

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER NO. _____

IN THE MATTER OF
PLANADA COMMUNITY SERVICES DISTRICT
WASTEWATER TREATMENT FACILITY
MERCED COUNTY

This Order for Administrative Civil Liability (hereafter Order) is issued to Planada Community Services District (hereafter referred to as Discharger or Planada CSD) based on a finding of violations of Waste Discharge Requirements Order No. 97-123. Imposition of Administrative Civil Liability is authorized pursuant to California Water Code (CWC) Sections 13385(h) and (j).

The California Regional Water Quality Control Board, Central Valley Region (Regional Board), finds, with respect to the Discharger's acts, or failure to act, the following:

1. Waste Discharge Requirements (WDRs) Order No. 97-123 (NPDES No. CA0078950), adopted by the Regional Board on 20 June 1997, prescribe requirements for the treatment and discharge of pollutants from the Discharger's wastewater treatment facility (WWTF) to Miles Creek. Order No. 97-123 was administratively extended on 21 May 2002. On 27 January 2005, the Regional Board adopted WDRs Order No. R5-2005-0009, which supersedes WDRs Order No. 97-123 as an NPDES permit. The terms of this Administrative Civil Liability Order are for violations of Order No. 97-123.
2. Order No. 97-123 included the following effluent limitations:

“B. Effluent Limitations:

1. Effluent shall not exceed the following limits:

<u>Constituents</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Median¹</u>	<u>Daily Maximum</u>
BOD ₅ ²	mg/L	30	45		90
Total Suspended Solids	mg/L	30	45		90
Chlorine Residual	mg/L	0.5			1.0
Total Coliform					
<u>Organisms</u>	MPN/100 mL			23	240

¹ Based on the last seven samples

² 5-Day, 20°C biochemical oxygen demand (BOD)”

3. CWC Section 13385(a) subjects any person who violates any waste discharge requirements issued pursuant to Chapter 5.5 of the CWC to civil liability.

4. CWC Section 13385(h)(1) requires the Regional Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious violation. Section 13385(h)(2) defines a serious violation as “any waste discharge that violates the effluent limitations contained in 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.”
5. CWC Section 13385(i)(1) requires the Regional Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each violation, not counting the first three violations, if a discharger violates a waste discharge requirement effluent limitation four or more times in any period of six consecutive months. Section 13385(i)(2) defines a period of six consecutive months as “the period commencing on the date that one of the violations described in this subdivision occurs and ending 180 days after that date.” Violations of this frequency are termed chronic violations.
6. According to monitoring reports submitted by the Discharger, it committed 25 serious violations between 1 January 2000 and 30 April 2004. Twenty of these serious violations involve discharge of BOD₅ and total suspended solids, Group I wastes, in concentrations exceeding the effluent monthly average limitation by 40 percent or more. The remaining five involve discharge of residual chlorine, a Group II waste, in concentrations exceeding the effluent weekly average limitation by 20 percent or more. A summary of these serious violations is shown in Attachment A, a part of this Order. Pursuant to CWC Section 13385(h)(1), the mandatory minimum penalty for these serious violations is seventy-five thousand dollars (\$75,000).
7. According to monitoring reports submitted by the Discharger covering the period of 1 January 2000 through 30 April 2004, it violated the above mentioned effluent limitations of Order No. 97-123 as follows:
 - a. Exceeded the total coliform maximum effluent limitation 27 times and the total coliform seven-sample median effluent limitation 22 times;
 - b. Exceeded the chlorine residual weekly average effluent limitation 16 times, of which five were serious violations;
 - c. Exceeded the BOD₅ and total suspended solids effluent limitations 30 times, of which 20 were serious violations;

The total number of violations is 94, including the 25 serious violations. The total number of chronic violations subject to a mandatory penalty pursuant to CWC Section 13385(i) is 60. A summary of violations is shown in Attachment A. The mandatory penalty for these chronic violations is one hundred eighty thousand dollars (\$180,000).

