

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R5-2009-0578

MANDATORY PENALTY
IN THE MATTER OF

NEVADA COUNTY SANITATION DISTRICT NO. 1
CASCADE SHORES WASTEWATER TREATMENT PLANT
NEVADA COUNTY

This Order is issued to the Nevada County Sanitation District No. 1 (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 5-01-177 and R5-2008-0111 (NPDES No. CA0083241).

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

1. The Discharger owns and operates the Cascade Shores Wastewater Treatment Plant (WWTP), a wastewater collection, treatment, and disposal system that provides sewerage service to the community of Cascade Shores. Treated municipal wastewater is discharged to Gas Canyon Creek, a water of the United States.
2. On 14 June 2001, the Central Valley Water Board issued WDRs Order 5-01-177. On 31 July 2008, the Board issued WDRs Order R5-2008-0111 which rescinded Order 5-01-177 and included new effluent limitations and other requirements regarding the waste discharge. Order R5-2008-0111 became effective on 31 July 2008.
3. On 4 May 2006, the Central Valley Water Board issued Cease and Desist Order (CDO) R5-2006-0035. The CDO includes a time schedule to comply with effluent limitations for BOD, total suspended solids, settleable solids, chlorine residual, total coliform organisms, turbidity, ammonia, and nitrate by 30 September 2007. On 31 July 2008, the Board issued CDO R5-2008-0112, which rescinded CDO R5-2006-0035 and provided interim effluent limitations for total coliform, nitrates, and ammonia until 18 May 2010 or until the Discharger can achieve compliance, whichever is earlier.
4. On 17 November 2008, the Executive Officer of the Central Valley Water Board issued ACL Order R5-2008-0554. The ACL Order charged the Discharger with civil liability in the amount of \$450,000, which represented the sum of the statutory Mandatory Minimum Penalties (MMPs) for effluent limitation violations that occurred at the WWTP from 1 January 2000 to 30 April 2008. The ACL Order allowed the Discharger to apply the \$450,000 penalty towards a compliance project to address the violations pursuant to California Water Code section 13385(k). ACL Order R5-2008-0554 required the Discharger to complete construction of the new WWTP by 1 July 2009, to submit final documentation of compliance project costs by 1 September 2009, and to achieve full compliance by 18 May 2010. On 19 October 2009, the Executive Officer granted the Discharger's request that the construction completion date be extended to

31 December 2009 and the final documentation of compliance project costs be extended to 1 February 2010. On 30 November 2009, the Discharger requested an additional extension of the construction completion date to 15 April 2010 because of construction project changes not yet completed. This Order incorporates a 15 April 2010 project completion date and a 1 June 2010 date for a full accounting of Compliance Project costs. The date for full compliance remains the same.

5. Central Valley Water Board staff has determined that several violations were overlooked when preparing the Record of Violations for ACL Order R5-2008-0554. Therefore, this Order assesses those overlooked violations, as well as violations which occurred between 1 May 2008 and 31 July 2009. Attachment A, a part of this Order, lists all of the effluent limitation violations between 1 January 2003 and 31 July 2009. Those violations which were previously addressed in ACL Order R5-2008-0554 are noted with an “*” in the Remarks column and are therefore not part of this Order. All violations shown in bold are part of this Order. The effluent limitations described in Findings No. 8 to No. 10 pertain only to the violations that are subject to this Order.
6. 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.

