

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2008-0594

MANDATORY PENALTY  
IN THE MATTER OF

SOUTHERN CALIFORNIA EDISON COMPANY  
BIG CREEK POWERHOUSE NO. 1  
FRESNO COUNTY

This Complaint is issued to Southern California Edison Company (hereafter SCE or Discharger) pursuant to California Water Code (CWC) section 13385, which authorizes the imposition of Administrative Civil Liability (ACL), 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. This Complaint is based on findings that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Orders 95-236 and R5-2004-0119 (NPDES No. CA0079545) at the Big Creek Powerhouse No. 1 Wastewater Treatment Facility.

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

1. The Discharger owns and operates a Wastewater Treatment Facility (Facility) that serves the Discharger's Big Creek Powerhouse No. 1 and the supporting community of Big Creek. Wastewater is treated through a biological treatment process. Treated wastewater is discharged to Big Creek, a water of the United States.
2. On 27 October 1995, the Central Valley Water Board issued WDRs Order 95-236 to regulate, in part, the daily discharge of up to 0.023 million gallons per day (mgd) of treated wastewater from the Facility to Big Creek.
3. On 21 October 2005, the Central Valley Water Board issued WDRs Order R5-2005-0156, which prescribed new requirements for the discharge and rescinded WDRs Order 95-236.
4. CWC section 13385(i) requires assessment of mandatory penalties and states, in part, the following:

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.

CWC section 13385(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.

5. CWC Section 13323 states, in relevant part:

Any executive officer of a regional board may issue a complaint to any person on whom administrative civil liability may be imposed pursuant to this article. The complaint shall allege the act or failure to act that constitutes a violation of law, the provision authorizing civil liability to be imposed pursuant to this article, and the proposed civil liability.

6. CWC section 13385.1(a)(1) states:

For purposes of subdivision (h) of Section 13385, a "serious violation" also means a failure to file a discharge monitoring report required pursuant to Section 13383 for each complete period of 30 days following the deadline for submitting the report, if the report is designed to ensure compliance with limitations contained in waste discharge requirements that contain effluent limitations.

7. Effluent Limitation B.1 in WDRs Orders 95-236 and R5-2005-0156 prescribes, in part, the following effluent limitations:

<u>Constituent</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Monthly Median</u>	<u>Daily Maximum</u>
Total Suspended Solids	mg/L	10	15	--	30
Total Coliform Organisms	MPN/100 ml	--	--	2.2	23
Settleable Solids	ml/L	0.1	--	--	0.2
Total Phosphorous	mg/L	0.5	--	--	1.5

8. Effluent Limitation B.3 in WDRs Orders 95-236 and R5-2005-0156 prescribes an effluent limitation for pH that reads, "The discharge shall not have a pH less than 6.0 or greater than 9.0."
9. Monitoring and Reporting Program 95-236 requires, in part, submittal of monthly self-monitoring reports by the 28<sup>th</sup> day of the month following sample collection.
10. On 10 July 2008, Central Valley Water Board staff (staff) issued the Discharger a Notice of Violation and a draft Record of Violations identifying violations of WDRs Order Nos. 95-236 and R5-2005-0156 that are subject to Mandatory Minimum Penalties (MMPs). The draft Record of Violations covers the period of 1 January 2000 through 31 December 2007 and identifies exceedances of numerical limitations for monthly average discharge flow and for effluent pH, settleable solids, total suspended solids, and total coliform organisms.
11. On 22 August 2008, the Discharger responded to the 10 July 2008 Notice of Violation and stated several effluent limitation violations should either be dismissed or were not subject to MMPs. Staff reviewed the response and, where appropriate, revised the draft Record of Violations. Attachment A to this Complaint is the final Record of Violations for the period of 1 January 2000 through 31 December 2007. It identifies three (3) serious effluent limitation violations subject to MMP pursuant to CWC section 13385(h), seventeen (17) non-serious effluent limitation violations, of which three (3) are subject to MMP pursuant to CWC section 13385(i), and one (1) serious late reporting violation subject to MMP pursuant to CWC section 13385.1(a)(1). Attachment B to this Complaint is a technical staff memorandum dated 24 November 2008 that details staff's analysis of the Discharger's response, and explains changes made to the draft Record of Violations based on staff's analysis of the Discharger's response.
12. The total amount of the MMPs assessed for the violations identified in Attachment A as subject to MMP is **twenty-one thousand dollars (\$21,000)**.
13. Issuance of this Administrative Civil Liability Complaint to enforce CWC Division 7, Chapter 5.5 is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et seq.), in accordance with Title 14 California Code of Regulations, Enforcement Actions by Regulatory Agencies, section 15321(a)(2).

