

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2009-0550

MANDATORY PENALTY
IN THE MATTER OF

THE VENDO COMPANY
GROUNDWATER REMEDIATION SYSTEM
FRESNO COUNTY

This Order is issued to The Vendo Company (hereafter Discharger) pursuant to California Water Code (CWC) section 13385, which authorizes the imposition of Administrative Civil Liability (ACL). This Order is based on findings that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Orders 99-012 and R5-2006-0016 (NPDES No. CA0083046).

The 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 Groundwater Remediation System at a former vending machine manufacturing facility. Treated groundwater is discharged to Bullard Canal, a tributary to the San Joaquin River and a water of the United States.
2. On 30 April 1999, the Board issued WDRs Order 99-012 to regulate the discharge of treated groundwater from the Groundwater Remediation System to Bullard Canal.
3. On 26 February 2006, the Board issued WDRs Order R5-2006-0016, which prescribed new requirements for the discharge and rescinded WDRs Order 99-012.
4. CWC section 13385(h)(1) requires the assessment of mandatory penalties and states, in part, the following:

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.

5. CWC section 13385(h)(2) states:

For 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 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 Section 123.45 of Title 40 of the Code of Federal Regulations, by 40 percent or more.

6. According to the Discharger's self-monitoring reports covering the period from 1 January 2000 through 31 July 2008, the Discharger committed seven violations of the effluent limitation for cis-1,2-DCE of Orders 99-012 and R5-2006-0016. Attachment A to this Order summarizes these violations.

7. In accordance with CWC section 13385(h)(1), the total amount of the mandatory minimum penalty for the seven violations cited in Attachment A is twenty-one thousand dollars (\$21,000).
8. On 9 December 2008, the Central Valley Water Board's Assistant Executive Officer issued the Discharger ACL Complaint R5-2008-0624 (Complaint), proposing that the Discharger pay twenty-one thousand dollars (\$21,000) in civil liability pursuant to CWC sections 13385(h)(1) and 13385(h)(2) for the violations identified in Attachment A.
9. On 9 January 2009, the Discharger waived its right to a hearing within 90 days of service of the Complaint. On 17 June 2009, the Discharger requested the civil liability be settled through a payment agreement, Attachment B, which is incorporated into this Order by reference.
10. This Order does not propose to assess a discretionary penalty above the minimum required by CWC sections 13385(h)(1) and 13385(h)(2).
11. On 15 March 2007, the Central Valley Water Board explicitly delegated to the Executive Officer the authority to issue orders to assess administrative civil liability where the matter is not contested by the discharger (Resolution R5-2007-0009).
12. This Order constitutes a settlement of the violations herein mentioned. Notice of this settlement was published on the Central Valley Water Board's website, in a newspaper of general circulation in the community, 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.
13. 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 (Public Resources Code section 21000 et seq.), in accordance with California Code of Regulations, title 14, section 15321.

IT IS HEREBY ORDERED, pursuant to California Water Code sections 13385(a) and (h), that:

1. The Vendo Company shall be assessed Administrative Civil Liability in the amount of **twenty-one thousand dollars (\$21,000)**.
2. The Vendo Company will pay the liability for ACL Order R5-2009-0550 in accordance with the attached payment agreement (Attachment B).
3. The Vendo Company shall submit payment to:

California Regional Water Quality Control Board, Central Valley Region
1685 E Street, Fresno, CA 93706

4. The Executive Officer is authorized to refer this matter to the Office of the Attorney General for collection or other enforcement if The Vendo Company fails to comply with the payment agreement.
5. This Order is effective upon the date of signature.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Resources Control Board (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 of this Order, except that if the thirtieth day following the date of this Order 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:

PAMELA C. CREEDON, Executive Officer

15 July 2009

Attachment A: Record of Violations
Attachment B: Payment Agreement
JKW/JLK: 6/30/09

ATTACHMENT A
ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2009-0550

THE VENDO COMPANY
GROUNDWATER REMEDIATION SYSTEM
RECORD OF VIOLATIONS (1 January 2000 – 31 July 2008) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Programs 99-012 and R5-2006-0016)