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 R5-2008-0111 Effluent Limitations No. B.1.A. includes, in part, the following effluent limitations:

<u>Constituent</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Monthly Median</u>	<u>Daily Maximum</u>
BOD ¹	mg/L	15 ²	20 ²	--	35 ²
Total Suspended Solids	mg/L	15 ²	20 ²	--	35 ²
	lb/day ³	3.3	4.3	--	7.6

¹ 5-day, 20°C biochemical oxygen demand (BOD)

² To be ascertained by a 24-hour composite

³ Based upon a design treatment capacity of 0.0260 mgd (x mg/L x 8.345 x 0.0260 mgd = y lb/day)

9. WDRs Order R5-2008-0111 Effluent Limitations No. B.1.B. includes, in part:

<u>Constituent</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>7-Day Median</u>	<u>Daily Maximum</u>
Total Coliform Organisms	MPN/100 mL	--	--	2.2	23
Turbidity ⁴	NTU	2			5
Nitrate (as N)	mg/L	10	--	--	--

⁴ The daily maximum limit is 5 NTU, the daily average shall not exceed 2 NTU.

10. WDRs Order No. 5-01-177 Effluent Limitations No. B.4 includes the following effluent limitations: *"The discharge shall not have a pH less than 6.5 nor greater than 8.5."*

11. According to the Discharger's self-monitoring reports, the Discharger committed three Group I serious violations which were not previously assessed penalties under ACLO R5-2008-0554. These violations are of the effluent limitations contained in WDRs Orders 5-01-177 and R5-2008-0111 during the period beginning 1 December 2003 and ending 31 July 2009. 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 the **three (3)** Group I serious violations is **nine thousand dollars (\$9,000)**.

12. According to the Discharger's self-monitoring reports, the Discharger committed eight non-serious violations which were not previously assessed penalties under ACLO R5-2008-0554. These violations are of the effluent limitations contained in WDRs Orders 5-01-177 and R5-2008-0111 during the period beginning 1 December 2003 and ending 31 July 2009. All eight 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 **eight (8)** non-serious violations is **twenty-four thousand dollars (\$24,000)**.
13. The total amount of the mandatory penalties assessed for the cited effluent violations is **thirty-three thousand dollars (\$33,000)**. A detailed list of the cited violations is included in Attachment A, a part of this Order.
14. CWC section 13385 (k)(1) states, in part:

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...
15. CWC section 13385 (k)(2) states, in part:

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.
16. On 18 August 2008, the Executive Director of the State Water Resources Control Board transmitted a memorandum determining that the Nevada County Sanitation District No. 1, Cascade Shores Wastewater Treatment Plant, is a publicly owned treatment works serving a small community within the meaning of CWC section 13385(k)(2).
17. The Discharger is in the process of spending an estimated \$4,541,474 on a Compliance Project to construct a new wastewater treatment plant to meet effluent limitations that will correct the violations in ACLO R5-2008-0554 and this Order. The project will include screens, a lift station, flow equalization tank, Parshall flume, an enhanced activated sludge process, dissolved air flotation, two membrane filters, ultraviolet disinfection, and aerobic sludge digestion. The enhanced activated sludge process will address the ammonia, BOD, nitrate, and pH violations. The membrane filters will address the settleable solids, total suspended solids, and turbidity violations. The Ultraviolet disinfection system will address the chlorine residual and total coliform violations.
18. On 3 June 2008, the Discharger submitted the project outline, the project schedule, and the estimated total project costs. The submittal also included a financing plan for the project, including obtaining a State Revolving Fund loan, a Small Community Wastewater

Grant, a Community Block Grant, and an insurance settlement. Of these sources of funding, \$2,159,702 comes from grants, which cannot be used to offset compliance project costs. However, the remainder of the costs (\$2,381,772) can be applied to the Compliance Project in lieu of the Central Valley Water Board assessing the mandatory minimum penalties of \$450,000 in ACLO R5-2008-0554 and the \$33,000 in this Order.

19. The Central Valley Water Board finds that the Compliance Project has been designed to correct the violations that led to the issuance of this Administrative Civil Liability Order within five years, and that the Compliance Project is in accordance with the enforcement policy of the State Water Board. The Discharger plans to expend on the Compliance Project an amount in excess of the mandatory minimum penalty that is required by CWC sections 13385(h) and (i), excluding grants.
20. 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.
21. 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).
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 (Resolution R5-2009-0027).