**SOUTHERN CALIFORNIA EDISON COMPANY IS HEREBY GIVEN NOTICE THAT:**

1. The Assistant Executive Officer of the Central Valley Water Board proposes that the Discharger be assessed an Administrative Civil Liability in the amount of **twenty one thousand dollars (\$21,000)**.

2. A hearing on this matter will be held at the Central Valley Water Board meeting scheduled for **5/6 February 2009**, unless the Discharger does either of the following by **30 December 2008**:
  - a) Waives the hearing by completing the attached form (checking off the box next to item #4) and returning it to the Central Valley Water Board, along with payment for the proposed civil liability of **twenty-one thousand dollars (\$21,000)**; or
  - b) Agrees to enter into settlement discussions with the Central Valley Water Board and requests that any hearing on the matter be delayed by signing the enclosed waiver (checking off the box next to item #5) and returning it to the Central Valley Water 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.

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LOREN J. HARLOW, Assistant Executive Officer

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Attachment A: Record of Violations

Attachment B: Technical Staff Memorandum dated 21 November 2008

**WAIVER OF 90-DAY HEARING REQUIREMENT FOR  
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

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

1. I am duly authorized to represent Southern California Edison Company (hereafter "Discharger") in connection with Administrative Civil Liability Complaint R5-2008-0594 (hereinafter the "Complaint");
2. 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" with the Complaint;
3. I hereby waive any right the Discharger may have to a hearing before the California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) within ninety (90) days of service of the Complaint; and
4.  **(Check here if the Discharger will waive the hearing requirement and will pay the fine)**
  - a. I certify that the Discharger will remit payment for the civil liability imposed in the amount of **twenty-one thousand dollars (\$21,000)** by **two** checks that both contain a reference to "ACL Complaint R5-2008-0594." One check is to be in the amount of **eighteen thousand dollars (\$18,000)** made payable to the "State Water Pollution Cleanup and Abatement Account," and one check is to be in the amount of **three thousand dollars (\$3,000)** and made payable to the "Waste Discharge Permit Fund." Payment must be received by the Central Valley Water Board by **30 December 2008** or this matter will be placed on the Central Valley Water Board's agenda for adoption as initially proposed in the Complaint.
  - b. I understand the payment of the above amount constitutes a settlement of the Complaint, and that any settlement will not become final until after the 30-day public notice and comment period mandated by Federal regulations (40 CFR 123.27) expires. Should the Central Valley Water Board receive new information or comments during this comment period, the Central Valley Water Board's Assistant Executive Officer may withdraw the complaint, return payment, and issue a new complaint. New information or comments include those submitted by personnel of the Central Valley Water Board who are not associated with the enforcement team's issuance of the Complaint.
  - c. 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.

-or-

5.  **(Check here if the Discharger will waive the 90-day hearing requirement, but will not pay at the current time. The Central Valley Water Board must receive information from the Discharger indicating a controversy regarding the assessed penalty at the time this waiver is submitted, or the waiver may not be accepted.)** I certify that the Discharger will promptly engage the Central Valley Water Board staff in discussions to resolve the outstanding violation(s). By checking this box, the Discharger is *not* waiving its right to a hearing on this matter. By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing so that the Discharger and Central Valley Water Board staff can discuss settlement. It remains within the discretion of the Central Valley Water Board to agree to delay the hearing. A hearing on the matter may be held before the Central Valley Water Board if these discussions do not resolve the liability proposed in the Complaint. The Discharger agrees that this hearing may be held after the 90-day period referenced in California Water Code section 13323 has elapsed.
6. If a hearing on this matter is held, the Central Valley Water Board will consider whether to issue, reject, or modify the proposed Administrative Civil Liability Order, or whether to refer the matter to the Attorney General for recovery of judicial civil liability. Modification of the proposed Administrative Civil Liability Order may include increasing the dollar amount of the assessed civil liability.

