

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2008-0502

MANDATORY PENALTY
IN THE MATTER OF

EL DORADO IRRIGATION DISTRICT
DEER CREEK WASTEWATER TREATMENT PLANT
EL DORADO COUNTY

This complaint is issued to the El Dorado Irrigation District (hereafter Discharger) pursuant to California Water Code (CWC) section 13385, which authorizes the imposition of Administrative Civil Liability, 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. 99-130 and R5-2002-0210 (NPDES No. CA0078662).

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

1. The Discharger owns and operates the El Dorado Irrigation District, Deer Creek Wastewater Treatment Plant (WWTP), which provides sewerage service to Cameron Park and the Mother Lode Service Area in El Dorado County. Treated domestic, commercial and industrial wastewater is discharged to Deer Creek, a water of the United States, and tributary to the Cosumnes River.
2. On 17 September 1999, the Regional Water Board adopted WDRs Order No. 99-130 to regulate discharges of waste from the WWTP. On 6 December 2002, the Regional Water Board adopted WDRs Order No. R5-2002-0210, rescinding Order No. 99-130. On 25 January 2007, the Regional Water Board amended the waste discharge requirements and the monitoring and reporting program. The WDRs include effluent limitations and other requirements regarding the waste 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. WDRs Order No. 99-130 Effluent Limitations No. B.3. include, in part, the following effluent limitations:

<u>Constituent</u>	<u>Unit</u>	<u>7-Day Median</u>	<u>30-Day Maximum</u>
Total Coliform Organisms	MPN/100mL	2.2 ¹	23 ²

¹ 7-Day Median based on previous seven daily sample results

² Exceed no more than one time in any 30-day period.

6. WDRs Order No. R5- 2002-0210 Effluent Limitations No. B.1. include, in part, the following effluent limitations:

<u>Constituent</u>	<u>Unit</u>	<u>Weekly Average</u>	<u>1-hour Average</u>	<u>7-Day Median</u>	<u>Daily Maximum</u>
Chlorine Residual	mg/L	0.01	0.02		
Total Coliform Organisms	MPN/100mL			2.2	23 ⁶

⁶ 7-day median is based on the previous seven daily sample results. The total coliform organisms concentration shall not exceed 23 MPN/100 mL more than once in any 30-day period. No sample shall exceed a concentration of 240 MPN/100 mL.

7. According to the Discharger’s self-monitoring reports, the Discharger committed one (1) serious violation of the effluent limitations contained in Order No. R5- 2002-0210 during the period beginning 6 December 2002 and ending 30 November 2007, because the

measured constituent exceeded maximum prescribed levels by more than 20 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 thirteen (13) non-serious violations of the effluent limitations contained in Order Nos. 99-130 and Order No. R5-2002-0210 during the period beginning 1 January 2000 and ending 30 November 2007. Seven (7) 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 **twenty-one thousand dollars (\$21,000)**.
9. The total amount of the mandatory penalties assessed for the cited effluent violations is **twenty-four thousand dollars (\$24,000)**. A detailed list of the cited effluent violations is included in Attachment A, a part of this Order.
10. 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).

EL DORADO IRRIGATION DISTRICT 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 **twenty-four thousand dollars (\$24,000)**.
2. A hearing on this matter will be held at the Regional Water Board meeting scheduled on 24/25 April 2008, unless the Discharger agrees to:
 - a) Waive the hearing by completing the attached form and returning it to the Regional Water Board; and
 - b) Pay the proposed civil liability of **twenty-four thousand dollars (\$24,000)** in full.
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 civil liability.

KENNETH D. LANDAU, Assistant Executive Officer

6 February 2008

WAIVER OF HEARING FOR

ATTACHMENT A
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2008-0502

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT

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

1. I am duly authorized to represent El Dorado Irrigation District (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint No. R5-2008-0502 (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 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, within ninety (90) days of the date of issuance of the Complaint; and
4. I certify that the Discharger will remit payment for the civil liability imposed in the amount of **twenty four thousand dollars (\$24,000)** by check, which contains a reference to "ACL Complaint No. R5-2008-0502" 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 violations alleged in the Complaint that will not become final until after a public comment period.
6. I understand that the Assistant 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.

(Print Name and Title)

(Signature)

(Date)

**ATTACHMENT A
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2008-0502**

**EI Dorado Irrigation District
Deer Creek Wastewater Treatment Plant**

RECORD OF VIOLATIONS (1 January 2000 – 30 November 2007) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Program Nos. 99-130 and R5-2002-0210)

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measured</u>	<u>Period Type</u>	<u>Remarks</u>
1	12/2/2001	Coliform	MPN/100 mL	2.2	4	7-day	3
2	12/3/2001	Coliform	MPN/100 mL	2.2	4	7-day	3
3	12/4/2001	Coliform	MPN/100 mL	2.2	4	7-day	3
4	12/19/2001	Coliform	MPN/100 mL	2.2	4	7-day	4
5	12/20/2001	Coliform	MPN/100 mL	2.2	4	7-day	4
6	12/21/2001	Coliform	MPN/100 mL	2.2	4	7-day	4
7	12/22/2001	Coliform	MPN/100 mL	2.2	4	7-day	4
8	1/12/2006	Coliform	MPN/100 mL	2.2	4	7-day	3
9	1/13/2006	Coliform	MPN/100 mL	2.2	4	7-day	3
10	1/14/2006	Coliform	MPN/100 mL	2.2	4	7-day	3
11	1/15/2006	Coliform	MPN/100 mL	2.2	4	7-day	4
12	1/16/2006	Coliform	MPN/100 mL	2.2	4	7-day	4
13	1/17/2006	Coliform	MPN/100 mL	2.2	4	7-day	4
14	3/1/2006	Chlorine Res.	mg/L	0.02	0.05	1-hour	2

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>11/30/2007</u>
Group 1 Serious Violations:	0
Group 2 Serious Violations:	1
Non-Serious Exempt from MPs:	6
Non-serious Violations Subject to MPs:	7
<u>Total Violations Subject to MPs:</u>	<u>8</u>

Mandatory Minimum Penalty = (1 Serious Violations + 7 Non-Serious Violations) x \$3,000 = \$24,000