

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2014-0506

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 (Water Code) section 13385, which authorizes the imposition of Administrative Civil Liability, and Water Code section 13323, which authorizes the Executive Officer to issue this Order. This Order is based on findings that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Orders R5-2008-0111 and R5-2008-0111-01 (NPDES No. CA0083241).

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 the Cascade Shores Wastewater Treatment Plant (WWTP), a wastewater collection, treatment, and disposal system that provides sewerage service to the Cascade Shores community. Treated municipal wastewater is discharged to Gas Canyon Creek, a water of the United States.
2. On 31 July 2008, the Central Valley Water Board issued WDRs Order R5-2008-0111, effective 31 July 2008, which contained new requirements and rescinded WDRs Order 5-01-177, except for enforcement purposes. On 31 July 2008, the Board also issued Cease and Desist Order (CDO) R5-2008-0112, which rescinded CDO R5-2006-0035 and provided interim effluent limitations for total coliform, nitrates, and ammonia until 18 May 2010 or until the Discharger can achieve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.
3. On 2 February 2012, the Board adopted Order R5-2012-0004 amending Order R5-2008-0111. Order R5-2008-0111-01 reduced the effluent monitoring frequency and receiving water monitoring for various constituents. On 12 April 2013, the Board rescinded CDO R5-2008-0112.
4. On 14 December 2010, the Assistant Executive Officer of the Central Valley Water Board issued Time Schedule Order (TSO) R5-2010-0909. TSO R5-2010-0909 contains interim effluent limitations for copper.
5. On 16 December 2009, the Executive Officer issued ACL Order R5-2009-0578 for mandatory minimum penalties (MMPs) in the amount of \$33,000 for effluent violations from 1 December 2003 through 31 July 2009. The ACL Order allowed the Discharger to apply the penalty toward a compliance project consisting of a new wastewater treatment plant designed to correct effluent limitation violations.

The Discharger completed construction of the new wastewater treatment plant and the Board considers those effluent violations specifically listed in Attachment A to ACL Order R5-2009-0578 resolved.

6. On 6 May 2011, the Executive Officer issued ACL Complaint R5-2011-0573 for MMPs for effluent limitation violations which occurred from 1 August 2009 through 31 January 2011. On 3 June 2011, the Discharger waived its right to a hearing within 90 days of issuance of the Complaint in order to engage in settlement discussions. On 5 December 2012, the Discharger proposed a Compliance Project. Revisions to the Compliance Project were submitted in 2013. This Order settles ACLC R5-2011-0573, and extends the period of record from 1 August 2009 through 30 September 2013.
7. This Order addresses Administrative Civil Liability for effluent violations that occurred during the period from 1 August 2009 through 30 September 2013. These violations are specifically identified in Attachment A to this Order as subject to mandatory minimum penalties. Attachment A to this Order is attached hereto and incorporated herein by this reference. In determining the proposed Administrative Civil Liability, the Executive Officer considered the interim effluent limitations in TSO R5-2010-0909 and the protection from mandatory minimum penalties provided by CDO R5-2008-0112.
8. Water Code section 13385(h) and (i) require assessment of mandatory penalties and state, in part, the following:

Water Code 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.

Water Code 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.

Water Code section 13385(i)(1) states, in part:

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.

9. Water Code 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.

10. WDRs Order R5-2008-0111 and Order R5-2008-0111-01 Final Effluent Limitations IV.A.1.a. state in part:

- a. The Discharger shall maintain compliance with the following effluent limitations specified in Table 6.