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(Print Name and Title)

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(Signature)

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(Date)

**ATTACHMENT A**  
**ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2008-0594**

**SOUTHERN CALIFORNIA EDISON COMPANY**  
**BIG CREEK POWERHOUSE NO. 1**  
**RECORD OF VIOLATIONS (1 January 2000 – 31 December 2007) MANDATORY PENALTIES**  
(Data reported under Monitoring and Reporting Programs 95-236 and R5-2005-0156)

<u>Violation ID</u> <sup>1</sup>	<u>Violation Date</u> <sup>2</sup>	<u>Violation Type</u> <sup>3</sup>	<u>Violation Description</u> <sup>4</sup>	<u>MMP Type</u> <sup>5</sup>
158298	2/2/00	CAT1	2M; Total Phosphorous; 1.5; mg/L; D; 2.0	Exempt
153254	4/5/00	CAT1	4M; TSS; 15; mg/L; W; 16	Exempt
196673	7/18/01	CAT1	7M; TSS; 30; mg/L; D; 36	Exempt
793406	11/28/01	CAT1	11M; TSS; 30; mg/L; D; 590. Result due to single operational upset; violation subject to MMP while others related to upset (197164, 197106, 197114, and 197167) are not subject to MMPs.	Serious
197164	11/28/01	OEV	11M; TCO; 23; MPN/100mL; D; 60	Excluded
197106	11/28/01	CAT1	11M; TSS; 15; mg/L; W; 590	Excluded
197114	11/30/01	CAT1	11M; TSS; 10; mg/L; M; 153.5	Excluded
197167	11/30/01	OEV	11M; TCO; 2.2; MPN/100mL; M; 30	Excluded
204687	3/13/02	CAT1	3M; Total Phosphorous; 1.5; mg/L; D; 9	Serious
204692	3/31/02	CAT1	3M; Total Phosphorous; 0.5; mg/L; M; 2.25	Serious
744027	9/6/03	OEV	9M; pH; 6.0-9.0 pH units; I; 5.9	Exempt
744027	9/6/03	OEV	9M; pH; 6.0-9.0 pH units; I; 5.9	Exempt
745737	9/29/04	LREP	Report for September 2004 late 42 days	Serious
254281	5/20/04	OEV	5M; pH; 6.0-9.0; pH units; I; 5.52	Exempt
254282	5/21/04	OEV	5M; pH; 6.0-9.0; pH units; I; 5.65	Exempt
254283	6/2/04	OEV	6M; pH; 6.0-9.0; pH units; I; 5.31	Exempt
254284	6/3/04	OEV	6M; pH; 6.0-9.0; pH units; I; 5.86	Chronic
254285	6/4/04	OEV	6M; pH; 6.0-9.0; pH units; I; 5.77	Chronic
745722	6/12/04	OEV	6M; pH; 6.0-9.0; pH units; I; 5.93	Chronic
743060	1/16/07	OEV	1M; pH; 6.0-9.0; pH units; I; 5.74	Exempt
743061	1/17/07	OEV	1M; pH; 6.0-9.0; pH units; I; 5.92	Exempt

<sup>1</sup> Violation ID in CIWQS

<sup>2</sup> Table of Abbreviations below defines abbreviations used in this table.

<sup>3</sup> Violation Descriptions are coded as follows: Reporting period (e.g., 2M = February); constituent or parameter (e.g., pH, Flow); effluent limitation; units; limitation period; and reported result.

<sup>4</sup> Serious violations are subject to MMPs. Exempt non-serious violations fall within the first three violations in a six-month period, thus are exempt. Excluded violations are violations resulting from a single

operational upset and are not subject to MMPs in accordance with CWC section 13385(f).

