

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2013-0572

MANDATORY PENALTY  
IN THE MATTER OF

CITY OF RIO VISTA  
BEACH WASTEWATER TREATMENT PLANT  
SOLANO COUNTY

This Order is issued to the City of Rio Vista (Discharger) pursuant to California Water Code (Water Code) 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 R5-2008-0108-01 (NPDES No. CA0079588).

The Assistant 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 City of Rio Vista Beach Wastewater Treatment Plant (WWTP). The WWTP provides sewerage service to part of the City of Rio Vista, in Solano County. Treated domestic, commercial and industrial wastewater is discharged to the Sacramento River, a water of the United States.
2. On 31 July 2008, effective 19 September 2008, the Central Valley Water Board issued WDRs Order R5-2008-0108, which contained new requirements and rescinded WDRs Order 5-01-178, except for enforcement purposes. The WDRs include effluent limitations and other requirements regarding the wastewater discharges.
3. On 31 July 2008, the Central Valley Water Board adopted Time Schedule Order (TSO) R5-2008-0109. The TSO contained an interim effluent limitation and compliance schedule for total recoverable iron.
4. On 24 April 2009, the Central Valley Water Board adopted Order R5-2009-0037, which amended WDRs Order R5-2008-0108 with WDRs Order R5-2008-0108-01. The amended WDRs Order modified the effluent limitations and monitoring requirements for dibromochloromethane and dichlorobromomethane.
5. On 1 July 2010, the Assistant Executive Officer of the Central Valley Water Board issued Administrative Civil Liability Order (Order) R5-2010-0529 for mandatory minimum penalties for effluent violations (identified in Attachment A to Order R5-2010-0529) that occurred from 1 January 2008 through 31 January 2010. The Discharger constructed a compliance project to satisfy the Administrative Civil Liability and the Board considers the effluent violations specifically listed in Attachment A to Order R5-2010-0529 resolved.
6. On 7 January 2011, the Executive Officer of the Central Valley Water Board issued Administrative Civil Liability Complaint (Complaint) R5-2011-0502 for mandatory minimum penalties for effluent violations (identified in Attachment A to Order R5-2010-0502) that

occurred between 1 February 2010 and 30 September 2010. The Discharger paid the penalty to satisfy the Administrative Civil Liability and the Board considers the effluent violation specifically listed in Attachment A to Order R5-2011-0502 resolved.

7. This Order addresses violations subject to MMPs which occurred during the period of 1 October 2010 through 31 March 2013. On 21 June 2012, Central Valley Water Board staff issued the Discharger a Notice of Violation (NOV) and draft Record of Violations (ROV) for the period of 1 October 2010 through 30 April 2012. On 14 May 2013, Central Valley Water Board staff issued the Discharger a revised NOV and draft ROV which extended the period of record through 31 March 2013. On 4 June 2013, the Discharger responded to the ROV and requested that the MMPs be applied towards two compliance projects to offset the mandatory minimum penalties, as allowed by Water Code section 13385(k). These violations are specifically identified in Attachment A, which is attached hereto and incorporated herein by this reference.
8. Water Code section 13385 subdivisions (h) and (i) require assessment of mandatory minimum penalties and state, in relevant part, the following:

Water Code section 13385 subdivision (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 subdivision (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 subdivision (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.

9. Water Code section 13385(j) exempts certain violations from mandatory minimum penalties, and states, in relevant part:

Subdivisions (h) and (i) do not apply to any of the following:

- 3) A violation of an effluent limitation where the waste discharge is in compliance with either a cease and desist order issued pursuant to Section 13301 or a time schedule order issued pursuant to Section 13300 or 13308...

10. WDRs Order R5-2008-0108-01 Effluent Limitations IV.A.1.a include, in part, the following effluent limitations:

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

**Table 6. Effluent Limitations**

Parameter	Units	Effluent Limitations				
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
Biochemical Oxygen Demand, 5-day @ 20°C (BOD <sub>5</sub> )	mg/L	30	45	60	--	--

11. WDRs Order R5-2008-0108-01 Effluent Limitations IV.A.1.d include the following effluent limitations:

- d. Total Residual Chlorine. Effluent total residual chlorine shall not exceed:

- i. 0.011 mg/L, as a 4-day average; and  
ii. 0.019 mg/L, as a 1-hour average.

12. According to the Discharger's self-monitoring reports, the Discharger committed eight (8) violations of the above effluent limitations for total residual chlorine during the period beginning 1 October 2010 and ending 31 March 2013. The *17 April 2001 State Board (SB) 709 and 2165 Questions and Answers* guidance document states that multiple exceedances of one-hour average limitations be treated as one violation per day for the purposes of mandatory penalties when there is continuous monitoring. Based on this guidance, three of the eight total residual chlorine violations alleged in this Order are subject to MMPs as shown in Attachment A.