Table 6. Final Effluent Limitations

Parameter	Units	Effluent Limitations				
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
<i>Conventional Pollutants</i>						
Biochemical Oxygen Demand	mg/L	10	15	25	--	--
pH	standard units	--	--	--	6.5	8.0
<i>Priority Pollutants</i>						
Copper, Total Recoverable ¹	µg/L	1.6	--	3.2	--	--
<i>Non-Conventional Pollutants</i>						
Ammonia, Nitrogen, Total	mg/L	1.8	--	5.6	--	--

11. WDRs Order R5-2008-0111 and Order R5-2008-0111-01 Final Effluent Limitations IV.A.1.e. state in part

- e. Total Coliform Organisms. Effluent total coliform organisms shall not exceed:
 - i. 2.2 most probable number (MPN) per 100 mL, as a 7-day median;

12. According to the Discharger's self-monitoring reports, the Discharger committed two (2) serious Group I violations of the above effluent limitations contained in WDRs Orders R5-2008-0111 and R5-2008-0111-01 during the period beginning

1 August 2009 and ending 30 September 2013, as shown in Attachment A. These violations are defined as serious because measured concentrations of Group I constituents exceeded maximum prescribed levels in the WDRs by forty percent or more. The mandatory minimum penalty for these serious violations is **six thousand dollars (\$6,000)**.

13. According to the Discharger's self-monitoring reports, the Discharger committed eleven (11) serious Group II violations of the above effluent limitations contained in WDRs Orders R5-2008-0111 and R5-2008-0111-01 during the period beginning 1 August 2009 and ending 30 September 2013, as shown in Attachment A. These violations are defined as serious because measured concentrations of Group II constituents exceeded maximum prescribed levels in the WDRs by twenty percent or more. The mandatory minimum penalty for these serious violations is **thirty-three thousand dollars (\$33,000)**.
14. According to the Discharger's self-monitoring reports, the Discharger committed nine (9) non-serious violations of the above effluent limitations contained in WDRs Orders R5-2008-0111 and R5-2008-0111-01 during the period beginning 1 August 2009 and ending 30 September 2013, as shown in Attachment A. The non-serious violations are subject to mandatory penalties under Water Code section 13385 subdivision (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-seven thousand dollars (\$27,000)**.
15. The total amount of the mandatory penalties assessed for the cited effluent violations is **sixty-six thousand dollars (\$66,000)**. As stated herein, a detailed list of the cited effluent violations is included in Attachment A. This Order addresses administrative civil liability for violations that are specifically identified in Attachment A as subject to mandatory minimum penalties.
16. Water Code 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...
17. Water Code 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.
18. 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 Water Code section 13385(k)(2).
 19. On 22 February 2013, amended 10 September 2013, the Discharger proposed a \$1.53 million Land Application Compliance Project. The project consists of constructing a pipeline, lift station, and effluent leach field, and ceasing the surface water discharge. The project is summarized in Attachment B to this Order. The compliance project authorized by this Order only addresses the planning and initial study portion of the project.
 20. On 10 September 2013, the Discharger submitted invoices documenting that it has paid West Yost Associates a total of \$2,276 for the period from 3 November 2012 through 8 February 2013 for work on the compliance project. The Discharger also documented that it has paid PAR Environmental Services Inc. a total of \$17,958 for work on the compliance project (invoices dated 30 April 2013, 31 May 2013, and 30 June 2013). In total, the Discharger has documented that it has spent \$20,234 on this compliance project.
 21. The Discharger's compliance project will remedy the violations described in this Order. The Central Valley Water Board finds that the compliance project has been designed to correct these violations within five years, that the timeline for the compliance project is as short as possible, and that the compliance project has been designed in accordance with the Enforcement Policy of the State Water Board. The amount that the Discharger plans to expend on the compliance project is in excess of the mandatory minimum penalty that the Board is required to assess under Water Code sections 13385(h) and (i) for the violations that are to be addressed by the compliance project.
 22. This Order constitutes a settlement of the violations herein mentioned. Notice of this settlement was published on the Central Valley Water Board's website and was provided to all interested parties. The 30-day public notice and comment period mandated by Federal regulations (40 C.F.R. § 123.27) has expired.
 23. Issuance of this Administrative Civil Liability Order to enforce Water Code 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).