<u>Abbreviation</u>	<u>Definition</u>
CAT1	Violation of Group I pollutant effluent limitation as defined in Enforcement Policy
CIWQS	California Integrated Water Quality System database
D	Daily
I	Instantaneous
LREP	Late Report
M	Monthly
MMP	Mandatory Minimum Penalty
MPN/100 mL	Most Probable Number per 100 milliliters
OEV	Other Effluent Violation
TCO	Total Coliform Organisms
TSS	Total Suspended Solids

VIOLATION SUMMARY					
Violation Type	MMP Type				Grand Total
	Chronic	Excluded	Exempt	Serious	
CAT1		2	3	3	8
LREP				1	1
OEV	3	2	7		12
Grand Total	3	4	10	4	21

<u>MMP VIOLATION TYPE</u>	<u>VIOLATION PERIOD</u> <u>1/1/2000 TO 12/31/2007</u>
Serious Violations of a Group I Pollutant Effluent Limitation Subject to MMPs:	3
Serious Late Reporting Violations Subject to MMPs:	1
Chronic Non-Serious Violations Subject to MMPs:	3
<b>Total Violations Subject to MMPs:</b>	<b>7</b>
Non-serious Violations Excluded from MMPs:	4
Non-serious Violations Exempt from MMPs:	10
<b>Mandatory Minimum Penalty = ( 4 Serious + 3 Chronic Violations ) x \$3,000 = \$21,000</b>	



# California Regional Water Quality Control Board Central Valley Region

Karl E. Longley, ScD, P.E., Chair

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Arnold  
Schwarzenegger  
Governor

Linda S. Adams  
Secretary for  
Environmental Protection

**TO:** Lonnie M. Wass  
Supervising Engineer

**FROM:** Jo Anne Kipps  
Senior Engineer  
Compliance and Enforcement Unit

**DATE:** 21 November 2008

**SIGNATURE:** \_\_\_\_\_

**SUBJECT: SOUTHERN CALIFORNIA EDISON COMPANY BIG CREEK POWERHOUSE  
NO. 1 RESPONSE TO NOV AND DRAFT RECORD OF VIOLATIONS**

Southern California Edison Company (Discharger) owns and operates a wastewater collection, treatment and disposal system (WWTF) that provides sewerage service to the Big Creek Powerhouse No. 1 and the supporting community of Big Creek. The WWTF discharges disinfected effluent to Big Creek.

Effluent Limitation B.1 in WDRs Orders 95-236 R5-2005-0156 prescribes, in part, the following limitations:

<u>Constituent</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Monthly Median</u>	<u>Daily Maximum</u>
Total Suspended Solids	mg/L	10	15	--	30
Total Coliform Organisms	MPN/100 ml	--	--	2.2	23
Settleable Solids	ml/L	0.1	--	--	0.2
Total Phosphorous	mg/L	0.5	--	--	1.5

Total Suspended Solids (TSS), Settleable Solids (SS), and Total Phosphorus are Group I pollutants. Exceedances by 40 percent or more of effluent limitations for Group I pollutants constitute a "serious violation" in accordance with California Water Code (CWC) section 13385(2).

Effluent Limitation B.3 in WDRs Orders 95-236 and R5-2005-0156 prescribes an effluent limitation for pH that reads, "The discharge shall not have a pH less than 6.0 or greater than 9.0."

Effluent Limitation B.4 in WDRs Orders 95-236 and R5-2005-0156 prescribes a monthly average discharge flow limitation of 0.023 million gallons per day.

On 10 July 2008, staff issued the Discharger a Notice of Violation (NOV) and draft Record of Violations for violations of WDRs Orders 95-236 and R5-2005-0156 for the period of 1 January 2000 through 31 December 2007. The NOV identified, in part, nine violations of the numerical limitation for maximum monthly average discharge flow as subject to minimum mandatory penalties (MMPs). CWC section 13385.1(c) defines the term "effluent limitation" for the purposes of section 13385 as meaning "a numeric restriction or numerically expressed

**California Environmental Protection Agency**



narrative restriction, on the quantity, discharge rate, concentration, or toxicity units of a pollutant or pollutants that may be discharged from an authorized location.” The parameter “flow” is not a pollutant in and by itself; exceedances of the monthly average discharge flow limitation established by Effluent Limitation B.4 in WDRs Orders 95-236 and R5-2005-0156 and cited in the NOV will not be considered violations subject to MMPs.

