

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2011-0570

For

VIOLATION OF WASTEWATER DISCHARGE REQUIREMENTS
ORDER NO. R5-2007-0058 (NPDES NO. CA0082589)

IN THE MATTER OF

CITY OF REDDING
STILLWATER WASTEWATER TREATMENT FACILITY
WDID NO. 5A450103004

SHASTA COUNTY

This Administrative Civil Liability Complaint (Complaint) is issued to the City of Redding Stillwater Wastewater Treatment Facility (hereafter Discharger) pursuant to California Water Code (CWC) section 13385, which authorizes the imposition of Administrative Civil Liability, CWC section 13323, which authorizes the Executive Officer to issue this Complaint, and CWC section 7, which authorizes the delegation of the Executive Officer's authority to a deputy, in this case the Assistant Executive Officer. The Complaint is based on findings that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Order R5-2007-0058 (NPDES No. CA0082589).

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

1. The Discharger owns and operates a Publicly Owned Treatment Works. The treatment system consists of screening for removal of large solids, activated sludge treatment with secondary clarification, filtration, and chlorination/dechlorination. Waste activated sludge is treated by aerobic digestion followed by belt-filter-press dewatering. Biosolids are disposed at a sanitary landfill and land applied on property owned by the Discharger. Wastewater is discharged through a diffuser at Discharge D-001 to the Sacramento River, a water of the United States.
2. Section 301 of the Federal Water Pollution Control Act (Clean Water Act) (33 U.S.C, §1311) and the CWC section 13376 prohibit the discharge of pollutants to surface waters except in compliance with a NPDES permit.
3. On 21 June 2007, the Central Valley Water Board issued Waste Discharge Requirements Order R5-2007-0058 (NPDES No. CA0082589), to regulate discharges of treated wastewater from the facility.
4. The discharge prohibitions and effluent limitations set forth in the WDRs include but are not limited to, the following:

- The discharge of waste that causes violation of any narrative water quality objective contained in the Basin Plan is prohibited.
- The discharge of waste that causes violation of any numeric water quality objective contained in the Basin Plan is prohibited.

4. Order No. R5-2007-0058 includes, in part, the following effluent limitations:

A. Effluent Limitations – Discharge Point D-001

1. Final Effluent Limitations – Discharge Point D-001

The Discharger shall maintain compliance with the following effluent limitations at Discharge Point D-001, with compliance measured at Monitoring Location EFF-001 as described in the attached MRP (Attachment E):

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

Table 6. Effluent Limitations

Parameter	Units	Effluent Limitation				
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
BOD 5-day @ 20°C	Mg/L	10	15	30		
	lbs/day ^a	334	500	1,001		
Total Suspended Solids		10	15	30		
	lbs/day ^a	334	500	1,001		
pH	standard units				6.0	9.0
Copper, Total Recoverable	Ug/L	13.7		27.4		
Zinc, Total Recoverable	Ug/L	57.8		115.9		
Cyanide, Total (as CN)	Ug/L	31.8		63.7		
Chlorodibromomethane	Ug/L	12.1		24.2		
Dichlorobromomethane	Ug/L	18.1		36.2		
alpha-BHC	Ug/L	0.11		0.21		
beta-BHC	Ug/L	0.15		0.30		
gamma-BHC	Ug/L	0.81		1.62		
Chlorine Residual	Mg/L		0.01 ^b	0.02 ^c		
Total Coliform Organisms	MPN/100 ml	23 ^d		500		

- a Based upon a dry weather treatment design flow of 4.0 mgd.
 b 4-day average.
 c 1-hour average.
 d Monthly median.

- b. **Percent Removal:** The average monthly percent removal of BOD 5-day 20°C and total suspended solids shall not be less than 85 percent.

- c. **Acute Whole Effluent Toxicity.** Survival of aquatic organisms in 96-hour bioassays of undiluted waste shall be no less than:
 - i. 70%, minimum for one bioassay; and
 - ii. 90%, median for any three consecutive bioassays.
 - d. **Total Residual Chlorine.** Effluent total residual chlorine shall not exceed:
 - i. 0.01 mg/L, as a 4-day average;
 - ii. 0.02 mg/L, as a 1-hour average;
 - e. **Total Coliform Organisms.** Effluent total coliform organisms shall not exceed:
 - i. 23 most probable number (MPN) per 100 mL, as a 30-day median; and
 - ii. 500 MPN/100mL, more than once in any 30-day period.
 - f. **Average Daily Discharge Flow.** The monthly average daily dry weather (May through September) discharge flow shall not exceed 4.0 mgd. Flow occurring in May shall be excluded from this limitation if significant rain events occur or seasonal high groundwater conditions persist.
5. Furthermore, all NPDES permits must specify requirements for recording and reporting monitoring results. (40 C.F.R. § 122.48). CWC section 13383 authorizes the Regional Water Board to establish monitoring and reporting requirements. The WDRs require the Discharger to implement a discharge monitoring program and to prepare and submit timely monthly and annual NPDES self-monitoring reports to the Regional Water Board, which are designed to ensure compliance with effluent limitations contained in the WDRs.