IT IS HEREBY ORDERED THAT:

1. Nevada County Sanitation District No. 1, its agents, successors, and assigns, shall be assessed Administrative Civil Liability in the amount of **sixty-six thousand dollars (\$66,000)**.
2. In accordance with Water Code section 13385(k), **twenty thousand two hundred thirty four dollars (\$20,234)** of the above penalty has been satisfied through the initial actions to complete the compliance project described in Attachment B to this Order.
3. The remaining **forty-five thousand seven hundred and sixty-six dollar (\$45,766)** penalty shall be suspended if the Discharger complies with the following time schedule to complete its compliance project (as detailed in Attachment B):

<u>Task</u>	<u>Compliance Date</u>
1. Complete preliminary engineering, initiate CEQA	Completed
2. Progress report	30 May 2014
3. Provide Final Project Report detailing expenditures	30 June 2014

4. The Discharger shall submit a final report detailing the expenditures and how those expenditures relate to the land application project. The final Project Report is due on **30 June 2014**.
5. 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.
6. 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 10 September 2013 Compliance Project proposal without obtaining Central Valley Water Board approval, the suspended mandatory minimum penalty **(\$45,766)** must be paid within 30 days of notification by the Executive Officer of such failure.
7. The Discharger must obtain explicit approval from the Executive Officer for any significant departures from the project outline submitted on 10 September 2013. Failure to obtain approval for any significant departures will result in the assessment of the full amount of the suspended mandatory minimum penalty.

8. 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 Water Code 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, 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.

/S/

PAMELA C. CREEDON, Executive Officer

12 February 2014

DATE

Attachment A: Record of Violations
Attachment B: Compliance Project

**ATTACHMENT A
ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2014-0506**

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

RECORD OF VIOLATIONS (1 August 2009 – 30 September 2013) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Programs R5-2008-0111 and R5-2008-0111-01)

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measured</u>	<u>Period</u>	<u>Remarks</u>	<u>CIWQS</u>
1	31-May-10	Copper, Total	µg/L	1.6	5.2	Average Monthly	2	875584
2	30-Jun-10	Copper, Total	µg/L	1.6	2.4	Average Monthly	2	880440
3	31-Jul-10	Copper, Total	µg/L	1.6	2.6	Average Monthly	2	880441
4	5-Aug-10	Copper, Total	µg/L	3.2	6	Maximum Daily	2	882980
5	31-Aug-10	Copper, Total	µg/L	1.6	6	Average Monthly	2	882981
6	2-Sep-10	Copper, Total	µg/L	3.2	6.4	Daily Maximum	2	883856
7	30-Sep-10	Copper, Total	µg/L	1.6	6.4	Average Monthly	2	884080
8	5-Oct-10	pH	SU	8	8.4	Instant Max	4	887169
9	5-Oct-10	pH	SU	6.5	6	Instant Min	4	885599
10	31-Oct-10	Copper, Total	µg/L	1.6	3.2	Average Monthly	2	885595
11	4-Nov-10	Copper, Total	µg/L	3.2	5.5	Maximum Daily	2	890714
12	30-Nov-10	Copper, Total	µg/L	1.6	5.5	Average Monthly	2	890716
13	2-Dec-10	Copper, Total	µg/L	3.2	4.8	Maximum Daily	2	890715
14	21-Dec-10	pH	SU	6.5	5.7	Instant Max	4	889820
15	31-Jan-11	Coliform	MPN/100 mL	2.2	4	7-Day Median	4	892511
16	18-Jul-11	Ammonia	mg/L	5.6	25.9	Maximum Daily	1	907215
17	20-Jul-11	Ammonia	mg/L	5.6	13.8	Maximum Daily	1	907214
18	20-Jul-11	BOD	mg/L	25	28	Maximum Daily	4	907216
19	3-Oct-11	Coliform	MPN/100 mL	2.2	4	7-Day Median	4	913088
20	5-Oct-11	Coliform	MPN/100 mL	2.2	4	7-Day Median	4	913087
21	6-Oct-11	Coliform	MPN/100 mL	2.2	4	7-Day Median	4	913089
22	21-Dec-11	Ammonia	mg/L	5.6	6.9	Maximum Daily	4	918055

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 violation falls within the first three violations in a six-month period, thus is not subject to mandatory minimum penalties.
4. Non-serious violation subject to mandatory minimum penalties.

