

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R5-2004-0141

MANDATORY PENALTY  
IN THE MATTER OF  
CALIFORNIA DEPARTMENT OF CORRECTIONS  
DEUEL VOCATIONAL INSTITUTION  
SAN JOAQUIN COUNTY

This Order is issued to the California Department of Corrections, Deuel Vocational Institution (hereafter Discharger), based on a finding of violations of Waste Discharge Requirements Order Nos. 94-212 and R5-2003-0065 (NPDES No. CA0078093). Imposition of Administrative Civil Liability and Mandatory Penalties are authorized pursuant to California Water Code (CWC) Section 13385.

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

1. CWC Section 13385(h) and (i) requires assessment of mandatory penalties and states, in part, the following:

CWC Section 13385(h)(1) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each serious violation.

CWC Section 13385(h)(2) states for 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) 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 the discharger does any of the following four or more times in any period of six consecutive months (non-serious violation):

- 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.

2. CWC Section 13385(l)(1) states, in part, that in lieu of assessing penalties pursuant to CWC Section 13385(h) or (i), the Regional Board, with concurrence of the Discharger, may direct a portion of the penalty amount to be expended on a supplemental environmental project (SEP). If the penalty amount exceeds fifteen thousand dollars (\$15,000), the portion of the penalty amount that may be directed to a SEP may not exceed fifteen thousand dollars (\$15,000) plus 50 percent of the penalty amount that exceeds fifteen thousand dollars (\$15,000).

CWC Section 13385(l)(2) defines a SEP as “an environmentally beneficial project that a person agrees to undertake, with the approval of the Regional Board, that would not be undertaken in the absence of an enforcement action under this section.”

3. On 5 August 1994, the Regional Board adopted Waste Discharge Requirements (WDR) Order No. 94-212, for the California Department of Corrections to regulate discharges of treated sanitary wastewater from the Deuel Vocational Institution in San Joaquin County.
4. Effluent Limitation B.1 of Order No. 94-212 states, in part:

“1. *Effluent shall not exceed the following limits:*

<u>Constituent</u>	<u>Unit</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Monthly Median</u>	<u>Daily Maximum</u>
<i>BOD<sub>5</sub><sup>1</sup></i>	<i>mg/l</i>	<i>20<sup>2</sup></i>	<i>30<sup>2</sup></i>	<i>-----</i>	<i>40<sup>2</sup></i>
.	.	.	.	.	.
<i>Total Coliform Organisms</i>	<i>MPN/100 ml</i>	<i>-----</i>	<i>-----</i>	<i>2.2</i>	<i>23</i>

<sup>1</sup>5-day, 20°C biochemical oxygen demand (BOD)

<sup>2</sup>To be ascertained by a 24-hour composite

<sup>3</sup>Based upon a design treatment capacity of 0.62 mgd.”

5. Effluent Limitation B.4 of Order No. 94-212 states:

“4. *The average dry weather (April through November) discharge flow shall not exceed 0.62 mgd.*”

6. Effluent Limitation B.5 of Order No. 94-212 states:

“5. *The peak wet weather discharge flow shall not exceed 0.62 mgd.*”

7. Biochemical Oxygen Demand (BOD) is a Group I pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations.
8. According to monitoring reports submitted between 1 January 2000 and 13 June 2003, the Discharger committed eighteen (18) serious and nineteen (19) non-serious effluent violations. During this period, the Discharger exceeded the maximum daily, weekly average, and/or monthly average effluent limitations for BOD twenty-four (24) times [eighteen (18) of which are serious violations]; exceeded the daily maximum total coliform organisms effluent limitation seven (7) times (all of which are non-serious violations), and exceeded the monthly average dry weather and/or peak wet weather effluent flow limitation six (6) times (all non-serious violations). A detailed list of all violations is included in Attachment A, a part of this complaint. All of the serious violations and fourteen (14) of the nineteen (19) non-serious violations are subject to Mandatory Minimum Penalties authorized pursuant to CWC Section 13385(h) and (i).
9. The total amount of the mandatory penalty for violations of WDR Order No. 94-212 is \$96,000 [(18 serious violations x \$3,000) + (14 non-serious violations x \$3,000)].
10. On 25 April 2003, the Regional Board adopted WDR Order No. R5-2003-0065 (effective 14 June 2003), rescinding WDR Order No. 94-212 and regulating discharges of treated sanitary wastewater (Outfall 001) and industrial wastes (Outfalls 003 and 004) from the Deuel Vocational Institution.
11. Effluent Limitation B.1 of Order No. R5-2003-0065 (Outfall 001) states, in part:

*“1. Effluent shall not exceed the following limits:*

<u>Constituents</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Daily Average</u>	<u>Daily Maximum</u>
Oil and Grease	mg/l	10	---	---	15”

12. Effluent Limitation B.3 of Order No. R5-2003-0065 (Outfall 001) states, in part:
 

*“3. Effectively immediately and until 1 March 2008, effluent shall not exceed the following limitations:*

<u>Constituents</u>	<u>Units</u>	<u>Monthly Median</u>	<u>Daily Maximum</u>
Total Coliform	MPN/100 ml	2.2	23”