STATEMENT OF WATER CODE SECTIONS UPON WHICH LIABILITY IS BEING ASSESSED

- 6. An administrative civil liability may be imposed pursuant to the procedures described in CWC section 13323. An administrative civil liability complaint alleges the act or failure to act that constitutes a violation of law, the provision of law authorizing administrative civil liability to be imposed, and the proposed administrative civil liability.
- 7. Pursuant to CWC section 13385(a), any person who violates CWC section 13376, any waste discharge requirements issued pursuant to Chapter 5.5 of the Porter-Cologne Water Quality Control Act (Compliance with the Provisions of the Clean Water Act), any requirements established pursuant to CWC section 13383, or any requirements of section 301 of the Clean Water Act is subject to administrative civil liability pursuant to CWC section 13385(c).

8. CWC section 13385(c), provides for the imposition of civil liability by the Regional Water Board in an amount not to exceed the sum of both of the following: (1) Ten thousand dollars (\$10,000) for each day in which the violation occurs; and (2) where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

ALLEGED EFFLUENT LIMITATION VIOLATIONS

9. On 23 January 2011, between 0800 and 0859 hours, the 1-hour average chlorine residual concentration in Effluent EFF-001 was calculated to be 0.17 mg/L with a maximum concentration of 1.81mg/l or 8,950 percent greater than the allowed 1-hour average chlorine residual effluent limitation of 0.02 mg/L.
10. On 23 January 2011, between 0900 and 0959 hours, the 1-hour average chlorine residual concentration in Effluent EFF-001 was calculated to be 1.32 mg/L, with a maximum concentration of 5.00 mg/L or 24,900 percent greater than the allowed 1-hour average chlorine residual effluent limitation of 0.02 mg/L.
11. On 27 January 2011 the 4-day average chlorine residual concentration in Effluent EFF-001 was calculated to be 0.015 mg/L, or 150 percent greater than the allowed 4-day average chlorine residual effluent limitation of 0.01 mg/L.
12. The discharge volume was determined by multiplying the 1-minute average discharge flow (1,462 gallons per minute (gpm) during the exceedance) multiplied by the exceedance time (actual discharge time above chlorine residual effluent limit) of 46 minutes. Total volume equals 1,462 gpm multiplied by 46 minute equals 67,250 gallons.

FACTORS CONSIDERED IN DETERMINING ADMINISTRATIVE CIVIL LIABILITY

13. Pursuant to CWC section 13385, subdivision (e), in determining the amount of any civil liability imposed under CWC section 13385(c), the Regional Water Board is required to take into account the nature, circumstances, extent, and gravity of the violations, whether the discharges are susceptible to cleanup or abatement, the degree of toxicity of the discharges, and, with respect to the violator, the ability to pay, the effect on its ability to continue its business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violations, and other matters that justice may require. CWC section 13385, subdivision (e) also requires that at a minimum, liability shall be assessed at a level that recovers the economic benefit, if any, derived from the acts that constitute the violation(s). The Regional Water Board is not required to consider these factors prior to the imposition of penalties under CWC section 13385, subsections (h) and (i).
14. On 17 November 2010, the State Water Board adopted Resolution No. 2009-0083 amending the Water Quality Enforcement Policy (Enforcement Policy). The Enforcement

Policy was approved by the Office of Administrative Law and became effective on 20 May 2010. The Enforcement Policy establishes a methodology for assessing administrative civil liability. The use of this methodology addresses the factors that are required to be considered when imposing a civil liability as outlined in CWC section 13385(e). The entire Enforcement Policy can be found at:

http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final11179.pdf

The administrative civil liability was derived from the use of the penalty methodology in the Policy. In summary, this penalty assessment is based on a consideration of the failure to respond to requests made pursuant to CWC section 13267, subdivision (b), for Violations 1 through 4. The proposed civil liability takes into account such factors as the Discharger's culpability, history of violations, ability to pay and continue in business, and other factors as justice may require. The required factors have been considered for the prohibited discharge violations using the methodology in the Enforcement Policy, as explained in detail in Attachment A.

