

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2007-0506

MANDATORY PENALTY  
IN THE MATTER OF

GAYLORD CONTAINER CORPORATION  
ANTIOCH PAPER AND PULP MILL  
CONTRA COSTA COUNTY

This Complaint is issued to the Gaylord Container Corporation, Antioch Paper and Pulp Mill, (hereafter Discharger) based on a finding of violations of Waste Discharge Requirements Order Nos. 97-027 and R5-2003-0073 (NPDES No. CA0004847), pursuant to California Water Code (CWC) section 13385, subdivision (h), and (i), which authorize the imposition of Administrative Civil Liability, and CWC Section 13323, which authorizes the Executive Officer to issue this Complaint.

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

1. The Discharger owns and operates the Antioch Paper and Pulp Mill. Gaylord ceased operation of the paper mill but continued generating electricity for sale to Pacific Gas and Electric Company. The Discharger discharged single pass non-contact cooling water into the San Joaquin River.
2. On 28 February 1997, the Regional Water Board adopted WDRs Order No. 97-027 (NPDES No. CA0004847).
3. On 25 April 2003, the Regional Water Board rescinded WDRs Order No. 97-027 and adopted WDRs Order No. R5-2003-0073 (NPDES No. CA0004847) to regulate discharges of waste from the facility
4. On 24 June 2006, The Regional Water Board rescinded WDRs order No. R5-2003-0073 (NPDES No. CA0004847) except for enforcement purposes.
5. CWC section 13385(h) and (i) require assessment of mandatory penalties and state, in part, the following:

*CWC section 13385(h)(1): 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): 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): *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.”*

6. 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.*

7. WDRs Order No. 97-027 includes Effluent Limitations B.1.b., which states, in part, the following:

| <u>Constituents</u> | <u>Units</u> | <u>30-day Average</u> | <u>Daily Maximum</u> |
|---------------------|--------------|-----------------------|----------------------|
| Settleable Solids   | mL/1000 mL   | 0.1                   | 0.5                  |

8. WDR Order No. R5-2003-0073 includes, Effluent Limitations B.1., that states, in part, the following:

*The effluent shall not exceed the following limits:*

| <u>Constituents</u>                 | <u>Units</u> | <u>4-day average</u> | <u>Monthly Average</u> | <u>Daily Maximum</u> |
|-------------------------------------|--------------|----------------------|------------------------|----------------------|
| Aluminum <sup>5</sup>               | µg/L         | 87                   |                        | 750                  |
| Aluminum <sup>5</sup>               | lbs/day      | 10.9                 |                        | 93.8                 |
| Chloride <sup>5</sup>               | mg/L         |                      | 150                    | 860                  |
| Chloride <sup>5</sup>               | lbs/day      |                      | 18,775                 | 107,655              |
| Conductivity <sup>5</sup>           | µmhos/cm     |                      | 450 <sup>1</sup> /700  |                      |
| Iron <sup>5</sup>                   | µg/L         |                      | 300                    |                      |
| Iron <sup>5</sup>                   | lbs/day      |                      | 37.6                   |                      |
| Total Dissolved Solids <sup>5</sup> | mg/L         |                      | 450                    |                      |
| Total Dissolved Solids <sup>5</sup> | lbs/day      |                      | 56,325                 |                      |

<sup>1</sup> This 450 µmhos/cm EC limit is only applicable between 1 April and 20 June.

<sup>5</sup> At times when intake San Joaquin River water concentrations are above these limits, then the effluent limitation for this constituent shall become the detected mass and concentration found in the intake water (San Joaquin River and Contra Costa Canal) plus a statistical error bar of 10% to account for sampling and analytical variations. To determine compliance with this effluent limitation, concurrent monitoring of the intake (San Joaquin River and Contra Costa Canal) water and effluent shall be conducted.

9. According to monitoring reports submitted by the Discharger, the Discharger committed five (5) Group I serious violations during the period beginning 1 December 2001 and ending on 31 March 2006. The mandatory penalty for these serious Group I violations is **fifteen thousand dollars (\$15,000)**.
10. According to monitoring reports submitted by the Discharger, the Discharger committed eleven (11) non-serious violations during the period beginning 1 December 2001 and ending on 31 March 2006. The mandatory penalty for these non-serious violations is **thirty-three thousand dollars (\$33,000)**.
11. The total mandatory penalty for serious and non-serious violations is **forty-eight thousand dollars (\$48,000)**. A detailed list of all violations is included in Attachment A, a part of this Order.
12. 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 (Public Resources Code section 21000, et. seq.), in accordance with Title 14 California Code of Regulations, Enforcement Actions by Regulatory Agencies, Section 15321(a)(2).