<u>VIOLATIONS AS OF:</u>	<u>9/30/2013</u>
Group I Serious Violations:	2
Group II Serious Violations:	11
Non-Serious Violations Not subject to MMPs:	0
Non-serious Violations Subject to MMPs:	9
<u>Total Violations Subject to MMPs:</u>	<u>22</u>

Mandatory Minimum Penalty = (13 serious Violations + 9 Non-Serious Violations) x \$3,000 = \$66,000

**ATTACHMENT B
ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2014-0506**

Compliance Project Description

Project Title: Cascade Shores Wastewater Treatment Plant (WWTP) Land Application Project

Name of Responsible Entity: Nevada County Sanitation District No. 1

Contact Information:

Bob Elder
Nevada County Sanitation District No. 1
950 Maidu Avenue, Suite 290
Nevada City, CA 95959
(530) 265-7103

Brief project description:

The cost of operation of the existing Cascade Shores Wastewater Treatment Plant significantly exceeds the existing revenues. Due to the high cost of operation and the inability to meet the current NPDES copper effluent limitation, Nevada County Sanitation District No. 1 (District) needs to explore alternative treatment and disposal methods. The project objective is to evaluate the feasibility and costs associated with an alternative land disposal option for the wastewater from the existing Cascade Shores Wastewater Treatment Plant. The project involves preliminary engineering, geotechnical work, CEQA, and application for a State Revolving Fund loan. If the proposed project is deemed feasible and if the District secures funding, the District would proceed with final design, construction, and operation.

Estimated Cost of Project Completion: The cost of the entire project is estimated to be \$1,530,600. However, the first \$66,000 will be considered as the suspended portion of the ACL. The District estimates that the cost for CEQA, engineering development, and studies will be approximately \$250,000. As described in Finding 20 of the ACL Order, the Discharger has documented the expenditure of \$20,234 on this project. Therefore, for this compliance project, the Discharger is to document that the tasks described below cost at least \$45,766.

Water body, beneficial use and/or pollutant addressed by this project:

The Cascade Shores Wastewater Treatment Plant exceeds the effluent limitations for copper. The Compliance Project, if constructed, would eliminate the effluent discharge to Gas Canyon Creek, thereby improving water quality.

Project schedule, budget, and deliverables:

1. Negotiate scope of work with design consultant, research existing soils and groundwater data, obtain Nevada County Board of Supervisors approval to apply for State Revolving Fund loan, complete conceptual design, prepare preliminary property valuation of parcels to be acquired, contact property owners, prepare project cost estimate, estimate post project operating costs, perform CEQA technical studies, and obtain right of entry.

Due Date: Completed.

ATTACHMENT B
ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2014-0506

2. Remaining tasks include completing CEQA documentation, submitting CBDG application, submitting SRF application, finalizing design, completing right-of-way acquisition, and advertising construction contract.

Deliverable: Progress report describing progress made to date and including invoices related to the project from 9 February 2013 forward for West Yost and Associates, and from 1 July 2013 forward for other consultants.

Due Date: 30 May 2014

3. Final Report. The Discharge will submit a final report which will include a summary of all completed tasks, a project success analysis, and a post-project accounting of all expenditures. The accounting must clearly show whether the final cost of the completed compliance project is less than, equal to, or more than the suspended liability of \$45,766. The report must be completed under penalty of perjury.

Due Date: 30 June 2014