

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2010-0530

MANDATORY PENALTY
IN THE MATTER OF

SAN ANDREAS SANITARY DISTRICT
WASTEWATER TREATMENT PLANT
CALAVERAS COUNTY

This Order is issued to the San Andreas Sanitary District (hereafter Discharger) pursuant to California Water Code (CWC) section 13385, which authorizes the imposition of Administrative Civil Liability. This Order is based on findings that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Orders R5-2003-0151, and R5-2009-0008 (NPDES No. CA0079464).

The Assistant 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 domestic wastewater collection, treatment, and disposal system, and provides sewerage service to the community of San Andreas, in Calaveras County. Secondary treated effluent is discharged solely to a designated land disposal area from 1 May through 31 October of each year. Between 1 November and 30 April each year, the secondary treated effluent is discharged to the land disposal area to the extent feasible. Treated effluent that cannot be discharged to land is discharged to the North Fork of the Calaveras River, a water of the United States
2. On 17 October 2003, the Central Valley Water Board issued WDRs Order R5-2003-0151 to regulate discharges of waste from the wastewater treatment plant. On 5 February 2009, effective 27 March 2009, the Board issued WDRs Order R5-2009-0007, which contained new requirements and rescinded Order R5-2003-0151.
3. On 5 February 2009, the Central Valley Water Board adopted Cease and Desist Order (CDO) R5-2009-0008, which provided a time schedule until 1 February 2014 to comply with new effluent limitations for copper and zinc. This Order considers the protection from Mandatory Minimum Penalties provided by CDO R5-2009-0008.
4. On 30 April 2009, the Executive Officer of the Central Valley Water Board issued Administrative Civil Liability (ACL) Order R5-2009-0524. The ACL Order charged the Discharger with civil liability in the amount of \$48,000, which represented the sum of the statutory Mandatory Minimum Penalties (MMPs) for effluent limitation violations that occurred at the facility from 1 January 2000 to 31 December 2008. The ACL Order provides that, if the Discharger completes its Compliance Project by 1 April 2011, the Board shall consider the entire \$48,000 penalty satisfied.
5. This Order charges the Discharger with civil liability for MMPs for effluent limitation violations that occurred at the WWTP from 1 January 2009 through 30 April 2010, and

allows the penalties to be applied to the same compliance project described in ACL Order R5-2009-0524.

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 No. R5-2003-0151 Effluent Limitations No. B.3., include, in part, the following effluent limitations:

Effluent discharged to the Calaveras River shall not exceed the following limits:

<u>Constituents</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Weekly Average</u> ¹³	<u>Monthly Median</u>	<u>Daily Maximum</u> ¹³
Copper (Total)	µg/L	4			4
	lbs/day	5			5
Zinc (Total)	µg/L	6			6
	lbs/day	7			7
Aluminum (Total)	µg/L	216			373
	lbs/day	2.7			4.7

⁴ Calculate limit based upon Attachment D. Final effluent limitation effective 1 October 2008.

⁵ Calculate limit based upon Attachment D, where (x mg/L x 8.34 x 1.5 mgd = y lbs/day). Final effluent limitation effective 1 October 2008.

⁶ Calculate limit based upon Attachment F. Final effluent limitation effective 1 October 2008.

⁷ Calculate limit based upon Attachment F, where (x mg/L x 8.34 x 1.5 mgd = y lbs/day). Final effluent limitation effective 1 October 2008.

¹³ Except as noted.

Note: Attachment D is a table titled "Example SIP Section 1.4 Maximum Daily Effluent Limitations (MDEL's) and Average Monthly Effluent Limitations (AMEL's) for total Copper discharged to the Calaveras River...."

Note: Attachment F is a table titled: "Example SIP Section 1.4 Maximum Daily Effluent Limitations (MDEL's) and Average Monthly Effluent Limitations (AMEL's) for total Zinc discharged to the Calaveras River...."

9. WDRs Order R5-2003-0151 Effluent Limitations B.5 states: "The discharge shall not have a pH less than 6.5 nor greater than 8.5."

10. WDRs Order R5-2009-0007 Effluent Limitations IV.A.1.a. states, in part,

The discharger shall maintain compliance with the effluent limitations specified in Table 6:

Table 6. Effluent Limitations

Parameter	Units	Effluent Limitations				
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
Conventional Pollutants						
Biochemical Oxygen Demand (5-day @20 C)	mg/L	30	45	60	--	--
pH	s.u.	--	--	--	6.5	8.5
Total suspended Solids (TSS)	mg/L	30	45	60	--	--
Non-Conventional Pollutants						
Settleable Solids	mL/L	0.1	--	0.2	--	--

11. WDRs Order R5-2009-0007 Effluent Limitations IV.A.1.b. states:

b. Percent Removal: The average monthly percent removal of BOD₅ and TSS shall not be less than 85 percent.