PROPOSED ADMINISTRATIVE CIVIL LIABILITY

15. The maximum penalty for the violations described is \$672,500 based on a calculation of the total number of gallons discharged times the statutory maximum, plus the total number of per-day violations times the statutory maximum penalty (66,250 gallons at \$10/gallon plus 1 day at \$10,000/day). However, based on consideration of the above facts and after applying the penalty methodology, the Assistant Executive Officer of the Central Valley Water Board proposes that civil liability be imposed administratively on the Discharger in the amount of **\$72,000** for the violations of CWC section 13385. The specific factors considered in this penalty are detailed in Attachment A.
16. There are no statutes of limitations that apply to administrative proceedings. The statutes of limitations that refer to "actions" and "special proceedings" and are contained in the California Code of Civil Procedure apply to judicial proceedings, not an administrative proceeding. See *City of Oakland v. Public Employees' Retirement System* (2002) 95 Cal. App. 4th 29, 48; 3 Witkin, Cal. Procedure (4th ed. 1996) Actions, §405(2), p. 510.)
17. Notwithstanding the issuance of this Complaint, the Central Valley Water Board retains the authority to assess additional penalties for violations of the requirements of the Discharger's waste discharge requirements for which penalties have not yet been assessed or for violations that may subsequently occur.
18. Issuance of this Complaint is an enforcement action and is therefore exempt from the provisions of the California Environmental Quality Act (Pub. Res. Code § 21000 et seq.) pursuant to title 14, California Code of Regulations sections 15308 and 15321 subsection (a) (2).

**THE CITY OF REDDING STILLWATER WASTEWATER TREATMENT FACILITY IS
HEREBY GIVEN NOTICE THAT:**

1. The Assistant Executive Officer of the Central Valley Water Board proposes that the Discharger be assessed a Mandatory Penalty in the amount of **seventy-two thousand dollars (\$72,000)**.
2. A hearing on this matter will be conducted at the Central Valley Water Board meeting scheduled **on 3/4/5 August 2011**, unless the Discharger does one of the following by **6 June 2011**:
 - a) Waives the hearing by completing the attached form (checking off the box next to Option 1) and returning it to the Central Valley Water Board, along with payment for the proposed civil liability of **seventy-two thousand dollars (\$72,000)**; or
 - b) The Central Valley Water Board agrees to postpone any necessary hearing after the Discharger requests to engage in settlement discussions by checking off the box next to Option #2 on the attached form, and returns it to the Board along with a letter describing the issues to be discussed; or
 - c) The Central Valley Water Board agrees to postpone any necessary hearing after the Discharger requests a delay by checking off the box next to Option #3 on the attached form, and returns it to the Board along with a letter describing the issues to be discussed.
3. If a hearing on this matter is held, the Central Valley Water Board will consider whether to affirm, reject, or modify the proposed Administrative Civil Liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
 - a. If this matter proceeds to hearing, the Assistant Executive Officer reserves the right to amend the proposed amount of civil liability to conform to the evidence presented, including but not limited to, increasing the proposed amount to account for the costs of enforcement (including staff, legal and expert witness costs) incurred after the date of the issuance of this Complaint through completion of the hearing.

ROBERT A. CRANDALL
Assistant Executive Officer

11 May 2011
(Date)

**WAIVER FORM
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

By signing this waiver, I affirm and acknowledge the following:

I am duly authorized to represent the City of Redding (hereafter Discharger) in connection with Administrative Civil Liability Complaint R5-2011-0570 (hereafter Complaint). I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served. The person who has been issued a complaint may waive the right to a hearing."

(OPTION 1: Check here if the Discharger waives the hearing requirement and will pay in full.)

- a. I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board.
- b. I certify that the Discharger will remit payment for the proposed civil liability in the full amount of **seventy two thousand dollars (\$72,000)** by check that references "ACL Complaint R5-2011-0570" made payable to the *State Water Pollution Cleanup and Abatement Account*. Payment must be received by the Central Valley Water Board by **6 June 2011**.
- c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after a 30-day public notice and comment period. Should the Central Valley Water Board receive significant new information or comments during this comment period, the Central Valley Water Board's Executive Officer may withdraw the complaint, return payment, and issue a new complaint. I also understand that approval of the settlement will result in the Discharger having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
- d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability

(OPTION 2: Check here if the Discharger waives the 90-day hearing requirement in order to engage in settlement discussions.) I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board within 90 days after service of the complaint, but I reserve the ability to request a hearing in the future. I certify that the Discharger will promptly engage the Central Valley Water Board Prosecution Team in settlement discussions to attempt to resolve the outstanding violation(s). By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing so that the Discharger and the Prosecution Team can discuss settlement. It remains within the discretion of the Central Valley Water Board to agree to delay the hearing. Any proposed settlement is subject to the conditions described above under "Option 1."

(OPTION 3: Check here if the Discharger waives the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines. Attach a separate sheet with the amount of additional time requested and the rationale.) I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board within 90 days after service of the complaint. By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing and/or hearing deadlines so that the Discharger may have additional time to prepare for the hearing. It remains within the discretion of the Central Valley Water Board to approve the extension.

(Print Name and Title)

(Signature)

(Date)