IT IS HEREBY ORDERED THAT:

1. The Nevada County Sanitation District No. 1, its agents, successors and assigns, shall be assessed Administrative Civil Liability in the amount of **thirty-three thousand dollars (\$33,000)**.
2. The entire \$33,000 penalty shall be suspended if the Discharger complies with the following time schedule to complete its compliance project:

<u>Task</u>	<u>Compliance Date</u>
Complete construction of new wastewater treatment plant	15 April 2010
Submit final documentation of Compliance Project costs	1 June 2010
Achieve full compliance	18 May 2010

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 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 (5) years from the issuance of this Order.
5. If, in the judgment of the 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 **(\$33,000)** must be paid within 30 days of notification by the Executive Officer of such failure.
6. The Discharger must obtain explicit approval from the Executive Officer for any significant departures from the project outline submitted on 3 June 2008 and the time extension granted on 10 October 2009. Failure to obtain approval for any significant departures will result in the assessment of the full amount of the suspended mandatory minimum penalty.
7. Should the Discharger fail to take any of the above actions, the 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

PAMELA C. CREEDON, Executive Officer

16 December 2009

DATE

ATTACHMENT A
ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R5-2009-0578

Nevada County Sanitation District No. 1
Cascade Shores Wastewater Treatment Plant

RECORD OF VIOLATIONS (1 December 2003-31 July 2009) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Programs 5-01-177 and R5-2008-0111)

New Violations are shown in boldface.

<u>#</u>	<u>Violation Date</u>	<u>Constituent</u>	<u>Units</u>	<u>Limit</u>	<u>Result</u>	<u>Limitation Period</u>	<u>Remarks</u>	<u>CIWQS</u>
1	03-Dec-03	TCO	MPN/100 mL	23	30	Daily Maximum	4*	No #
2	13-Dec-03	TSS	mg/L	20	26	Weekly Average	4*	267906
3	13-Dec-03	TSS	lbs/day	4.3	4.8	Weekly Average	4	268772
4	23-Dec-03	TCO	MPN/100 mL	23	1600	Daily Maximum	4*	267908
5	24-Dec-03	TCO	MPN/100 mL	23	30	Daily Maximum	4*	267909
6	27-Dec-03	BOD	mg/L	20	30	Weekly Average	1*	267910
7	31-Dec-03	TCO	MPN/100 mL	2.2	4	Monthly Median	4*	267923
8	31-Dec-03	TSS	mg/l	15	22	Monthly Average	1*	267924
9	31-Dec-03	BOD	mg/L	15	16	Monthly	4	267921
10	03-Jan-04	TSS	mg/l	20	32	Weekly Average	1*	267932
11	03-Jan-04	BOD	mg/l	20	24	Weekly Average	4*	268782
12	10-Jan-04	Chlorine Residual	mg/L	0.02	27	Daily Maximum	2*	268784
13	11-Jan-04	pH	pH Units	6.5	3.8	Daily Minimum	4*	267933
14	24-Jan-04	BOD	mg/L	20	29	Weekly Average	1*	267934
15	24-Jan-04	TSS	mg/L	20	23	Weekly Average	4*	267935
16	24-Jan-04	BOD	lbs/day	4.3	4.8	Weekly Average	4*	268786
17	31-Jan-04	BOD	lbs/day	3.3	5.6	Monthly Average	1*	267936
18	31-Jan-04	TSS	lbs/day	3.3	6.4	Monthly Average	1*	267937
19	31-Jan-04	TSS	mg/L	20	22	Weekly Average	4*	267938
20	31-Jan-04	BOD	mg/L	15	16	Monthly Average	4*	268804
21	31-Jan-04	BOD	lbs/day	4.3	5.5	Weekly Average	4*	268805
22	31-Jan-04	TSS	mg/l	15	20	Monthly Average	4*	268806
23	31-Jan-04	TSS	lbs/day	4.3	7.3	Weekly Average	1*	268807
24	07-Feb-04	TSS	mg/L	20	23	Weekly Average	4*	268810
25	14-Feb-04	BOD	mg/L	20	28	Weekly Average	1*	267940
26	14-Feb-04	TSS	mg/L	20	28	Weekly Average	1*	267941
27	14-Feb-04	BOD	lbs/day	4.3	4.8	Weekly Average	4*	268812
28	14-Feb-04	TSS	lbs/day	4.3	4.8	Weekly Average	4*	268813
29	16-Feb-04	BOD	mg/l	35	40	Daily Maximum	4*	267942
30	21-Feb-04	BOD	mg/l	20	40	Weekly Average	1*	267943
31	29-Feb-04	TCO	MPN/100 mL	2.2	9.0	Monthly Median	4*	268013
32	29-Feb-04	BOD	mg/L	15	22	Monthly	1	267944
33	29-Feb-04	TSS	mg/L	15	20	Monthly	4	267946
34	20-Mar-04	BOD	mg/l	20	25	Weekly Average	4*	268016
35	30-Mar-04	TCO	MPN/100 mL	23	300	Daily Maximum	4*	268017
36	31-Mar-04	TSS	mg/l	15	17	Monthly Average	4*	268018