13. According to the Discharger's self-monitoring reports, the Discharger committed two (2) serious Group I violations of the above effluent limitations during the period beginning 1 October 2010 and ending 31 March 2013. The violations are defined as serious because measured concentrations of Group I constituents exceeded maximum

prescribed levels by forth percent (40%) or more on these occasions. The mandatory minimum penalty for these serious violations is **six thousand dollars (\$6,000)**.

14. According to the Discharger's self-monitoring reports, the Discharger committed three (3) serious Group II violations of the above effluent limitations during the period beginning 1 October 2010 and ending 31 March 2013. The violations are defined as serious because measured concentrations of Group II constituents exceeded maximum prescribed levels by twenty percent (20%) or more on these occasions. The mandatory minimum penalty for these serious violations is **nine thousand dollars (\$9,000)**.
15. The total amount of the mandatory minimum penalties assessed for the cited effluent violations is **fifteen thousand dollars (\$15,000)**. A detailed list of the cited effluent violations is included in Attachment A, a part of this Order. This Order addresses administrative civil liability for violations that are specifically listed in Attachment A as subject to mandatory minimum penalties.
16. Water Code 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.
17. The 2009 State Water Resources Control Board's *Water Quality Enforcement Policy* delegates the Regional Boards the authority to determine whether a publicly owned treatment works serves a small community with financial hardship. On 11 February 2013, the Central Valley Water Board determined that the Beach Wastewater Treatment Plant's service area meets the definition of a small community with a financial hardship.

### Compliance Project #1 – Power Transfer and Dechlorination System Upgrade

18. In the 4 June 2013 ROV response, the Discharger stated that the June 2011 total residual chlorine violations were the result of a failed power transfer from utility power to the emergency generator during a power outage due to a malfunction of the transfer switch. This caused the dechlorination system to stop operating and a discharge of effluent in violation of the WDRs limitations for total residual chlorine.

The Discharger also reported that the December 2011 total residual chlorine violations were caused by sodium bisulfite crystals forming in the dechlorination system tubing because of abnormally low temperatures. The crystals reduced the flow of sodium bisulfite causing a discharge of effluent in violation of the WDRs limitations for total residual chlorine.

19. On 4 June 2013, the Discharger submitted information showing that it spent approximately \$9,800 to purchase and install a power transfer and dechlorination system upgrade. The upgrade consisted of a new power transfer switch to reliably transfer power to the backup generator and to avoid power spikes during this transfer which led to the June 2011 total residual chlorine violations.

In addition, the upgrade also included a heater system for the sodium bisulfite dechlorination system and an automated valve that defaults to open in the event of a pump failure. This upgrade would prevent the problems that led to the December 2011 total residual chlorine violations. On 13 June 2013, the Discharger submitted documentation showing installation of the upgrades were completed in October 2012 and payment for the upgrades occurred on 28 March 2013, which is after the date of the effluent total residual chlorine violations.

Board staff finds that the power transfer and dechlorination system upgrade project qualifies as a compliance project within the meaning of Water Code section 13385 (k) because it will result in preventing additional total residual chlorine effluent violations.

### Compliance Project #2 – Aeration Basin DO Control Upgrade

20. In the 4 June 2013 ROV response, the Discharger stated that the January 2012 BOD violations were likely caused by inconsistent dissolved oxygen (DO) in the aeration basins. The aeration basins were originally installed in 1972 and do not contain a system to reliably control the DO concentrations ensuring sufficient biological treatment of the wastewater prior to discharge.
21. On 4 June 2013, the Discharger proposed an aeration basin DO control upgrade compliance project. The project will consist of replacement of the existing aeration diffusers, installation of DO probes, and programmable logic control (PLC) system to improve oxygen transfer to the wastewater in the aeration basins. This process change

will improve DO transfer in the aeration basins reducing the likelihood of BOD violations similar to the alleged BOD violations subject to MMPs under this Order.

Board staff finds that the aeration basin DO control upgrade qualifies as a compliance project within the meaning of Water Code section 13385 (k) because it will result in preventing additional BOD effluent violations. Therefore, the Discharger may use expenses incurred to complete the project to offset the two BOD MMPs.

### Additional Findings

22. The Central Valley Water Board finds that the Compliance Projects will remedy the violations for total residual chlorine and BOD. The Compliance Projects have been designed to correct these violations within five years, the timeline for the Compliance Projects is as short as possible, and the Compliance Projects have been designed in accordance with the State Water Board's Water Quality Enforcement Policy. The amount that the Discharger has expended or plans to expend on the Compliance Projects 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 Projects.
23. 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. No comments were received.
24. 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). Executive Officer Pamela Creedon is serving as the head of the Board's Prosecution Team for this matter, and therefore Assistant Executive Officer Kenneth Landau has the authority to issue this Order.
25. 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 § 21000 et seq.), in accordance with California Code of Regulations, title 14, sections 15307, 15308 and 15321(a)(2).