<u>Violation ID¹</u>	<u>Violation Date²</u>	<u>Violation Type³</u>	<u>Violation Description⁴</u>	<u>MMP Type</u>
783900	7/31/2004	CAT2	7M; cis-1,2-DCE; 0.5; ug/l; M; 1.6	Serious ⁵
783903	8/31/2004	CAT2	8M; cis-1,2-DCE; 0.5; ug/L; M; 3.2 ⁶	Serious
783910	8/31/2004	CAT2	8M; TCE; 0.5; ug/L; M; 0.74	Serious ⁷
783922	3/31/2005	CAT2	3M; cis-1,2-DCE; 0.5; ug/L; M; 2.2	Serious
783924	3/21/2005	CAT2	3M; TCE; 0.5; ug/L; M; 0.71	Serious ⁷
783926	7/31/2005	CAT2	7M; cis-1,2-DCE; 0.5; ug/L; M; 3.0 ⁶	Serious
783928	12/31/2005	CAT2	12M; cis-1,2-DCE; 0.5; ug/L; M; 1.8	Serious
778539	1/9/2007	CAT2	1M; cis-1,2-DCE; 0.5; ug/L; D; 0.82	Serious
778541	9/5/2007	CAT2	9M; cis-1,2-DCE; 0.5; ug/L; D; 0.81	Serious

¹ Violation ID in CIWQS

² Violation Date is last day of month for monthly median exceedances.

³ Table of Abbreviations below defines abbreviations used in this table.

⁴ Violation Descriptions are coded as follows: Reporting period (e.g., 4M = April); constituent or parameter (e.g., pH, Flow); effluent limitation; units; limitation period; and reported result.

⁵ Serious Violations are subject to MMPs.

⁶ This concentration is the average of two samples obtained for that month.

⁷ This violation is a second violation for a single operational upset and will not be counted as a second violation subject to MMP.

<u>Abbreviation</u>	<u>Definition</u>
CAT2	Violation of Group 2 effluent limitation as defined in Enforcement Policy
CIWQS	California Integrated Water Quality System database
D	Daily
LREP	Late Report
M	Monthly
MMP	Mandatory Minimum Penalty
SA	Semi-Annual
SMR	Self-Monitoring Report

ATTACHMENT A
ACL ORDER R5-2009-0550
THE VENDO COMPANY, GROUNDWATER REMEDIATION SYSTEM
RECORD OF VIOLATIONS

<u>MMP VIOLATION TYPE</u>	<u>VIOLATION PERIOD</u> <u>1/1/2000 TO 7/31/2008</u>
Serious Violation of Group II Pollutant Effluent Limitation Subject to MMPs:	7
Total Violations Subject to MMPs:	7
<u>Mandatory Minimum Penalty = 7 x \$3,000 = \$21,000</u>	

**ATTACHMENT B
ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2009-0550
MANDATORY PENALTY PAYMENT AGREEMENT
THE VENDO COMPANY
GROUNDWATER REMEDIATION SYSTEM**

The Vendo Company (Vendo) agrees to pay the Administrative Civil Liability in the amount of twenty-one thousand dollars (\$21,000) issued under Administrative Civil Liability Order (ACL Order) R5-2009-0550 according to the following payment agreement if payment-in-full is not made.

<u>Payment</u>	<u>Due Date</u>
\$5,250	14 August 2009
\$5,250	13 November 2009
\$5,250	12 March 2010
\$5,250	9 July 2010

Vendo shall submit payment by checks that contain a reference to ACL Order R5-2009-0550 and shall be made payable to the "State Water Pollution Cleanup and Abatement Account." Checks shall be submitted so that they are received by the Central Valley Water Quality Control Board on or before 5 p.m. on the dates listed above, and the checks shall be submitted to:

California Regional Water Quality Control Board, Central Valley Region
Attention Jo Anne Kipps
1685 E Street
Fresno, CA 93706

Please sign the payment agreement and fax to this office at (559) 445-5910.


John Mackenzie
Facilities & Environmental Manager

7 JULY 2009
DATE