13. Effluent Limitation B.4 of Order No. R5-2003-0065 (Outfall 001) states, in part:
 

*“4. The following interim effluent limitations are effective until 1 March 2008:*

<u>Constituents</u>	<u>Units</u>	<u>Daily Maximum</u>
<i>Bromodichloromethane</i>	$\mu\text{g/l}$	50”

14. Effluent Limitation B.8 of Order No. R5-2003-0065 (Outfall 001) states:

“8. *The monthly average dry weather discharge flow shall not exceed 0.62 million gallons per day.*”

15. Cease and Desist Order No. R5-2003-0066 was adopted on 25 April 2003, which includes a time schedule to comply with Effluent Limitation B.8 of Order No. R5-2003-0065 by 1 December 2004. CWC Section 13385(j)(3) states that Sections 13385(h) and (i) do not apply to violations of effluent limitations where the waste discharge is in compliance with a cease and desist order issued pursuant to Section 13301, as long as all of the requirements specified in CWC Sections 13385(j)(3)(A), (B), (C), and (D) are met. The previous permit for this facility, Order No. 94-212, also contained an average flow limitation of 0.62 million gallons per day. Therefore, the requirement specified in Section 13385(j)(3)(B) is not met, and CWC Sections 13385(h) and (i) apply.
16. Bromodichloromethane (BDCM) is a Group II pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations.
17. According to monitoring reports submitted between 14 June 2003 and 31 May 2004, the Discharger committed one (1) serious and seven (7) non-serious violations. During this period, the Discharger exceeded the monthly average oil and grease effluent limitation two (2) times (both non-serious violations), exceeded the daily maximum total coliform organisms effluent limitation one (1) time (a non-serious violation), exceeded the maximum daily effluent limitation for BDCM one (1) time (a serious violation), and exceeded the monthly average effluent flow limitation four (4) times (all non-serious violations). A detailed list of all violations is included in Attachment A, a part of this complaint. Since the period of six consecutive months [as defined in CWC Section 13385(i)(2)] is continued from the previous Order, the serious violation and five (5) of the seven (7) non-serious violations are subject to Mandatory Minimum Penalties authorized pursuant to CWC Section 13385(h) and (i).
18. The total amount of the mandatory penalty for violations of WDR Order No. R5-2003-0065 is \$18,000 [(1 serious violation x \$3,000) + (5 non-serious violations x \$3,000)].
19. Therefore, the total amount of the mandatory penalties for both WDR Order No. 94-212 and R5-2003-0065 is \$114,000 (\$96,000 + \$18,000). In accordance with CWC Section 13385(l)(1), the amount of the penalty that may be expended on a supplemental environmental project may not exceed \$64,500 [(\$15,000 + 50% of (\$114,000-\$15,000))].

20. On 22 July 2004, the Executive Officer issued the Discharger Administrative Civil Liability Complaint No. R5-2004-0530 (Complaint) proposing a \$114,000 Administrative Civil Liability pursuant to CWC Section 13385(h) and (i).
21. On 20 August 2004, the Discharger submitted a letter indicating that their intention to propose a SEP. The Discharger also waived its right to a hearing and requested an extension of the 30-day period in which to respond to the Complaint.
22. On 9 September 2004, the Regional Board received a SEP proposal to implement a Water Education and Outreach Project. The Discharger proposes to provide funding to the DeltaKeeper organization to purchase a specially equipped pontoon boat and water testing equipment designed to conduct Delta tours for area schools, universities, civic organizations, local officials, and other concerned citizens, and to initiate an educational program focused on water quality awareness and pollution prevention. The SEP will fund the start-up and operating costs for the first year of the program. The SEP will require a budget of \$64,000 to purchase equipment and for operating expenses.
23. The Regional Board, in issuing this Administrative Civil Liability Order, have determined that the proposed supplemental environmental project is environmentally beneficial and that the factors in CWC Section 13385(l)(1), (2), and (3) are satisfied.
24. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.), in accordance Title 14, California Code of Regulations Section 15321(a)(2) (“Enforcement Actions by Regulatory Agencies”).
25. Any person affected by this action of the Board may petition the State Water Resources Control Board (State Board) to review this action. The State Board must receive the petition within 30 days of the date on which the Board adopted this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request.

**IT IS HEREBY ORDERED** that the Discharger shall pay the \$114,000 penalty as follows:

1. **Within 30 days of adoption of this Order**, the Discharger shall pay \$50,000 by check, which contains a reference to “ACL Order No. R5-2004-0141” and is made payable to the *State Water Resources Control Board*.
2. By **1 April 2005**, the Discharger shall provide written documentation that the proposed equipment, as outlined in the SEP proposal, has been procured, and that the Water Education and Outreach Project, as described in Finding No. 22, has been implemented. If this documentation is not provided to the Regional Board by 1 April 2005, the Discharger shall pay the remaining \$64,000 by check, which contains a reference to “ACL Order No. R5-

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2004-0141” and is made payable to the *State Water Resources Control Board* no later than  
**1 May 2005.**

I, THOMAS R. PINKOS, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on 15 October 2004.

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THOMAS R. PINKOS, Executive Officer