L	2.2	13	7-day median	4
36	26-Jan-01	Coliform	MPN/100m L	23	26	Daily	4
37	26-Jan-01	Coliform	MPN/100m L	2.2	13	7-day median	4
38	29-Jan-01	Coliform	MPN/100m L	23	50	Daily	4
39	29-Jan-01	Coliform	MPN/100m L	2.2	26	7-day median	4
40	31-Jan-01	Coliform	MPN/100m L	23	27	Daily	4
41	31-Jan-01	Coliform	MPN/100m L	2.2	27	7-day median	4
42	2-Feb-01	Coliform	MPN/100m L	2.2	27	7-day median	4
43	5-Feb-01	Coliform	MPN/100m L	23	170	Daily	4
44	5-Feb-01	Coliform	MPN/100m L	2.2	27	7-day median	4
45	7-Feb-01	Coliform	MPN/100m L	2.2	23	7-day median	4
46	9-Feb-01	Coliform	MPN/100m L	2.2	23	7-day median	4
47	12-Feb-01	Coliform	MPN/100m L	23	110	Daily	4
48	12-Feb-01	Coliform	MPN/100m L	2.2	23	7-day median	4
49	14-Feb-01	Coliform	MPN/100m L	23	500	Daily	4
50	14-Feb-01	Coliform	MPN/100m L	2.2	110	7-day median	4
51	16-Feb-01	Coliform	MPN/100m L	23	110	Daily	4
52	16-Feb-01	Coliform	MPN/100m L	2.2	110	7-day median	4
53	20-Feb-01	Coliform	MPN/100m	2.2	110	7-day median	4

## ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2008-0523

City of Jackson WWTP.

## Record of Violations

	<u>Date</u>	<u>Constituen</u> <u>t</u>	<u>Units</u>	<u>Limit</u>	<u>Resul</u> <u>t</u>	<u>Period</u>	<u>Remarks</u>
			L				
54	7-Mar-01	Coliform	MPN/100m L	23	30	Daily	4
55	15-Apr-02	Coliform	MPN/100m L	23	30	Daily	3
56	26-Jul-02	Coliform	MPN/100m L	23	26	Daily	3
57	16-Dec-02	Coliform	MPN/100m L	23	500	Daily	3
58	18-Dec-02	Coliform	MPN/100m L	23	30	Daily	3
59	8-Jan-03	Coliform	L	2.2	3	7-day median	4
60	6-Feb-03	Chlorine	mg/L	0.02	0.066	1-hour	2
			MPN/100m				
61	4-Apr-03	Coliform	L	23	47	Daily	4
62	8-May-03	Chlorine	mg/L	0.02	0.5	1-hour	2
63	14-Jun-04	Chlorine	mg/L	0.02	0.12	1-hour	2
64	31-Aug-04	BOD	mg/L	30	41	Daily	3
65	31-Aug-04	TSS	mg/L	30	31	Daily	3
66	2-Sep-04	BOD	mg/L	15	25	Weekly	1
67	2-Sep-04	TSS	mg/L	15	16	Weekly	4
68	4-Oct-04	Chlorine	mg/L	0.02	1.2	1-hour	2
69	1-Nov-04	Turbidity	NTU	5	26	Daily	4
70	30-Nov-04	Ammonia	mg/L	5.4	6.3	Monthly	4
71	30-Nov-04	Turbidity	NTU	2	5	Monthly	4
			MPN/100m				
72	24-Mar-05	Coliform	L	23	50	Daily	4
73	30-Jun-05	Chlorine	mg/L	0.02	0.4	1-hour	2
74	19-Dec-05	Chlorine	mg/L	0.02	0.07	1-hour	2
75	31-Dec-05	Chlorine	mg/L	0.02	3	1-hour	2
76	30-Nov-06	Nitrate	mg/L	45	48	Monthly	3
77	31-Dec-06	Nitrate	mg/L	45	46	Monthly	3
78	28-Feb-07	Nitrate	mg/L	45	48	Monthly	3
79	31-Oct-07	Nitrate	mg/L	45	47	Monthly	3

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:	1
Group 2 Serious Violations:	8
Non-Serious Exempt from MPs:	12
Non-serious Violations Subject to MPs:	58
<b><u>Total Violations Subject to MMPs:</u></b>	<b><u>67</u></b>

**Mandatory Minimum Penalty = (9 Serious Violations + 58 Non-Serious Violations) x \$3,000 = \$201,000**