8. CWC Section 13385(k) allows the Regional Board an alternative to assessing all or a portion of the mandatory penalties pursuant to Sections 13385(h)(1) and (i)(1) against publicly owned treatment works (POTW) that serve small communities, as defined by

CWC Section 79084(b). All or part of the mandatory penalties may be suspended by requiring such a POTW to spend an equivalent amount towards completion of a compliance project (CP) proposed by the POTW if the Regional Board finds all of the following:

- a. The CP is designed to correct the violations within five years;
 - b. The CP is in accordance with the State Water Resources Control Board (State Board) *Water Quality Enforcement Policy* (Enforcement Policy); and
 - c. The POTW has demonstrated that it has sufficient funding to complete the CP.
9. Enforcement Policy, Section V, subsection D, states that a small community with a financial hardship is a municipality with a 2000 population of less than 10,000 and 1999 median household income of less than 80 percent of the State's 1999 median household income. The State Water Resources Control Board (State Board) maintains a list of designated small communities with a financial hardship. Small communities not on the list may apply to the State Board to be included on the list.
 10. By letter dated 12 August 2003, the Discharger submitted the required information to the State Board to list Planada as a small community with a financial hardship. On 20 August 2003, the State Board designated Planada CSD as a small community with a financial hardship. The Discharger may be allowed to complete a CP in lieu of being assessed all or part of the mandatory penalties pursuant to CWC Section 13385(k).
 11. Enforcement Policy, Section X, subsection C, provides the general conditions applicable to all CPs. CPs must have clearly defined goals, costs, milestones and completion dates. If the CP is not completed on time and to the satisfaction of the Regional Board or the Executive Officer, the suspended amount becomes due and payable to the State Water Pollution Cleanup and Abatement Account. Payment of the suspended amount does not relieve the Discharger of the independent obligation to take necessary actions to achieve compliance.
 12. The total amount of the mandatory minimum penalties from Findings 6 and 7 is \$255,000.
 13. The Executive Officer on 2 August 2004 issued Administrative Civil Liability Complaint No. R5-2004-0533 proposing to assess \$255,000 (two hundred fifty-five thousand dollars) against the Discharger. The Complaint and a Notice of Public Hearing notified the Discharger and interested agencies and persons that a public hearing would be held on 14 or 15 October 2004 unless the Discharger agreed to waive the hearing and pay in full the \$255,000 liability or enter into a stipulated administrative civil liability order to spend at least \$255,000 to complete a CP to achieve compliance with Order No. 97-123, or any order that supersedes it.
 14. On 31 August 2004 the Discharger's counsel, "waived any and all time and statutory requirements" ... "to work toward a stipulated administrative civil liability order...[for]...a compliance project."

15. The Discharger submitted a proposed CP on 3 November 2004 and submitted amendments thereto dated 14 December 2004. The CP comprises two components: a) expenditures that the Discharger has made to date (Attachment B) towards correcting WWTF deficiencies to achieve compliance; and b) a proposed cessation of discharge to Miles Creek that includes expansion of the WWTF from 0.53 to 1.0 mgd and effluent disposal by crop irrigation.
16. As shown in Attachment B, the Discharger reports it spent \$112,040 towards correcting WWTF deficiencies that led to MMP violations. The expenditures included a laptop computer for remote access to the WWTF information system, a new computer to provide in-plant monitoring, sand filters to remove suspended solids, automated chlorination equipment to maximize disinfection, effluent chlorine residual monitoring to control effluent dechlorination, automatic dialers to notify operators of equipment failures, engineering for improvements, operator training for use of new equipment, improved instrumentation to monitor effluent, improved dechlorination chemical equipment, and professional services to install the new equipment and instrumentation.
17. One of the expenditures includes \$37,000 for a *Wastewater Treatment Plant Evaluation Study* that provides analysis and justification for WWTF improvements and expansion from 0.53 mgd to 1.0 mgd. While the report discusses modifications that could improve WWTF compliance, its primary purpose is to evaluate WWTF expansion from 0.53 mgd to 1.0 mgd. As the proposed expansion is due to forecasted growth and unrelated to correcting MMP violations, it would be inappropriate to credit the Discharger for the full \$37,000 cost of the report. Given this, a credit of \$19,610 tied to the current WWTF design capacity of 0.53 mgd is appropriate. Counting this offset, the Discharger has spent approximately \$95,550 to date on interim projects to achieve compliance.
18. The Discharger's proposed compliance project, including cessation of discharge to Miles Creek and expansion from 0.53 mgd to 1.0 mgd will reportedly cost \$2,334,000. Prorating this cost based on the existing flow of 0.53 mgd indicates \$1,237,020 ($\$2,334,000 \times 0.53 = \$1,237,020$) is the portion of the project that may be considered a CP. If successful, costs associated with cessation of surface water discharge will exceed that necessary to offset the entire MMP amount of \$255,000.
19. The Discharger, in its 1 November 2004 Compliance Project Report, proposes the following schedule:

Item	Description	Completion Date
1	Acquisition of purchase option for reclamation areas	April 2005
2	Evaluation study of reclamation areas	October 2005
3	Complete land purchase	April 2006
4	CEQA/NEPA compliance	October 2007
5	Design of WWTP Improvements	October 2008
6	Construction of WWTP improvements and start-up	October 2009

20. Regarding funding for the proposed cessation of discharge to Miles Creek, the 14 December 2004 letter from the Discharger's engineer, Boyle Engineering, states that the "...District, however, does not have the funds to complete the compliance project at this time."
21. The Regional Board considered the Discharger's stated lack of available funding, the time required to obtain funding, and this Order's proposed 28 April 2005 adoption date in the completion dates for this Order.
22. Issuance of this enforcement action is exempt from the provisions of the California Environmental Quality Act (Public Resource Code Section 21000, et seq.), in accordance with Section 15321(a)(2), Title 14, California Code of Regulations.
23. Any person affected by this action of the Regional Board may petition the State Water Resources Control Board (State Board) to review this action. The petition must be received by the State Board within 30 days of the date on which this Order was adopted by the Regional Board. Copies of the law and regulations applicable to filing petitions are available at www.waterboards.ca.gov/water_laws/index.html and will be provided on request.

IT IS HEREBY ORDERED pursuant to California Water Code sections 13385(a), (h)(1), (i)(1), and (k) that:

1. Planada Community Services District, its agents, successors, and assigns, shall be assessed a mandatory minimum penalty of **two hundred fifty-five thousand dollars (\$255,000)**.
2. **Ninety-five thousand five hundred fifty dollars (\$95,550) of the \$255,000** shall be credited as having been spent by the Planada Community Services District towards completing compliance projects designed to correct the WWTF violations, and therefore is permanently suspended.
3. The remaining **one hundred fifty-nine thousand four hundred fifty dollars (\$159,450)** shall be permanently suspended if the Executive Officer determines that Planada CSD has complied with the following schedule and spent at least that amount in good faith toward completion of the project:

<u>Item</u>	<u>Description</u>	<u>Completion Date</u>
1	Enter into a purchase option for reclamation areas	1 October 2005
2	Complete Evaluation study of reclamation areas	1 April 2006
3	Complete land purchase	1 December 2006
4	Comply with CEQA/NEPA	1 April 2007
5	Design WWTP Improvements	1 October 2008
6	Construct WWTP improvements and start-up	1 December 2009

If Planada Community Services District fails to complete the project described herein according to the time schedule herein, and has not spent the full amount of suspended penalty at time of failure, Planada Community Services District shall pay the balance of the remaining **one hundred fifty-nine thousand four hundred fifty dollars (\$159,450)** to the Cleanup and Abatement Account within 30 days of written notification from the Executive Officer of his determination. One or more completion dates may be extended, if, in the judgment of the Executive Officer, sufficient good faith progress toward completion has been made. However, Planada Community Services District's failure or inability to acquire sufficient funds shall not be a defense against a demand for payment. In no event shall the time for completion of all tasks be extended beyond 26 January 2010.

4. Payment shall be in the form of a check payable to the State Water Resources Control Board and submitted to the Regional Board's main office at 11020 Sun Center Drive, Suite 200, Rancho Cordova, CA 95670, (to the attention of Janice Tanaka). The check shall contain a reference to this Order.