On 22 August 2008, the Discharger submitted a 15-page response to the NOV along with supporting documentation. The following is staff’s point-by-point analysis of the Discharger’s response as it pertains to exceedances of effluent limitations for pollutants and for one serious late reporting violation, and identifies changes made by staff to the draft Record of Violations based on the Discharger’s response. The format below (e.g., headings and tables) follows that of the Discharger’s response. The final Record of Violations appears as Attachment A to Administrative Civil Liability Complaint R5-2008-0594.

### **Total Phosphorus Effluent Limitation Exceedances**

<u>Violation ID</u>	<u>Violation Date</u>	<u>Violation Type</u>	<u>Violation Description</u>	<u>MMP Type</u>
158298	2/2/00	CAT1	2M; Total Phosphorous; 1.5; mg/L; D; 2.0	Exempt
204687	3/13/02	CAT1	3M; Total Phosphorous; 1.5; mg/L; D; 9	Serious
204692	3/31/02	CAT1	3M; Total Phosphorous; 0.5; mg/L; M; 2.25	Serious

The Discharger indicates that the above exceedances of the effluent total phosphorus limitation occurred “when unexpected influxes of phosphates from the small mountain community wastewater stream enter the [WWTF].” The Discharger’s March 2002 self-monitoring report indicated the effluent total phosphorus concentrations were 9.0 mg/L on 13 March 2002 and non-detect (i.e., < 1.0 mg/L) on the three other weekly sampling events. The monthly average effluent total phosphorus concentration in March 2002 was 2.3 mg/L. This value was calculated by using one-half the detection limit (i.e., 0.5 \* 1.0 mg/L or 0.05 mg/L). The daily result of 9.0 mg/L and the monthly average result of 2.3 mg/L exceed the effluent limitations by greater than 40%; therefore the Discharger committed two serious violations of the effluent limitation for total phosphorus in March 2002. The Discharger explained that the exceedance was likely due to residents washing clothes simultaneously and argued that the violations should be dismissed in accordance with CWC section 13350(c)(5).

CWC Section 13350(c)(5) is not applicable to the penalty calculation. The Discharger was cited for violations under CWC section 13385, which contains a similar provision, but is more strict. CWC section 13385(j)(1) states that mandatory minimum penalties are not to be applied when violations are caused by,

(B) An unanticipated, grave natural disaster or other phenomenon of an exceptional, inevitable, and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight.

(C) An intentional act of a third party, the effects of which could not have been avoided by the exercise of due care or foresight.

The exceedances do not meet the threshold under these provisions, and therefore, violations 158298, 204687, and 204692 are is subject to mandatory minimum penalty provisions of CWC section 13385.

### **Weekly TSS Violation**

<u>Violation ID</u>	<u>Violation Date</u>	<u>Violation Type</u>	<u>Violation Description</u>	<u>MMP Type</u>
153254	4/5/00	CAT1	4M; TSS; 15; mg/L; W; 16	Exempt

Regarding Violation ID 153254, the Discharger states, "the laboratory results demonstrate an effluent reading of 1.6. No further records from the [WWTF] can be found regarding this finding." The Discharger's April 2000 SMR includes a Certificate of Analysis from BSK Analytical Laboratories for BSK Sample ID #33745 issued 18 April 2000. This document identifies an effluent TSS result of 16 mg/L for the effluent sample collected on 5 April 2000. The Discharger monitors effluent TSS weekly. The effluent TSS result of 16 mg/L, while in compliance with the daily maximum effluent TSS limitation of 30 mg/L, exceeds the weekly effluent TSS limitation of 15 mg/L.

Conclusion: Violation ID 153254 is subject to mandatory minimum penalty provisions of CWC section 13385.

### **TSS Violation**

<u>Violation ID</u>	<u>Violation Date</u>	<u>Violation Type</u>	<u>Violation Description</u>	<u>MMP Type</u>
196673	7/18/01	CAT1	7M; TSS; 30; mg/L; D; 36	Exempt

The Discharger acknowledges this violation as being due to operator error.

Conclusion: Violation ID 196673 is subject to mandatory minimum penalty provisions of CWC section 13385.

