

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2008-0544

MANDATORY PENALTY
IN THE MATTER OF

CITY OF ROSEVILLE
DRY CREEK WASTEWATER TREATMENT PLANT
PLACER COUNTY

This Complaint is issued to the City of Roseville, Dry Creek Wastewater Treatment Plant (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. This Complaint is based on findings that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Order No. 5-00-164 (NPDES No. CA0079502).

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

1. The Discharger owns and operates a wastewater collection, treatment, and disposal system, and provides sewerage service for the City of Roseville, portions of southeast Placer County, and South Placer Municipal Utility District. Treated municipal wastewater is discharged to Dry Creek, Pleasant Grove Creek, and an unnamed tributary to Pleasant Grove Creek, tributary to Natomas Cross Canal, tributary to the Sacramento River, waters of the United States.
2. On 16 June 2000, the Regional Water Board adopted WDRs Order No. 5-00-164 to regulate discharges of waste from the WWTP. The WDRs include effluent limitations and other requirements regarding the wastewater discharges.
3. CWC sections 13385(h) and (i) require assessment of mandatory penalties and state, in part, the following:

CWC section 13385(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."

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."

CWC section 13385(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.”*

4. CWC section 13323 states, in 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.”

5. The Executive Officer previously issued Administrative Civil Liability Complaint (ACLC) No. 5-01-512 to the Discharger for mandatory penalties for effluent limitation violations from 1 January 2000 to 31 December 2000 in the amount of \$12,000. The Regional Water Board has accepted payment from the Discharger of the penalty associated with ACLC No. 5-01-512, and considers this prior matter resolved.

6. WDRs Order No. 5-00-164 Effluent Limitations No. B.1. include, in part, the following effluent limitations: *“Effluent shall not exceed the following limits at discharge points 001, 002, 003, and 004.”*

<u>Constituent</u>	<u>Units</u>	<u>Daily Maximum</u>	<u>Daily Average</u>	<u>Weekly Average</u>	<u>Monthly Average</u>
Turbidity	NTU	5	2	--	--
<u>Constituent</u>	<u>Units</u>	<u>1-Hour Average¹</u>	<u>4-Day Average²</u>	<u>30-Day Average</u>	<u>Daily Maximum</u>
Chlorine Residual	mg/L	0.02	0.01	--	--
Ammonia	mg N/L	Attachment B	--	Attachment C ²	--
	lbs/day ³	5	--	5	--
Bis(2-ethylhexyl)phthalate	µg/L	--	--	1.8	--
	lbs/day ³	--	--	0.3	--
Cadmium	µg/L	Attachment D	Attachment D	--	--
	lbs/day ³	5	5	--	--
Cyanide	µg/L	22	5.2	--	--
	lbs/day ³	3	0.8	--	--

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- ¹ Maximum Concentration
- ² Continuous Concentration
- ³ Based upon a design treatment capacity of 18 mgd ($x \text{ mg/L} \times 8.345 \times 18 \text{ mgd} = y \text{ lbs/day}$)
- ⁵ Using the value, in mg/L, determined from Attachment B, C, D, or E (as appropriate), calculate the lbs per day using the formula: $x \text{ mg/L} \times 8.345 \times 18 \text{ mgd} = y \text{ lbs/day}$

<u>Constituent</u>	<u>Units</u>	<u>7-Day Median¹</u>	<u>Single Sample₁ 30-Day Maximum²</u>
<u>Total Coliform Organisms</u>	MPN/100 mL	2.2	23 to 240

- ¹ 7-Day Median is based on the sample results of the previous seven days.
- ² In a 30-day period, only a single sample may exceed 23 MPN/100 mL and no sample should exceed 240 MPN/100 mL.

