

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2011-0537

MANDATORY PENALTY
IN THE MATTER OF

CITY OF CORNING
CORNING WASTEWATER TREATMENT PLANT
TEHAMA COUNTY

This Order is issued to the City of Corning (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) Order R5-2010-0080 (NPDES No. CA0004995).

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

1. The City of Corning owns the Corning Wastewater Treatment Plant, which provides sewerage service to the City of Corning in Tehama County. Corning Wastewater Treatment Plant is operated by SouthWest Water Company. Treated municipal wastewater is discharged to the Sacramento River. The Sacramento River is a water of the United States.
2. On 29 July 2010, the Central Valley Water Board adopted Waste Discharge Requirements Order R5-2010-0080 (NPDES No. CA0004995), for the City of Corning to regulate the discharge of treated municipal wastewater.
3. On 9 February 2011, the Central Valley Water Board Redding Office issued a Record of Violations for mandatory minimum penalties for effluent violations in October 2010. The Discharger completed a compliance project which cost more than the mandatory minimum penalty, and which was designed to correct the violations; the Board considers this matter resolved.
4. This Order covers the period of July 2010 through March 2011. On 9 February 2011, Central Valley Water Board staff issued the Discharger a Draft Record of Violations letter for effluent limitation violations for the period of July 2010 through March 2011. In its 15 February 2011 response, the Discharger requested that cleaning the chlorine contact chamber and the chlorine mixing basin at the wastewater treatment plant to be credited towards the penalties. Since the cleaning/maintenance operations occurred, the Discharger has not had any more effluent violations.
5. CWC section 13385(h) and (i) requires the assessment of mandatory penalties and states, 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.

6. 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.

7. WDRs Order R5-2010-0080 Effluent Limitations IV.A.1.a. and b. states, in part:

A. Effluent Limitations – Discharge Point 001

1. Final Effluent Limitations – Discharge Point 001

- a. The Discharge shall maintain compliance with the following effluent limitations at Discharge Point 001, with compliance measured at Monitoring Location EFF-001 as described in the Monitoring and Reporting Program (Attachment E, Section IV).

Parameter	Units	Effluent Limitations				
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
BOD	mg/L	30	45	90		
	lbs/day ¹	350	525	1051		
Total Suspended Solids	mg/L	30	45	90		
	lbs/day ¹	350	525	1051		
PH	standard units	--	--	--	6.0	9.0
Dichlorobromomethane	ug/L	3.86		7.73		
Ammonia, Total as N	mg/L	10.65		21.36		

8. According to the Discharger's self-monitoring reports, the Discharger committed one serious Group 2 violation of the above effluent limits as contained in Order R5-2010-0080 during the period beginning 29 July 2010 and ending 22 March 2011. This violation is defined as serious under CWC section 13385(h)(2) because the analytical or calculated results for the Group 2 constituent exceeded limitations by 20 percent or more on this occasion. The mandatory minimum penalty for this serious violation is **three thousand dollars (\$3,000)**.

9. The total amount of the mandatory minimum penalties assessed for the cited effluent violation is **three thousand dollars (\$3,000)**. A detailed list of the cited effluent violation is included in Attachment A, a part of this Order.

10. CWC section 13385 (k) states:
 - (1) 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, if the state board or the regional board finds all of the following:
 - (A) The compliance project is designed to correct the violations within five years.
 - (B) The compliance project is in accordance with the enforcement policy of the state board, excluding any provision in the policy that is inconsistent with this section.
 - (C) The publicly owned treatment works has prepared a financing plan to complete the compliance project.
 - (2) 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.

11. Staff at the Central Valley Water Board Redding Office has determined that the City of Corning, Corning Wastewater Treatment Plant is a publicly owned treatment works serving a small community within the meaning of CWC section 13385(k)(2). The population of the City of Corning is 7,122. The 20 May 2010 Water Quality Enforcement Policy lists Tehama County as a rural county.
12. Staff at the Central Valley Water Board Redding Office has determined that the City of Corning, Corning Wastewater Treatment Plant is a community that meets two of the financial hardship definitions (median household income and unemployment rate) within the meaning of "financial hardship" defined in the 20 May 2010 Water Quality Enforcement Policy. The median household income for the City of Corning is \$31,282. This is approximately 56% of the statewide median household income (\$56,134). The City also has an unemployment rate of 18.9%.
13. The Discharger has expended \$3,295 on a compliance project to clean the chlorine contact chamber and the chlorine mixing basin at the wastewater treatment plant, which has an immediate effect on the Dichlorobromomethane. The compliance project has been completed and the Discharger has expended in excess of the mandatory minimum penalty that is required by CWC sections 13385(h) and (i).
14. The Central Valley Water Board finds that the Compliance Project has been designed to correct the violations that have led to the issuance of this Administrative Civil Liability Order, and that the project is in accordance with the enforcement policy of the State Water Board.
15. 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 CFR 123.27) has expired.
16. 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, or to an Assistant Executive Officer when the Executive Officer is serving as head of the Board's Prosecution Team (Resolution R5-2009-0027).
17. 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).

IT IS HEREBY ORDERED, pursuant to CWC section 13385 and Resolution R5-2009-0027, that:

1. The City of Corning Wastewater Treatment Plant, its agents, successors and assigns, shall be assessed an Administrative Civil Liability in the amount of **three thousand dollars (\$3,000)**.
2. The entire \$3,000 penalty is suspended because the discharger submitted proof of payment for cleaning the chlorine contact chamber and the chlorine mixing basin at the wastewater treatment plant, which exceeds the amount of the assessed Administrative Liability.

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 of this Order, except that if the thirtieth day following the date of this Order 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.

This Order is effective immediately upon issuance.

Original signed by

PAMELA C. CREEDON, Executive Officer

May 16, 2011
(Date)

Attachment A: Record of Violations

HB:

ATTACHMENT A

CITY OF CORNING WASTEWATER TREATMENT PLANT, CORNING, TEHAMA COUNTY Record of Violation (14 October 2010)

MANDATORY MINIMUM PENALTIES (Data reported under Monitoring and Reporting Program No. R5-2010-0080)

Table 1. Effluent Limitations

Violation Date	Pollutant/ Parameter/Pollutant Group	Effluent Limit	Analytical Results	Percentage Over	Violation Type	MMP Amount
10/14/2010	Dichlorobromomethane (Group 2 Pollutant)	3.86 ug/L (average monthly)	6.0 ug/L (average monthly)	55%	Serious	\$3,000

Violation Types:

Serious, Group I (Group I Pollutant > 40% Exceedance)
Serious, Group II (Group II Pollutant \geq 20% Exceedance)
Non-Serious, Group I (Group I Pollutant < 40% Exceedance)
Non-Serious, Group II (Group II Pollutant < 20% Exceedance)
Non-Serious, Other WDR Effluent Limitation