

CALIFORNIA CENTRAL VALLEY WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2008-0615

MANDATORY PENALTY
IN THE MATTER OF

CITY OF GRASS VALLEY
WASTEWATER TREATMENT PLANT
NEVADA COUNTY

This Order is issued to the City of Grass Valley Wastewater Treatment Plant (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) Order 98-060 and R5-2003-0089 (NPDES No. CA0079898).

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

1. The Discharger owns and operates a wastewater collection, treatment, and disposal system, and provides sewerage service for the City of Grass Valley. Treated wastewater is discharged to Wolf Creek, tributary to the Bear River, both of which are considered waters of the United States.
2. On 17 April 1998, the Central Valley Water Board issued WDRs Order 98-060 to regulate discharges of waste from the wastewater treatment plant (WWTP). On 6 June 2003, the Central Valley Water Board adopted WDRs Order R5-2003-0089, which contained new requirements and rescinded WDRs Order 98-060.
3. On 17 April 1998, the Central Valley Water Board issued Cease and Desist Order (CDO) 98-061, requiring the Discharger to cease discharging contrary to WDRs Order 98-060. The CDO was adopted to allow the Discharger until 1 December 2001 to complete construction to comply with receiving water ammonia limitations.
4. On 6 June 2003, the Central Valley Water Board issued CDO R5-2003-0090 and rescinded CDO 98-061. The new CDO provided a time schedule until 1 March 2008 to comply with new effluent limitations for aluminum, chloroform, iron, manganese, methyl tert-butyl ether, methylene blue active substances, nitrite, and nitrate plus nitrite limitations.
5. On 6 December 2007, the Central Valley Water Board issued CDO R5-2007-0163 and rescinded CDO R5-2003-0090. CDO R5-2007-0163 establishes a time schedule until 1 March 2010 to comply with final effluent limitations and includes interim effluent limitations for aluminum, chloroform, copper, cyanide, dibromochloromethane, dichlorobromomethane, manganese, nitrate plus nitrite, and zinc. This Order considered the interim effluent limitations and the protection from Mandatory Minimum Penalties provided by CDO Nos. 98-060, R5-2003-0090 and R5-2007-0163.

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 Central Valley 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 98-060 Effluent Limitations No. B.1., Category A, include, in part, the following effluent limitations: "During the period 1 May through 31 October and during other periods when the ratio of daily receiving water flow to daily effluent flow is less than 20 to 1...effluent shall not exceed the following limits."

| <u>Constituents</u> | <u>Units</u> | <u>Hourly Average</u> | <u>Weekly Average</u> | <u>Monthly Median</u> | <u>Daily Maximum</u> |
|--------------------------|--------------|-----------------------|-----------------------|-----------------------|----------------------|
| Chlorine Residual | mg/L | 0.02 | 0.01 | -- | -- |
| Total Coliform Organisms | MPN/100 mL | -- | -- | 2.2 | 23 |

9. WDRs Order 98-060 Effluent Limitations B.6. requires, in part,

The discharge shall not have a consistent pH less than 6.5 nor greater than 8.5. Individual excursions below the minimum pH value of 6.5, or above the maximum pH value of 8.5 shall not exceed 60 minutes for any given excursion. The total duration of excursions shall not exceed 1% of the discharge time within a monthly reporting period. There shall be no excursions below 6.0 or above 9.0 at any time.

10. WDRs Order R5-2003-0089 Effluent Limitations B.1. requires, in part, "Effluent shall not exceed the following limits when less than 20:1 dilution is available:"

| <u>Constituents</u> | <u>Units</u> | <u>7-Day Median</u> | <u>Instantaneous Maximum</u> |
|---------------------------------|--------------|---------------------|------------------------------|
| <u>Total Coliform Organisms</u> | MPN/100 mL | 2.2 ⁵ | 23 ⁶ |

⁵ A monthly median, rather than a 7-day median, may be used until 1 November 2005.

⁶ 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.

11. WDRs Order R5-2003-0089 Effluent Limitations B.3. requires, in part, "Effluent shall not exceed the following limits (from adoption until 29 February 2008):"

| <u>Constituents</u> | <u>Interim Average Daily Limitations for Priority Pollutants</u> |
|-----------------------------------|--|
| <u>Copper (total recoverable)</u> | <u>µg/L</u> 9.1 ² |

² To be ascertained by a 24-hour composite.

12. According to the Discharger's self-monitoring reports, the Discharger committed three (3) serious Group I violations of the above effluent limitations contained in Order Nos. 98-060 and R5-2003-0089 during the period beginning 1 January 2000 and ending 31 March 2008. 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 sum of the mandatory minimum penalties for these serious violations is **nine thousand dollars (\$9,000)**.

13. According to the Discharger's self-monitoring reports, the Discharger committed one (1) serious Group II violation of the above effluent limitations contained in Order Nos. 98-060 and R5-2003-0089 during the period beginning 1 January 2000 and ending 31 March 2008. This violation is defined as serious because measured concentrations of Group II constituents exceeded maximum prescribed levels by more than 20 percent on this occasion. The sum of the mandatory minimum penalties for these serious violations is **three thousand dollars (\$3,000)**.

