

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2014-0581

MANDATORY PENALTY
IN THE MATTER OF

CITY OF COLUSA
WASTEWATER TREATMENT PLANT
COLUSA COUNTY

This Order is issued to the City of Colusa (Discharger) pursuant to California Water Code (Water Code) section 13385, which authorizes the imposition of Administrative Civil Liability (ACL) and Water Code section 13323 which authorizes the Executive Officer to issue this Order. This Order is based on findings that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Order R5-2008-0184 (NPDES No. CA0078999).

The 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 a wastewater collection, treatment, and disposal system, and provides sewerage service to the City of Colusa. Treated municipal wastewater is discharged to Powell Slough, tributary to the Colusa Trough, and to the Colusa Basin Drain, a water of the United States.
2. On 5 December 2008, the Board issued WDRs Order R5-2008-0184 which rescinded Order R5-2002-0020 and included new effluent limitations and other requirements regarding the waste discharge. Order R5-2008-0184 became effective on 24 January 2009.
3. On 26 April 2013, the Assistant Executive Officer issued ACL Complaint R5-2013-0532 in the amount of \$3,000. The Complaint alleged effluent limitation violations requiring mandatory minimum penalties (MMPs) occurring between 1 January 2010 and 31 December 2012, and sought payment of \$3,000 to the State Water Resources Control Board's Cleanup and Abatement Account. The Discharger paid the civil liability and the Board considers those effluent violations specifically listed in Attachment A to ACL Complaint R5-2013-0532 resolved.
4. This Order addresses violations which occurred between 1 January 2013 and 30 July 2014. On 6 June 2014, Central Valley Water Board staff issued the Discharger a Notice of Violation and draft Record of Violations (ROV) for effluent violations occurring between 1 January 2013 and 31 March 2014. On 1 July 2014, the Discharger agreed that the violations occurred and requested that the Board allow a portion of the penalties to be applied to a compliance project. This Order extends the period of record through 30 July 2014. Two additional violations subject to MMPs that occurred between 31 March 2014 and 30 July 2014 have been included in Attachment A of this Order. This Order allows a portion of penalties to be applied to the compliance project.

5. 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.

6. WDRs Order R5-2008-0184 Final Effluent Limitations IV.A.1.a. and IV.A.1.m. include, in part, the following effluent limitations:

- a. **Upon the effective date of this Order**, the Discharger shall maintain compliance with the following effluent limitations...

Parameter	Units	Maximum Daily
BOD 5-day @ 20 °C	mg/L	20

- m. **Effective 1 May 2009**, the Discharger shall maintain compliance with the following effluent limitations...

Parameter	Units	Maximum Daily	Average Monthly
Chlorodibromomethane	µg/L	0.82	0.41

Dichlorobromomethane	µg/L	1.1	0.56
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7. According to the Discharger's self-monitoring reports, the Discharger committed one (1) serious Group I violation of the above effluent limitations contained in WDRs R5-2008-0184, as shown in Attachment A. This violation is defined as serious because the measured concentration of Group I constituents exceeded maximum prescribed levels in WDRs Order R5-2008-0184 by 40 percent or more. The mandatory minimum penalty for this serious violation is **three thousand dollars (\$3,000)**.
8. According to the Discharger's self-monitoring reports, the Discharger committed five (5) serious Group II violations of the above effluent limitations contained in WDRs R5-2008-0184, as shown in Attachment A. These violations are defined as serious because measured concentrations of Group II constituents exceeded maximum prescribed levels in WDRs Order R5-2008-0184 by 20 percent or more. The mandatory minimum penalty for these serious violations is **fifteen thousand dollars (\$15,000)**.
9. According to the Discharger's self-monitoring reports, the Discharger committed one (1) non-serious violation of the above effluent limitations contained in Order R5-2008-0184. The non-serious violation is subject to mandatory penalties under Water Code section 13385 subdivision (i)(1) because the violation was preceded by three or more similar violations within a six-month period. The mandatory minimum penalty for this non-serious violation is three **thousand dollars (\$3,000)**.
10. The total amount of the mandatory minimum penalties assessed for the cited effluent violations is **twenty-one thousand dollars (\$21,000)**. These violations are specifically identified in Attachment A to this Order as subject to mandatory minimum penalties. Attachment A to this Order is attached hereto and incorporated herein by reference.
11. Water Code section 13385(k) allows a discharger to complete a compliance project in lieu of paying the full amount of a mandatory penalty and states, in relevant part:
 - (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 country, 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.