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 NEVADA COUNTY

<u>#</u>	<u>Violation Date</u>	<u>Constituent</u>	<u>Units</u>	<u>Limit</u>	<u>Result</u>	<u>Limitation Period</u>	<u>Remarks</u>	<u>CIWQS</u>
37	29-Apr-04	TCO	MPN/100 mL	23	70	Daily Maximum	4*	268019
38	03-Jun-04	TCO	MPN/100 mL	23	1600	Daily Maximum	4*	268022
39	24-Jun-04	TCO	MPN/100 mL	23	240	Daily Maximum	4*	268048
40	06-Jul-04	TSS	mg/l	35	37	Daily Maximum	4*	268050
41	06-Jul-04	TCO	MPN/100 mL	23	1600	Daily Maximum	4*	268051
42	08-Jul-04	TCO	MPN/100 mL	23	240	Daily Maximum	4*	268052
43	10-Jul-04	TSS	mg/L	20	37	Weekly Average	1*	268053
44	17-Jul-04	TSS	mg/L	20	31	Weekly Average	1*	268054
45	24-Jul-04	TSS	mg/L	20	34	Weekly Average	1*	268055
46	31-Jul-04	TSS	mg/L	15	27	Monthly Average	1*	268056
47	17-Aug-04	TCO	MPN/100 mL	23	1600	Daily Maximum	4*	268072
48	09-Sep-04	TCO	MPN/100 mL	23	500	Daily Maximum	4*	268073
49	4-Dec-04	BOD	mg/L	20	26	Weekly	4	268074
50	21-Dec-04	TCO	MPN/100 mL	23	1600	Daily Maximum	4*	268075
51	25-Dec-04	TSS	mg/L	20	24	Weekly Average	4*	268076
52	08-Jan-05	BOD	mg/L	20	21	Weekly Average	4*	268077
53	12-Feb-05	TSS	mg/L	20	34	Weekly Average	1*	268078
54	12-Feb-05	TSS	lbs/day	4.3	4.6	Weekly Average	4*	268838
55	14-Aug-05	pH	pH Units	6.5	6.4	Daily Minimum	3*	365982
56	08-Nov-05	pH	pH Units	6.5	2.7	Daily Minimum	1*	365986
57	17-Dec-05	TSS	mg/L	20	21	Weekly Average	3*	365994
58	23-Dec-05	pH	pH Units	6.5	6.3	Daily Minimum	4*	366010
59	24-Dec-05	pH	pH Units	6.5	6.3	Daily Minimum	4*	366019
60	24-Dec-05	TSS	mg/L	20	34	Weekly Average	1*	366026
61	31-Dec-05	pH	pH Units	6.5	6.3	Daily Minimum	4*	366037
62	23-May-06	TCO	MPN/100 mL	23	240	Daily Maximum	4*	366045
63	06-Jun-06	TCO	MPN/100 mL	23	80	Daily Maximum	4*	366046
64	24-Jul-06	TCO	MPN/100 mL	23	500	Daily Maximum	3*	366047
65	23-Aug-06	pH	pH Units	8.5	9.3	Daily Maximum	4*	366048
66	13-Nov-06	Settleable Solids	mL/L	0.1	0.4	Daily Maximum	1*	268827
67	24-Mar-07	DO	mg/L	7.0	6.4	Daily Minimum	3*	754243
68	31-Mar-07	TCO	MPN/100 mL	2.2	5.5	Monthly Median	3*	754244
69	24-Jul-07	DO	mg/L	7.0	6.4	Daily Minimum	3*	754245
70	03-Oct-07	TCO	MPN/100 mL	2.2	9	Monthly Average	3*	797922
71	07-Oct-07	Chlorine Residual	mg/L	0.02	2.1	Daily Maximum	2*	797926
72	17-Oct-07	TCO	MPN/100 mL	23	50	Daily Maximum	3*	754247
73	17-Oct-07	TCO	MPN/100 mL	2.2	9	7-day Median	3*	797927
74	24-Oct-07	TCO	MPN/100 mL	23	50	Daily Maximum	3*	754247
75	19-Nov-07	Ammonia	mg/L	6.44	7.6	Weekly Average	4*	797929