14. According to the Discharger's self-monitoring reports, the Discharger committed seventeen (17) non-serious violations of the above effluent limitations contained in Order Nos. 98-060 and R5-2003-0089 during the period beginning 1 January 2000 and ending 31 March 2008. Three (3) 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 sum of the mandatory minimum penalties for these non-serious violations is **nine thousand dollars (\$9,000)**.
15. On 28 July 2008, the Assistant Executive Officer issued Administrative Civil Liability Complaint R5-2008-0563 (Complaint) to the City of Grass Valley. The Complaint assessed the Discharger \$24,000 in mandatory minimum penalties. Resolution of the Complaint is considered a settlement pursuant to federal regulations (40 CFR 123.27). Public Notice of the proposed Complaint was posted on the Central Valley Water Board's website on 28 July 2008 and was provided to all interested parties on that date. The Discharger was the only respondent to the Complaint. This Order memorializes a settlement that is not significantly different than that proposed in the Complaint.
16. After consideration of additional information submitted by the Discharger, this Order contains a minor adjustment to the violations charged in the Complaint. Violation 12 was removed because the Discharger provided evidence that the total coliform violation on 18 August 2004 was erroneous because the sampler line was contaminated.
17. The total amount of the mandatory penalties assessed for the cited effluent violations is **twenty-one thousand dollars (\$21,000)**. A detailed list of the final cited effluent violations is included in Attachment A, a part of this Order.
18. 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).
19. The Discharger has waived its right to a hearing before the Central Valley Water Board. This Order is issued to effectuate the parties' settlement.
20. 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).
21. 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 effective, except that if the thirtieth day following the date that this Order becomes effective falls on a Saturday, Sunday, or state holiday, 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.

IT IS HEREBY ORDERED that:

1. The City of Grass Valley, its agents, successors and assigns, shall be assessed an Administrative Civil Liability in the amount of **twenty-one thousand dollars (\$21,000)**.
2. By **12 December 2008**, the Discharger shall pay \$21,000 by check made payable to the "*State Water Pollution Cleanup and Abatement Account*." The check shall have written upon it "*ACL Order R5-2008-0615*."
3. This Order is effective upon signature.

PAMELA C CREEDON, Executive Officer

12 November 2008

**ATTACHMENT A
ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2008-0615**

**City of Grass Valley
Wastewater Treatment Plant**

RECORD OF VIOLATIONS (1 January 2000 – 31 March 2008) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Program Nos. 98-060 and R5-2003-0089.

| | <u>Date</u> | <u>Violation Type</u> | <u>Units</u> | <u>Limit</u> | <u>Measure</u> <u>d</u> | <u>Period Type</u> | <u>Remarks</u> |
|----|-------------|-----------------------|--------------|--------------|----------------------------|------------------------|----------------|
| 1 | 22-Jun-00 | Total Coliform | MPN/100 mL | 23 | 50 | Daily Instantaneous | 3 |
| 2 | 27-Jan-01 | Chlorine Residual | mg/L | 0.02 | 5 | s | 1 |
| 3 | 29-May-01 | pH | pH units | 6.5 | 6.2 | Daily | 3 |
| 4 | 19-Jun-01 | Chlorine Residual | mg/L | 0.02 | 0.08 | 1-hour | 1 |
| 5 | 26-Oct-01 | pH | pH units | 6.5 | 6.2 | Daily | 3 |
| 6 | 28-Feb-02 | Total Coliform | MPN/100 mL | 23 | 80 | Daily | 3 |
| 7 | 25-Sep-03 | Total Coliform | MPN/100 mL | 23 | 220 | Daily | 3 |
| 8 | 30-Nov-03 | Total Coliform | MPN/100 mL | 2.2 | 8 | Monthly | 3 |
| 9 | 23-Apr-04 | Total Coliform | MPN/100 mL | 23 | 30 | Daily | 3 |
| 10 | 27-Apr-04 | Total Coliform | MPN/100 mL | 23 | 50 | Daily | 3 |
| 11 | 30-Apr-04 | Total Coliform | MPN/100 mL | 2.2 | 4 | Monthly | 4 |
| 12 | 31-Oct-04 | Total Coliform | MPN/100 mL | 2.2 | 4 | Monthly | 3 |
| 13 | 20-May-05 | Total Coliform | MPN/100 mL | 23 | 50 | Daily | 3 |
| 14 | 7-Dec-06 | Copper | µg/L | 9.1 | 13 | Daily | 1 |
| 15 | 13-Dec-06 | Total Coliform | MPN/100 mL | 2.2 | 13 | 7-day | 3 |
| 16 | 15-Dec-06 | Total Coliform | MPN/100 mL | 2.2 | 17 | 7-day | 3 |
| 17 | 18-Dec-06 | Total Coliform | MPN/100 mL | 2.2 | 17 | 7-day | 4 |
| 18 | 4-Jan-07 | Copper | µg/L | 9.1 | 9.2 | Monthly | 4 |
| 19 | 29-Jun-07 | Total Coliform | MPN/100 mL | 240 | 300 | Instant Max | 3 |
| 20 | 02-Aug-07 | Copper | µg/L | 9.1 | 11 | Daily | 2 |
| 21 | 15-Oct-07 | Total Coliform | MPN/100 mL | 2.2 | 4 | 7-day | 3 |

Remarks:

1. Serious Violation: For Group I pollutants that exceed the effluent limitation by 40 percent or more.
2. Serious Violation: For Group II 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>03/31/2008</u> |
|--|-------------------|
| Group I Serious Violations: | 3 |
| Group II Serious Violations: | 1 |
| Non-Serious Exempt from MPs: | 14 |
| Non-serious Violations Subject to MPs: | 3 |
| <u>Total Violations Subject to MPs:</u> | <u>7</u> |

Mandatory Minimum Penalty = (4 Serious Violations + 3 Non-Serious Violations) x \$3,000 = \$21,000