### **THE CITY OF RIO VISTA IS HEREBY GIVEN NOTICE THAT:**

1. The Discharger shall be assessed an Administrative Civil Liability of **fifteen thousand dollars (\$15,000)**.

2. In accordance with Water Code section 13385(k), the \$9,000 portion of the penalty for the effluent total residual chlorine violations has been satisfied through the completion of the compliance project described in Finding 19.
3. In accordance with Water Code section 13385(k), the \$6,000 portion of the penalty associated with the BOD violations shall be permanently suspended if the Discharger submits evidence that it has spent at least \$6,000 and completes the compliance project described in Finding 21 according to the schedule below:

<u>Task</u>	<u>Compliance Date</u>
Complete the Aeration Basin DO Control Upgrade Project	30 April 2014
Submit Final Report Documenting both the Completion of the Aeration Basin DO Control Upgrade Project and Project Costs	31 May 2014

4. 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.
5. The Assistant Executive Officer may extend the deadlines contained in this Order 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 at least 30 days prior to the deadline. Under no circumstances may the completion of any of the approved compliance projects extend past five (5) years from the issuance of this Order.
6. The Discharger must obtain written approval from the Assistant Executive Officer for any significant departures from the project outlines and the time schedules shown above. Failure to obtain written approval for any significant departures may result in the assessment of the full amount of the suspended mandatory minimum penalty.
7. If, in the judgment of the Assistant Executive Officer, the Discharger fails to complete the compliance project in accordance with the due dates listed above (including any extensions approved by the Assistant Executive Officer), the Executive Officer may demand payment of the suspended liability that reflects the portion of the compliance project that has not been satisfactorily completed. Payment must be made within 30 days of such a demand.
8. Should the Discharger fail to take any of the above actions, the Assistant Executive Officer may refer the matter to the State Attorney General for enforcement of the terms of this Order. The Board reserves the right to take any enforcement action authorized by law.

9. This Order is final upon signature.

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](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

*Original Signed By*

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KENNETH D. LANDAU, Assistant Executive Officer

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DATE

Attachment A: Record of Violations

**ATTACHMENT A  
ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2013-0572**

**City of Rio Vista  
Beach Wastewater Treatment Plant**

RECORD OF VIOLATIONS (1 October 2010 – 31 March 2013) MANDATORY PENALTIES  
(Data reported under Monitoring and Reporting Program R5-2008-0108-01)

	<u>Date</u>	<u>Violation</u>	<u>Units</u>	<u>Limit</u>	<u>Measured</u>	<u>Period</u>	<u>Remarks</u>	<u>CIWQS</u>
1	24-Jun-11	Total Residual Chlorine	mg/L	0.011	0.052	4-Day Average	2	905705
2	24-Jun-11	Total Residual Chlorine	mg/L	0.019	2.23	1-Hour Average	2	905706
3	24-Jun-11	Total Residual Chlorine	mg/L	0.019	2.43	1-Hour Average	5	905707
4	24-Jun-11	Total Residual Chlorine	mg/L	0.019	0.29	1-Hour Average	5	905708
5	10-Dec-11	Total Residual Chlorine	mg/L	0.019	0.15	1-Hour Average	2	918225
6	10-Dec-11	Total Residual Chlorine	mg/L	0.019	0.2	1-Hour Average	5	918226
7	10-Dec-11	Total Residual Chlorine	mg/L	0.019	0.2	1-Hour Average	5	918227
8	10-Dec-11	Total Residual Chlorine	mg/L	0.019	0.13	1-Hour Average	5	918228
9	21-Feb-12	BOD	mg/L	60	86	Daily Maximum	1	922026
10	25-Feb-12	BOD	mg/L	45	86	Average Weekly	1	922025

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 180-day period, thus is not subject to mandatory minimum penalties.
4. Non-serious violation subject to mandatory minimum penalties.
5. Per SB 709 and SB 2165, multiple exceedances of one-hour average limitation treated as one violation per day for the purposes of mandatory penalties when there is continuous monitoring.

<b><u>VIOLATIONS AS OF:</u></b>	<b><u>3/31/13</u></b>
Group I Serious Violations:	2
Group II Serious Violations:	3
Non-Serious Violations Not Subject to MMPs:	0
Non-serious Violations Subject to MMPs:	0
<u>Multiple Exceedances Exempt from MMPs:</u>	<u>5</u>
<b>Total Violations Subject to MMPs:</b>	<b>5</b>

**Mandatory Minimum Penalty = (5 serious Violations) x \$3,000 = \$15,000**