**GAYLORD CONTAINER CORPORATION IS HEREBY GIVEN NOTICE THAT:**

1. The Executive Officer of the Regional Water Board proposes that the Discharger be assessed a mandatory penalty in the amount of **forty-eight thousand dollars (\$48,000)**.
2. A hearing shall be held by the Regional Water Board on **21/22 June 2007**, unless the Discharger agrees to:
  - a. Waive the hearing and pay the mandatory penalty of **forty-eight thousand dollars (\$48,000)** in full; or
  - b. Waive the right to a hearing in 90 days, and submit a settlement proposal **within 30 days** of this Complaint that includes an agreement to conduct a supplemental environmental project (SEP) and also includes payment of monetary liability. The Discharger may preserve its right to a hearing pending approval of the settlement proposal.
3. 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 liability.

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MANDATORY PENALTY GAYLORD CONTAINER CORPORATION  
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PAMELA C. CREEDON, Executive Officer

21 March 2007

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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 Gaylord Container Corporation (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint No. R5-2007-0506 (hereinafter the "Complaint");
2. I am informed of the right provided by Water Code section 13323, subdivision (b), to a hearing within ninety (90) days of issuance 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; and
4. I certify that the Discharger will remit payment for the civil liability imposed in the amount of \$48,000 by check, which contains a reference to "ACL Complaint No. R5-2007-0506" and is made payable to the "*State Water Pollution Cleanup and Abatement Account.*"
5. I understand the payment of the above amount constitutes a settlement of the Complaint that will not become final until after a public comment period.
6. I understand that the Executive Officer has complete discretion to modify or terminate this settlement.
7. 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.

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(Print Name and Title)

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(Signature)

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(Date)

# ATTACHMENT A

## Gaylord Container Corporation

### Wastewater Treatment Plant

RECORD OF VIOLATIONS (1 Dec 2001 – 31 March 2006) MANDATORY PENALTIES  
(Data reported under Monitoring and Reporting Program No. R5-2003-0073)

|    | <u>Date Occurred</u> | <u>Violation Type</u>   | <u>Limit</u>   | <u>Measured</u> | <u>Period Type</u> | <u>Remarks</u> |
|----|----------------------|-------------------------|----------------|-----------------|--------------------|----------------|
| 1  | 12/4/2001            | Settleable Solids       | 0.5 mL/L       | 44 mL/L         | Daily              | 1              |
| 2  | 12/31/2001           | Settleable Solids       | 0.1 mL/L       | 8.8 mL/L        | Monthly            | 1              |
| 3  | 5/27/2004            | Aluminum                | 87 µg/L        | 360 µg/L        | 4-Day              | 1              |
| 4  | 5/27/2004            | Aluminum                | 10.9 lbs/day   | 21 lbs/day      | 4-Day              | 1              |
| 5  | 5/27/2004            | Iron                    | 300 µg/L       | 630 µg/L        | Monthly            | 1              |
| 6  | 7/31/2004            | Electrical Conductivity | 1,317 µmhos/cm | 1,494 µmhos/cm  | Monthly            | 4              |
| 7  | 8/31/2004            | Electrical Conductivity | 1,474 µmhos/cm | 1,752 µmhos/cm  | Monthly            | 4              |
| 8  | 9/23/2004            | Aluminum                | 286 µg/L       | 350 µg/L        | 4-Day              | 4              |
| 9  | 9/23/2004            | Aluminum                | 29 lbs/day     | 35 lbs/day      | 4-Day              | 4              |
| 10 | 9/23/2004            | Chloride                | 473 mg/L       | 490 mg/L        | Monthly            | 4              |
| 11 | 9/23/2004            | Chloride                | 52,900 lbs/day | 54,800 lbs/day  | Monthly            | 4              |
| 12 | 9/23/2004            | Total Dissolved Solids  | 715            | 954             | Monthly            | 4              |
| 13 | 9/23/2004            | Total Dissolved Solids  | 80,000 lbs/day | 107,000 lbs/day | Monthly            | 4              |
| 14 | 9/30/2004            | Electrical Conductivity | 2,407 µmhos/cm | 2,890 µmhos/cm  | Monthly            | 4              |
| 15 | 10/30/2004           | Iron                    | 561 µg/L       | 570 µg/L        | Monthly            | 4              |
| 16 | 10/30/2004           | Electrical Conductivity | 2,473 µmhos/cm | 2,865 µmhos/cm  | Monthly            | 4              |

#### 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>06/14/2006</u> |
|---|-------------------|
| Group 1 Serious Violations:             | 5                 |
| Group 2 Serious Violations:             | 0                 |
| Non-serious Violations Exempt from MPs: | 0                 |
| Non-serious Violations Subject to MPs:  | 11                |

**Total Violations Subject to MPs: 16**

**Mandatory Minimum Penalty = (5 Serious Violations + 11 Non-Serious Violations) x \$3,000 = \$48,000**