

ITEM: 19

SUBJECT: City of Placerville, Hangtown Creek Wastewater Treatment Plant

BOARD ACTION: *Consideration of an Administrative Civil Liability Order*

BACKGROUND: On 5 May 2008, the Assistant Executive Officer issued an Administrative Civil Liability Complaint, pursuant to California Water Code (CWC) sections 13323 and 13385, to the City of Placerville, Hangtown Creek Wastewater Treatment Plant alleging that the facility has violated effluent limitations contained in Waste Discharge Requirements Order 5-01-045. The Complaint proposes that mandatory minimum penalties in the amount of \$270,000 be imposed on the City. The City has requested a hearing on the matter.

ISSUES

The City of Placerville is completing a \$45 million upgrade of its Hangtown Creek wastewater treatment plant, which is designed to bring the facility into compliance with its NPDES permit. The CWC allows a small community with a financial hardship to complete a compliance project in lieu of paying mandatory minimum penalties. The City has requested that the treatment plant upgrade be considered a compliance project, and that it be used to satisfy the financial penalty assessed in the Complaint.

In order to evaluate this request, Central Valley Water Board staff consulted with the State Water Board's economist to determine whether or not Placerville meets the definition of a "publicly owned treatment works serving a small community" pursuant to CWC section 13385(k)(2). A small community is defined as a population of 10,000 or less. The City has submitted several documents in support of its position, and the State Water Board economist has prepared a memorandum which explains his analysis in detail. The results indicate that the City's wastewater service area does not meet the definition of a small community, and therefore the penalty cannot be applied toward the compliance project. The City of Placerville has disagreed with the analysis.

RECOMMENDATION: Prosecution staff recommends that the Central Valley Water Board confirm the State Water Board staff's determination that the City of Placerville's Hangtown Creek Wastewater Treatment Plant serves a population of greater than 10,000, and adopt the proposed \$270,000 Administrative Civil Liability Order for Mandatory Minimum Penalties. Consistent with the CWC, the Order requires that the \$270,000 be paid within 30 days of adoption.

Mgmt. Review _____
Legal Review ___ PEP ___

23/24 October 2008 Regional Water Board Meeting
11020 Sun Center Dr. #200
Rancho Cordova, CA 95670