12. WDRs Order R5-2009-0007 Effluent Limitations IV.A.1.e. states:

b. Total Residual Chlorine: Effluent total residual chlorine shall not exceed:

i. 0.011 mg/L, as a 4-day average; and

- ii. 0.019 mg/L, as a 1-hour average.
13. According to the Discharger's self-monitoring reports, the Discharger committed three (3) serious Group I violations of the above effluent limitations contained in Orders R5-2003-0151 and R5-2009-0007 during the period beginning 1 January 2009 and ending 30 April 2010. 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 **nine thousand dollars (\$9,000)**.
 14. According to the Discharger's self-monitoring reports, the Discharger committed thirteen (13) serious Group II violations of the above effluent limitations contained in Orders R5-2003-0151 and R5-2009-0007 during the period beginning 1 January 2009 and ending 30 April 2010. 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 **thirty-nine thousand dollars (\$39,000)**.
 15. According to the Discharger's self-monitoring reports, the Discharger committed fifteen (15) non-serious violations of the above effluent limitations contained in Orders R5-2003-0151 and R5-2009-0007 during the period beginning 1 January 2009 and ending 30 April 2010. Thirteen (13) 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 **thirty-nine thousand dollars (\$39,000)**.
 16. The total amount of the mandatory penalties assessed for the cited effluent violations is **eighty-seven thousand dollars (\$87,000)**. A detailed list of the cited effluent violations is included in Attachment A, a part of this Order.
 17. CWC section 13385 (k) states:
 - (1) 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, if the state board or the regional board finds all of the following:
 - (A) The compliance project is designed to correct the violations within five years.
 - (B) The compliance project is in accordance with the enforcement policy of the state board, excluding any provision in the policy that is inconsistent with this section.
 - (C) The publicly owned treatment works has prepared a financing plan to complete the compliance project.
 - (2) 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.

18. On 4 September 2008, the Executive Director of the State Water Resources Control Board transmitted a memorandum determining that the San Andreas Sanitary District Wastewater Treatment Plant is a publicly owned treatment works serving a small community within the meaning of CWC section 13385(k)(2).
19. The Discharger submitted a letter dated 18 November 2008 and an email dated 8 January 2009, which indicated it is in the process of spending \$11,056,000, from a State Revolving Fund Loan, on a Compliance Project to construct a new wastewater treatment plant designed to bring the facility into compliance with its NPDES permit, and therefore correct the violations within five years. The project will include a new process feed pump station, a biological reactor, blowers, a secondary clarifier, rapid mix, flocculation basins, filters, and disinfection system improvements. The letter and email, which provided the project outline, financing plan, and project schedule, are incorporated into this Order by reference. When the compliance project is completed, the Discharger will have expended in excess of the mandatory minimum penalties that have been assessed pursuant to CWC sections 13385(h) and (i).
20. As described in Finding No. 4, the Discharger was allowed to apply its previous \$48,000 in mandatory penalties toward the above Compliance Project. This Order allows \$87,000 in mandatory penalties to be applied to the same Compliance Project. Because the Project cost approximately \$11 million in non-grant funds, applying a total of \$135,000 in mandatory penalties toward the cost of the project complies with CWC 13385(k) and the Enforcement Policy.
21. The Central Valley Water Board finds the Compliance Project has been designed to correct the violations that have led to the issuance of this Administrative Civil Liability Order within five years, that the project is in accordance with the enforcement policy of the State Water Board, and that the Discharger has developed an appropriate financing plan to complete the project.
22. On 23 April 2009, the Central Valley Water Board delegated the authority to issue Administrative Civil Liability Orders, where the matter is not contested by the Discharger, to the Executive Officer, or to an Assistant Executive Officer when the Executive Officer is serving as head of the Board's Prosecution Team (Resolution R5-2009-0027). Executive Officer Pamela Creedon is serving as the head of the Board's Prosecution Team for this matter, and therefore, Assistant Executive Officer Kenneth Landau has the authority to issue this Order.
23. This Order constitutes a settlement of the violations herein mentioned. Notice of this settlement was published on the Central Valley Water Board's website, and was provided to all interested parties. The 30-day public notice and comment period mandated by Federal regulations (40 CFR 123.27) has expired.

24. Issuance of this Administrative Civil Liability Order 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).

IT IS HEREBY ORDERED THAT:

1. The San Andreas Sanitary District, its agents, successors and assigns, shall be assessed an Administrative Civil Liability in the amount of **eighty-seven thousand dollars (\$87,000)**.
2. The entire \$87,000 penalty shall be considered satisfied through the expenditure of an equivalent or greater amount on the completion of the compliance project described in Finding 19, if the Discharger complies with the following time schedule:

<u>Task</u>	<u>Compliance Date</u>
Complete construction of the new wastewater treatment plant	1 January 2011
Submit final project report describing whether the project goals, costs, milestones, and completion dates have been met. Submit final documentation of project costs.	1 April 2011
Achieve Full Compliance	1 April 2011

3. A progress report shall be submitted on or before each of the above compliance dates. The report shall describe the work undertaken to comply with this Order.
4. The Assistant Executive Officer may extend the abovementioned deadlines if the Discharger demonstrates that unforeseeable contingencies have created delays, provided that the Discharger continues to undertake all appropriate measures to meet the deadlines. The Discharger shall make any deadline extension request in writing. Under no circumstances may the completion of the Compliance Project extend past five years from the issuance of this Order.
5. The Discharger must obtain explicit approval from the Assistant Executive Officer for any significant departures from the project outline submitted on 18 November 2008 and project schedule submitted on 8 January 2009. Failure to obtain approval for any significant departures will result in the assessment of the full amount of the suspended mandatory minimum penalty.
6. If, in the judgment of the Assistant Executive Officer, the Discharger fails to complete the compliance project in accordance with the specified time schedule or fails to construct the Compliance Project in accordance with the Proposal without obtaining Central Valley Water Board approval, the suspended mandatory minimum penalty (\$87,000) must be paid within 30 days of notification by the Assistant Executive Officer of such failure.