I, THOMAS R. PINKOS, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the Regional Water Quality Control Board, Central Valley Region, **DATE**.

THOMAS R. PINKOS, Executive Officer

ACL ORDER NO. R5-2005-XXXX
ATTACHMENT B
PLANADA COMMUNITY SERVICES DISTRICT
MERCED COUNTY

Detailed List of Expenditures to date and Relation to Correction of Violations				
Item	Expenditure Date	Improvement Description	Violation Correction ⁽¹⁾	Amount
1	12-Nov-03	Laptop Computer - Includes the purchase of a new laptop computer to allow the operators to remotely monitor the facility from their residences during the weekends.	1,2,3	\$2,304
2	18-Mar-04	Analyzer Monitoring Equipment - Includes the purchase of a new amperometric titrator, a new chlorine residual analyzer, an ORP analyzer and a sulfite/chlorine residual analyzer for process control of the chlorination/dechlorination system	1,2	\$24,734
3	18-Mar-04	Sewer Study Expansion & Improvement Project - Includes the costs to conduct an evaluation of the WWTP processes and prepare a technical report identifying feasible ways to improve the performance of the WWTP.	1,2,3	\$37,000
4	14-Apr-04	Champ Injector/Mixer - Includes the purchase of a gas chlorine injection and dosing unit to replace the old dosing system at the operations building. The new units provides more accurate control and mixing of the chlorine dose.	1	\$18,295
5	9-Jun-04	Vacuum Regulator and Injector Switch - Includes the purchase and installation of a vacuum regulator on the sodium bisulfite line that goes from the injection pump to the injection point.	2	\$305
6	9-Jun-04	Champ Analyzer Electrical Installation - Includes the services of a professional electrician to install the electrical panel of the Champ chlorine injector/mixer.	1	\$1,803
7	16-Jun-04	Computer Programming - Includes the purchase of a software to be able to monitor the main chlorination/dechlorination process control variables.	1,2	\$150
8	20-Jul-04	Security Fence for Champ Chlorine Injector - Includes the purchase of a security fence to protect the equipment and to prevent accidental falls into the injection manhole	1	\$887
9	20-Jul-04	Buffer Solution, Chart Motor - Includes the purchase of buffer solution to calibrate the monitoring equipment, a chart motor to replace the existing monitoring chart motor.	1,2,3	\$1,486
12	20-Jul-04	Champ Chlorine Injector Electrical- Includes the services of a professional electrician to connect the Champ Chlorine Injector to the ORP analyzer	1	\$150
13	20-Jul-04	Honeywell Analyzer Monitor - Includes the purchase and installation of a monitoring electronic recorder.	1,2	\$2,557
14	21-Jul-04	Maintenance Training Class - Includes the subscription to a training class to learn how to operate the monitoring electronic recorder.	1,2	\$400
15	11-Aug-04	Analyzer Monitoring Equipment Parts - Includes the purchase of parts to rehabilitate the sulfite/chlorine residual analyzer	2	\$1,659
16	23-Aug-04	Sampler Pump, Pressure Valve, Analyzer Kit - Includes the purchase of miscellaneous piping and pumping equipment to convey effluent into the monitoring analyzers.	1,2	\$4,331
17	23-Aug-04	Software & AC Panel Drive - Includes the purchase of a VFD drive for the effluent pumps	1,2	\$5,504
18	23-Sep-04	Laboratory Equipment and Supplies - Includes the purchase of a new conductivity sensor, pH meter, ammonia reader, nitrate reader, Dissolved Oxygen meter to improve the process control	1,2,3	\$ 3,089
19	20-Oct-04	New Computer & Software includes the purchase of a new computer to be able to connect the autodialer	1,2,3	\$2,500
20	20-Oct-04	Autodialer Alarm System - Includes the purchase of an autodialer system to warn the operators of an alarm	1,2,3	\$5,000
21	20-Oct-04	Troubleshoot wiring of Minitrend Equipment includes the services of a professional electrician to resolve some of the initial problems associated with the electronic recorder.	1,2	\$786
			Total	\$112,940
¹ Chlorination System		² Dechlorination System		³ BOD/TSS Improvements