### **TSS and TCO: November 2001 Intermittent Valve Failure**

<u>Violation ID</u>	<u>Violation Date</u>	<u>Violation Type</u>	<u>Violation Description</u>	<u>MMP Type</u>
197106	11/28/01	CAT1	11M; TSS; 15; mg/L; W; 590	Serious
197164	11/28/01	OEV	11M; TCO; 23; MPN/100mL; D; 60	Chronic
197114	11/30/01	CAT1	11M; TSS; 10; mg/L; M; 153.5	Serious
197167	11/30/01	OEV	11M; TCO; 2.2; MPN/100mL; M; 30	Chronic

The Discharger attributes Violation IDs 197106 and 197164 to a single operational upset from an unforeseen equipment valve failure that occurred on 28 November 2001. The Discharger explained the failure as follows:

This TSS overage [i.e., Violation ID 197106] is due to a single operational upset from unforeseen equipment valve. The primary function of the automated valve was to close during a plant upset or during the backwash cycle. The valve began operating intermittently and would stop partially-closed, allowing the secondary treated water to enter the effluent pipe. The encroachment of TSS caused the TSS overage. After the incident, an operator witnessed the motor surging when the valve stuck and called in personnel to evaluate the equipment. The motor and valve was refurbished directly after the incident occurred and the [WWTF] returned to a complaint state. This upset was not caused by operator error, but rather an unforeseen malfunction of otherwise operable equipment and would not have occurred otherwise.

The Discharger requests that these violations not be subject to MMPs because the upset that caused the violations was “an exceptional event that was promptly corrected upon discovery and was beyond [the Discharger’s] control to prevent.” The explanation provided by the Discharger above appears to indicate that the upset was due to an unanticipated valve malfunction. The Discharger requests that Violation IDs 197114 and 197167 also be excluded from MMPs because they would not have occurred had it not been for the single operational upset that occurred on 28 November 2001. Disinfection performance is diminished when effluent contains elevated TSS. Therefore, the Discharger’s claim that the effluent TCO violation was caused by the upset that led to the effluent TSS limitation violation is reasonable. The other two violations that resulted from this upset, monthly average effluent TSS and monthly median effluent TCO, would not have occurred were it not for the single operational upset.

In re-evaluating the Discharger’s November 2001 SMR, staff discovered that a violation of the daily maximum effluent TSS limitation should have been entered in CIWQS for the 28 November 2001 effluent TSS result of 590 mg/L. This violation has been entered as Violation ID 793406.

Conclusion: Staff combined all violations identified above as one violation subject to MMP (i.e., only Violation ID 793406 will be subject to MMP) and updated CIWQS to reflect that Violation IDs 197106, 197164, 197114, and 197167 will not be subject to MMPs because of the single operational upset in accordance with CWC section 13385(f).

### **Settleable Solids**

<u>Violation ID</u>	<u>Violation Date</u>	<u>Violation Type</u>	<u>Violation Description</u>	<u>MMP Type</u>
204629	2/13/02	CAT1	2M; Settleable Solids; 0.2; ml/L; D; 2.4	Serious
204630	2/28/02	CAT1	2M; Settleable Solids; 0.1; ml/L; M; 0.6	Serious

While the Discharger’s February 2002 SMR includes a Certificate of Analysis that documents an effluent SS result of 2.4 ml/L on 13 February 2002, the SMR transmittal letter does not report the violation. The Discharger’s response acknowledges this oversight, requests that this result be considered due to laboratory error and Violation ID 204629 be dismissed, and provides technical information supporting the Discharger’s claim of laboratory error (e.g., operator records indicate that the treatment works were functioning properly on 13 February 2002, and effluent contained 6.0 mg/L TSS and exhibited a turbidity of 0.317 NTU, which reflects low solids content). Because the 13 February 2002 effluent SS result yielded an

effluent monthly average SS result of 0.6 ml/L, the Discharger requests that Violation ID 204630 also be dismissed.

Conclusion: Staff concurs with the Discharger's claim that the elevated effluent SS result reported for 13 February 2002 was aberrant and likely due to laboratory error and updated CIWQS to dismiss Violation IDs 204629 and 204630 with the reason of "laboratory error."