7. Should the Discharger fail to take any of the above actions, the Assistant Executive Officer may refer the matter to the State Attorney General for enforcement of the terms of this Order.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with CWC section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date that this Order becomes final, except that if the thirtieth day following the date that this Order becomes final falls on a Saturday, Sunday, or state holiday (including mandatory furlough days), the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

http://www.waterboards.ca.gov/public_notices/petitions/water_quality

or will be provided upon request.

Original signed by

KENNETH D. LANDAU, Assistant Executive Officer

1 July 2010

DATE

Attachment A: Record of Violations
BLH: 28 Jun 10

**ATTACHMENT A
TENTATIVE ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2010-0530**

**San Andreas Sanitary District
Wastewater Treatment Plant**

RECORD OF VIOLATIONS (1 January 2009 – 30 April 2010) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Programs R5-2003-0151 and R5-2009-0007)

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measured</u>	<u>Period Type</u>	<u>Remarks</u>	<u>CIWQS</u>
Violations of Order R5-2003-0151								
1	7-Jan-09	Copper	µg/L	10.9	41	Daily	2	830049
2	7-Jan-09	Zinc	µg/L	95.9	132	Daily	2	830052
3	14-Jan-09	Copper	µg/L	10.1	32	Daily	2	830050
4	17-Jan-09	Zinc	µg/L	89.5	140	Daily	2	830053
5	20-Jan-09	pH	s.u.	6.5	6.4	Minimum	3	817155
6	31-Jan-09	Copper	µg/L	5.2	37	Monthly	2	830051
7	31-Jan-09	Zinc	µg/L	46.2	136	Monthly	2	830056
8	31-Jan-09	Aluminum	µg/L	216	224	Monthly	4	830058
9	4-Feb-09	Copper	µg/L	5.6	35	Daily	2	816653
10	4-Feb-09	Copper	lbs/day	0.07	0.08	Daily	4	816654
11	4-Feb-09	Zinc	µg/L	48.8	125	Daily	2	816665
12	11-Feb-09	Aluminum	µg/L	373	639	Daily	1	816643
13	28-Feb-09	Aluminum	µg/L	216	503	Monthly	1	816650
Violations of Order R5-2009-0007								
14	14-Apr-09	Chlorine Res.	mg/L	0.019	0.02	Daily	4	824050
15	13-Jan-10	Sett. Sol.	mL/L	0.2	0.6	Daily	1	866756
16	16-Jan-10	TSS	mg/L	45	50	Weekly	3	866757
17	17-Jan-10	Chlorine Res.	mg/L	0.019	0.080	1-hr avg	2	866758
18	17-Jan-10	Chlorine Res.	mg/L	0.011	0.025	4-day avg	2	866759
19	18-Jan-10	Chlorine Res.	mg/L	0.011	0.028	4-day avg	2	866760
20	19-Jan-10	Chlorine Res.	mg/L	0.011	0.025	4-day avg	2	866761
21	20-Jan-10	Chlorine Res.	mg/L	0.011	0.025	4-day avg	2	866762
22	31-Jan-10	TSS	mg/L	30	32	Monthly	4	866763
23	31-Jan-10	TSS	% removal	85	74	Monthly	4	866764
24	31-Jan-10	BOD	% removal	85	79	Monthly	4	866765
25	31-Jan-10	Sett. Sol.	mL/L	0.1	0.2	Monthly	4	866766
26	18-Feb-10	pH	pH units	6.5	6.4	Minimum	4	869822
27	31-Mar-10	BOD	mg/L	60	68	Daily	4	869823
28	31-Mar-10	BOD	mg/L	45	68	Weekly	4	869824
29	31-Mar-10	BOD	mg/L	30	32	Monthly	4	869825
30	30-Apr-10	TSS	mg/L	30	31	Monthly	4	869826
31	30-Apr-10	TSS	% removal	85	84	Monthly	4	869827

ATTACHMENT A
TENTATIVE ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2010-0530

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 violation 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>4/30/2010</u>
Group 1 Serious Violations:	3
Group 2 Serious Violations:	13
Non-Serious Exempt from MPs:	2
Non-serious Violations Subject to MPs:	13
<u>Total Violations Subject to MPs:</u>	<u>29</u>

Mandatory Minimum Penalty = (16 Serious Violations + 13 Non-Serious Violations) x \$3,000 = \$87,000