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 Order No. 5-00-164 during the period beginning 1 January 2001 and ending 31 December 2007. The violations are defined as serious because measured concentrations of Group I constituents exceeded maximum prescribed levels by more than 40 percent on these occasions. 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 twenty-five (25) serious Group II violations of the above effluent limitations contained in Order No. 5-00-164 during the period beginning 1 January 2001 and ending 31 December 2007. The violations are defined as serious because measured concentrations of Group II constituents exceeded maximum prescribed levels by more than 20 percent on these occasions. The mandatory minimum penalty for these serious violations is **seventy-five thousand dollars (\$75,000)**.
9. According to the Discharger's self-monitoring reports, the Discharger committed nine (9) non-serious violations of the above effluent limitations contained in Order No. 5-00-164 during the period beginning 1 January 2001 and ending 31 December 2007. Six (6) of the non-serious violations are subject to mandatory penalties under CWC section 13385(i)(1) because these violations were preceded by three or more similar violations within a six-month period. The mandatory minimum penalty for these non-serious violations is **eighteen thousand dollars (\$18,000)**.
10. The total amount of the mandatory penalties assessed for the cited effluent violations is **ninety-six thousand dollars (\$96,000)**. A detailed list of the cited effluent violations is included in Attachment A, a part of this Complaint.
11. 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 (Pub. Resources Code section 21000 et seq.), in accordance with California Code of Regulations, title 14, section 15321(a)(2).

**THE CITY OF ROSEVILLE, DRY CREEK WASTEWATER TREATMENT PLANT, IS
HEREBY GIVEN NOTICE THAT:**

1. The Assistant Executive Officer of the Regional Water Board proposes that the Discharger be assessed an Administrative Civil Liability in the amount of **ninety-six thousand dollars (\$96,000)**.
2. A hearing on this matter will be held at the Regional Water Board meeting scheduled on **11/12 September 2008**, unless the Discharger agrees to complete the following by **25 July 2008**:
 - a) Waive the hearing by completing the attached form and returning it to the Regional Water Board; and
 - b) Pay the proposed civil liability of **ninety-six thousand dollars (\$96,000)** in full.
3. If a hearing on this matter is held, the Regional 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.

JACK E. DEL CONTE, Assistant Executive Officer

25 June 2008

**WAIVER OF HEARING FOR
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

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

1. I am duly authorized to represent the City of Roseville, Dry Creek Wastewater Treatment Plant (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint No. R5-2008-0544 (hereinafter the "Complaint");
2. I am informed of the right provided by California Water Code section 13323, subdivision (b), to a hearing within ninety (90) days of service of the Complaint;
3. I hereby waive the Discharger's right to a hearing before the California Regional Water Quality Control Board, Central Valley Region, within ninety (90) days of the date of service of the Complaint; and
4. I certify that the Discharger will remit payment for the civil liability imposed in the amount of **ninety-six thousand dollars (\$96,000)** by check, which contains a reference to "ACL Complaint No. R5-2008-0544" and is made payable to the "*State Water Pollution Cleanup and Abatement Account.*"
5. 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 Regional Board receive new information during this comment period, the Regional Board may withdraw the Complaint, return payment, and issue a new Complaint.
6. 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.

(Print Name and Title)

(Signature)

(Date)

ATTACHMENT A
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2008-0544

City of Roseville
Dry Creek Wastewater Treatment Plant

RECORD OF VIOLATIONS (1 January 2001 – 31 December 2007) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Program No. 5-00-164.)