### **INVALID REPORT**

<u>Violation ID</u>	<u>Violation Date</u>	<u>Violation Type</u>	<u>Violation Description</u>	<u>MMP Type</u>
745676	11/28/02	CAT1	11M; TSS; 30; mg/L; D; 590	Serious

The Discharger indicates that this violation did not occur and appears to be a duplicate of Violation ID 197106. The Discharger's November 2002 SMR does not report an effluent TSS result of 590 mg/L on the 28 November 2002. Violation ID 745676 appears to have been created in error.

Conclusion: Staff dismissed Violation ID 745676 and cited the reason of "created in error."

### **pH Violation – Operator Error**

<u>Violation ID</u>	<u>Violation Date</u>	<u>Violation Type</u>	<u>Violation Description</u>	<u>MMP Type</u>
744027	9/6/03	OEV	9M; pH; 6.0-9.0 pH units; I; 5.9	Exempt

The Discharger acknowledges this violation.

Conclusion: Violation ID 744027 is subject to mandatory minimum penalty provisions of CWC section 13385.

### **pH Violations**

<u>Violation ID</u>	<u>Violation Date</u>	<u>Violation Type</u>	<u>Violation Description</u>	<u>MMP Type</u>
254281	5/20/04	OEV	5M; pH; 6.0-9.0; pH units; I; 5.52	Exempt
254282	5/21/04	OEV	5M; pH; 6.0-9.0; pH units; I; 5.65	Exempt
254283	6/2/04	OEV	6M; pH; 6.0-9.0; pH units; I; 5.31	Exempt
254284	6/3/04	OEV	6M; pH; 6.0-9.0; pH units; I; 5.86	Chronic
254285	6/4/04	OEV	6M; pH; 6.0-9.0; pH units; I; 5.77	Chronic
745722	6/12/04	OEV	6M; pH; 6.0-9.0; pH units; I; 5.93	Chronic

The Discharger indicates that these pH effluent limitation exceedances were caused by sudden unanticipated changes in influent characteristics and explains that the specific causes were likely the discharge to the Discharger's collection system of paint on 20 May 2004 and of antifreeze on 2 June 2004. The Discharger states, "These chemicals were poured down

drains or toilets by residents of the small mountain community.” The Discharger describes the corrective measures taken to address these violations and argues that the violations listed above should be treated as two separate violations caused by two separate single operational upsets.

The Discharger did not provide sufficient technical information to support its claim that the effluent pH exceedances were attributable to discharges of these substances to the Discharger’s collection system.

Conclusion: Violation IDs 25428, 1254282, 254283, 254284, 254285, and 745722 remain subject to the mandatory minimum penalty provisions of CWC section 13385.

### **Late Report**

<u>Violation ID</u>	<u>Violation Date</u>	<u>Violation Type</u>	<u>Violation Description</u>	<u>MMP Type</u>
745737	9/29/04	LREP	Report for September 2004 late 42 days	Serious

The Discharger acknowledges this serious late reporting violation.

Conclusion: Violation ID 745737 remains enforceable.

### **pH Violation – Equipment Failure**

<u>Violation ID</u>	<u>Violation Date</u>	<u>Violation Type</u>	<u>Violation Description</u>	<u>MMP Type</u>
743060	1/16/07	OEV	1M; pH; 6.0-9.0; pH units; I; 5.74	Exempt
743061	1/17/07	OEV	1M; pH; 6.0-9.0; pH units; I; 5.92	Exempt

The Discharger indicates that the pH effluent limitations that occurred on 16 and 17 January 2007 were caused by a malfunctioning soda ash pump and requests that the two violations be treated as one violation caused by a single operational upset in accordance with CWC section 13385(f).

The Discharger did not provide sufficient information to indicate the malfunction of the soda ash pump was an exceptional incident. Also, because the violations occurred on different days, in order for them to count as one violation, the malfunctioning soda ash pump must have caused a disruption in the biological treatment part of the treatment train. The Discharger did not provide information indicating that this was the case.

Conclusion: Violation IDs 743060 and 743061 remain subject to the mandatory minimum penalty provisions of CWC section 13385.