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<u>#</u>	<u>Violation Date</u>	<u>Constituent</u>	<u>Units</u>	<u>Limit</u>	<u>Result</u>	<u>Limitation Period</u>	<u>Remarks</u>	<u>CIWQS</u>
76	29-Nov-07	Ammonia	mg/L	6.29	9	Weekly Average	1*	797931
77	06-Dec-07	Ammonia	mg/L	6.29	10	Weekly Average	1*	797932
78	12-Dec-07	TCO	MPN/100 mL	2.2	2.5	7-day Median	4*	797933
79	26-Dec-07	TCO	MPN/100 mL	2.2	2.5	7-day Median	4*	797935
80	14-Feb-08	Ammonia	mg/L	6.44	12.5	Weekly Average	1*	797930
81	21-Feb-08	Ammonia	mg/L	6.44	12.6	Weekly Average	1*	797937
82	26-Feb-08	Ammonia	mg/L	6.44	10.7	Weekly Average	1*	797941
83	06-Mar-08	Ammonia	mg/L	6.44	17.1	Weekly Average	1*	797942
84	12-Mar-08	Ammonia	mg/L	6.57	7.5	Weekly Average	4*	797945
85	14-Apr-08	TCO	MPN/100 mL	2.2	2.5	7-day Median	4*	797946
86	10-May-08	TCO	MPN/100 mL	2.2	2.5	7-Day Median	4	807016
87	31-May-08	TCO	MPN/100 mL	2.2	3.0	7-Day Median	4	807017
88	31-May-08	Nitrate	mg/L	10	16	Monthly	1	807022
89	10-Jun-08	pH	pH units	6.5	6.3	Instantaneous	4	807023
90	21-Jun-08	TCO	MPN/100 mL	2.2	5	7-day Median	4	807024
91	30-Jun-08	Nitrate	mg/L	10	27	Monthly	1	807026

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.

NEW VIOLATIONS FROM 12/1/2003 THROUGH 7/31/2009

Group 1 Serious Violations:	3
Group 2 Serious Violations:	0
Non-serious Violations, Exempt from MMPs:	0
Non-serious Violations, Subject to MMPs:	8
<u>Total Additional Violations Subject to MMPs:</u>	<u>11</u>

Mandatory Minimum Penalty = (3 Serious Violations + 8 non-Serious Violations) × \$3,000 = \$33,000

* Violations assessed Mandatory Minimum Penalties in Order R5-2008-0554.