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Result</u> t	<u>Period Type</u>	<u>Flow</u>	<u>Remarks</u>
1	23-Feb-01	Turbidity	NTU	5	6	1-Day Maximum		3
2	31-Oct-01	Cyanide	µg/L	5.2	6.8	4-Day Average		2
3	5-Dec-01	Turbidity	NTU	5	6	1-Day Maximum		3
4	1-Feb-02	Cyanide	µg/L	5.2	6.6	4-Day Average		2
5	1-Feb-02	Cyanide	lbs/day	0.8	1	4-Day Average		4
6	30-Apr-02	Cyanide	µg/L	5.2	7.2	4-Day Average		2
7	28-Oct-02	Cyanide	µg/L	5.2	6.5	4-Day Average		2
8	24-Feb-03	Chlorine Residual	mg/L	0.02	0.16	1-Hour Average		2
9	26-Feb-03	Chlorine Residual	mg/L	0.02	0.11	1-Hour Average		2
10	30-Apr-03	Bis(2-ethylhexyl) phthalate	µg/L	1.8	3	30-Day Average		2
11	30-Apr-03	Bis(2-ethylhexyl) phthalate	lbs/day	0.3	0.4	30-Day Average	15.7	2
12	30-Sep-03	Chlorine Residual	mg/L	0.02	0.11	1-Hour Average		2
13	3-Dec-03	Chlorine Residual	mg/L	0.02	0.06	1-Hour Average		2
14	21-Dec-03	Ammonia	lbs/day	99.4	235.8	1-Hour Average	12.7	1,6
15	21-Dec-03	Ammonia	mg/L	0.7	2.2	1-Hour Average		1,6
16	21-Dec-03	pH	pH units	8.5	9.2	Instantaneous		1,6
17	22-Dec-03	Chlorine Residual	mg/L	0.02	0.07	1-Hour Average		2
18	25-Feb-04	Chlorine Residual	mg/L	0.02	0.05	1-Hour Average		2
19	10-Jan-05	Chlorine Residual	mg/L	0.02	0.36	1-Hour Average		2
20	4-Mar-05	Chlorine Residual	mg/L	0.02	0.63	1-Hour Average		2
21	26-Jun-05	Cyanide	µg/L	5.2	7.2	4-Day Average		2
22	19-Oct-05	Cadmium	µg/L	3.8	5.9	1-Hour Average		2
23	7-Nov-05	Coliform	MPN/100mL	2.2	4	7-Day Median		3
24	8-Nov-05	Coliform	MPN/100mL	2.2	4	7-Day Median		4
25	9-Nov-05	Coliform	MPN/100mL	2.2	4	7-Day Median		4
26	10-Nov-05	Coliform	MPN/100mL	2.2	4	7-Day Median		4
27	11-Nov-05	Coliform	MPN/100mL	2.2	4	7-Day Median		4
28	8-Dec-05	Cadmium	µg/L	2	3.4	4-Day Average		2
29	8-Dec-05	Cadmium	lbs/day	0.6	1	4-Day Average		2
30	2-Jan-06	Turbidity	NTU	2	3	1-Day Average	14.1	4
31	19-Dec-06	Cadmium	µg/L	4.3	7.5	1-Hour Average		2
32	19-Dec-06	Cadmium	µg/L	2.2	7.3	4-Day Average		2
33	19-Dec-06	Cadmium	lbs/day	0.4	0.6	4-Day Average	9.72	2
34	17-Feb-07	Chlorine Residual	mg/L	0.02	1.23	1-Hour Average		2
35	30-Jun-07	Cadmium	µg/L	3	5	4-Day Average		2
36	30-Sep-07	Cadmium	µg/L	7.1	9.4	1-Hour Average		2
37	30-Sep-07	Cadmium	µg/L	3.2	4.7	4-Day Average		2

Remarks:

1. Serious Violation: For Group 1 pollutants that exceed the effluent limitation by 40 percent or more.
2. Serious Violation: For Group 2 pollutants that exceed the effluent limitation by 20 percent or more.
3. Non-serious violations falls within the first three violations in a six-month period, thus is exempt.
4. Non-serious violation subject to mandatory penalties.
5. Mass rate limitation exceedances due only to wet weather not assessed MMPs pursuant to State Water Board Order WQO 2004-0013.
6. Single violation due to a single Operational Upset, pursuant to CWC §13385(f).

<u>VIOLATIONS AS OF:</u>	<u>12/31/2007</u>
Group 1 Serious Violations:	1
Group 2 Serious Violations:	25
Non-Serious Exempt from MMPs:	3
Non-serious Violations Subject to MMPs:	6
Mass Limitation Violations Exempt from MMPs:	0
Single Operational Upset:	2
<u>Total Violations Subject to MMPs:</u>	<u>32</u>

Mandatory Minimum Penalty = (26 Serious Violations + 6 Non-Serious Violations) × \$3,000 = \$96,000

* Arithmetic mean of all 1-day flow rates ("EFF FLOW" on Discharger Self Monitoring Reports, in mgd) while discharging to surface waters during period. Values greater than the design dry weather flow rate (27 mgd) are considered wet weather for purposes of applying SWRCB Order WQO 2004-0013.