12. The 2009 State Water Resources Control Board’s *Water Quality Enforcement Policy* delegates to the Regional Boards the authority to determine whether a publicly owned treatment works serves a small community with financial hardship. On 4 June 2014, the Central Valley Water Board determined that the City of Colusa Wastewater Treatment Plant’s service area meets the definition of a small community with a financial hardship.

Compliance Project – Aeration Tank Diffusers

13. In the 1 July 2014 ROV response, the Discharger stated the chlorodibromomethane and dichlorobromomethane violations were the result of sludge accumulation in the bottom of the aeration tank, indicating that the aeration tank did not have complete mixing. The Discharger also inspected the diffusers and determined some to be worn out.
14. On 16 July 2014, the Discharger submitted documentation showing that it spent \$13,816.19 on mechanical parts for new diffusers for the aeration tank. The diffusers were purchased on 19 June 2014, which is after the date of the last chlorodibromomethane and dichlorobromomethane violations listed in Attachment A of this Order. The replacement of worn out diffusers, as well as the increase in diffuser output from 49% to 59%, ensures there is complete mixing in the aeration tank and eliminates sludge settling.
15. The Central Valley Water Board finds that the Discharger’s purchase of new diffusers qualifies under Water Code section 13385(k) as a compliance project, as the project is designed to correct the chlorodibromomethane and dichlorobromomethane violations that led to the issuance of this ACL Order, and the underlying violations occurred prior to the initiation of the project. The project is in accordance with the Water Quality Enforcement Policy of the State Water Board.

Additional Findings

16. 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.
17. Issuance of this Administrative Civil Liability Order to enforce Water Code 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 COLUSA IS HEREBY GIVEN NOTICE THAT:

1. The Discharger shall be assessed an Administrative Civil Liability of **twenty-one thousand dollars (\$21,000)**.
2. The Discharger shall remit payment of **seven thousand one hundred eighty-three dollars and eighty-one cents (\$7,183.81)** of the imposed civil liability by check, which shall contain a reference to "ACL Order R5-2014-0581". Payment must be received by the State Water Board, Accounting Branch, Attn: ACL Payment, PO Box 1888, Sacramento, California 95812-1888 by **18 December 2014**. The check shall be made payable to the *State Water Pollution Cleanup and Abatement Account*. A copy of the check must also be mailed to the Central Valley Water Board at 11020 Sun Center Drive, Rancho Cordova, California 95670, attention to Wendy Wyels by **18 December 2014**.
3. The remaining **thirteen thousand eight hundred sixteen dollars and nineteen cents (\$13,816.19)** shall be suspended, pursuant to Water Code section 13385(k), for the completion of the diffuser compliance project as described in Finding 13.
4. Should the Discharger fail to take any of the above actions, the 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.
5. 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 or will be provided upon request.

Original signed by

PAMELA C. CREEDON, Executive Officer

25 November 2014
DATE

**ATTACHMENT A
ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2014-0581**

**City of Colusa
Wastewater Treatment Plant**

**RECORD OF VIOLATIONS (1 January 2013 – 30 July 2014) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Program R5-2008-0184)**

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measured</u>	<u>Period</u>	<u>Remarks</u>	<u>CIWQS</u>
1	2/4/2014	Chlorodibromomethane	µg/L	0.82	10	Maximum Daily	2	966064
2	2/4/2014	Dichlorobromomethane	µg/L	1.1	2.4	Maximum Daily	2	967107
3	2/28/2014	Chlorodibromomethane	µg/L	0.41	10	Average Monthly	2	967106
4	2/28/2014	Dichlorobromomethane	µg/L	0.56	2.4	Average Monthly	2	967108
5	3/31/2014	Chlorodibromomethane	µg/L	0.41	0.8	Average Monthly	2	967963
6	7/16/2014	BOD	mg/L	20	34	Maximum Daily	1	975357
7	7/30/2014	BOD	mg/L	20	23	Maximum Daily	4	975356

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.

VIOLATIONS AS OF: 6/30/2014

Group I Serious Violations:	1
Group II Serious Violations:	5
Non-Serious Violations Not Subject to MMPs:	0
<u>Non-serious Violations Subject to MMPs:</u>	<u>1</u>
Total Violations Subject to MMPs:	7

Mandatory Minimum Penalty = (1 Group I Violation + 5 Group II Violations + 1 non-serious Violation) x \$3,000 = \$21,000