

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2008-0559

MANDATORY PENALTY  
IN THE MATTER OF

CITY OF TRACY  
WASTEWATER TREATMENT PLANT  
SAN JOAQUIN COUNTY

This Complaint is issued to the City of Tracy, 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 Nos. 96-104 and R5-2007-0036 (NPDES No. CA0079154).

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 Tracy. Treated wastewater is discharged to Old River, a water of the United States and part of the Sacramento-San Joaquin Delta.
2. On 3 May 1996, the Regional Water Board adopted WDRs Order No. 96-104 to regulate discharges of waste from the wastewater treatment plant (WWTP). On 4 May 2007, the Regional Water Board adopted WDRs Order No. R5-2007-0036, which contained new requirements and rescinded WDRs Order No. 96-104.
3. On 4 May 2007, the Regional Water Board adopted Time Schedule Order (TSO) No. R5-2007-0037, providing a time schedule and establishing interim effluent limits until 1 August 2008 to comply with new effluent limitations for nitrate and nitrite. The TSO also extended the compliance date for the new dissolved oxygen effluent limitation until 30 April 2012. On 25 January 2008, the Regional Water Board adopted Resolution No. R5-2008-0014 to amend the WDRs to modify the location of receiving water monitoring point R-005. On 12 June 2008, the Regional Water Board adopted Resolution No. R5-2008-0086, amending the WDRs to provide interim effluent limitations for chlorodibromomethane and dichlorobromomethane effective 12 June 2008, with an 18 May 2010 full compliance date. This Complaint considered the interim effluent limitations and the protection from Mandatory Minimum Penalties provided by TSO No. R5-2007-0037 and Resolution No. R5-2008-0086.
4. On 4 March 2008, the Regional Water Board sent the Discharger a draft Record of Violations. On 28 March 2008, the Discharger responded. After consideration of additional information submitted by the Discharger, Regional Water Board staff prepared

a technical memorandum, included as Attachment B to this Complaint, and discussed in Finding No. 10 of this Complaint.

5. 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.”*

6. 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.”*

7. WDRs Order No. 96-104 Effluent Limitations No. B.1., include, in part, the following effluent limitations: *“The discharge of an effluent in excess of the following is prohibited:”*

<u>Constituents</u>	<u>Units</u>	<u>Average Monthly</u>	<u>Average Weekly</u>	<u>30-day Median</u>	<u>Daily Maximum</u>
BOD <sub>5</sub> <sup>a</sup>	mg/L	20 <sup>b</sup>	40 <sup>b</sup>	--	50 <sup>b</sup>

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

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

8. WDRs Order No. R5-2007-0036 Effluent Limitations IV.A.1.a. requires, in part, *“The Discharger shall maintain compliance with the effluent limitations specified...”*

<u>Parameter</u>	<u>Units</u>	<u>Average Monthly</u>	<u>Average Weekly</u>	<u>Maximum Daily</u>	<u>Instantaneous Minimum</u>	<u>Instantaneous Maximum</u>
Dichlorobromomethane	µg/L	6.8	--	9.5	--	--
Chlorodibromomethane	µg/L	3.6	--	7.6	--	--

9. WDRs Order No. R5-2007-0036 Effluent Limitations IV.A.5.c. requires, in part, *“Effective immediately and ending on July 31, 2008, or upon compliance with Special Provisions VI.C.4.b., whichever is sooner, total coliform organisms shall not exceed 23 MPN/100 mL, as a 30-day median, and shall not exceed 500 MPN/100 mL, as a daily maximum. This interim effluent limitation shall apply in lieu of Final Effluent Limitations IV.A.1.g.”*
10. As described in the technical memorandum mentioned in Finding No. 4, the Regional Water Board makes the following adjustments to the draft Record of Violations (all violation numbers reference those contained in the draft Notice of Violations).
- Chlorine Residual Violation 1. Administrative Civil Liability Complaint R5-2005-0143 previously addressed this violation. Chlorine violation 1 was dismissed because it was addressed in a prior Complaint.
  - Biochemical Oxygen Demand, Violations 5-12. The Discharger claimed that these violations are exempt from Mandatory Minimum Penalties because they are due to a single operational upset. These violations were retained because the violations do not qualify as a single operational upset. The Discharger has failed to demonstrate that these violations are not intermittent individual exceedances.
  - Biochemical Oxygen Demand, Violations 15-22. The Discharger claimed that bacterial growth in the tubing leading to its sampling equipment resulted in inaccurate sampling results. The sampling results were consistent for several months. These violations were retained because the Discharger did not demonstrate that the results were erroneous.
  - Biochemical Oxygen Demand and Total Suspended Solids, Violations 25 and 26. The Discharger documented that a construction contractor accidentally diverted industrial wastewater into the domestic treatment process. This violation was deleted as exempt due to an act of a third party.
  - Flow, Violations 23, 24, and 27. These violations resulted from construction dewatering water, a wet weather flow condition. These violations were deleted because they were not dry weather flow violations.

- Total Coliform Organisms, Violation 32. The Discharger claimed that this was a laboratory error but did not provide evidence that the result was incorrect. This violation did not result in assessment of an MMP because it was only the third violation during the preceding 180 days.
  - Disinfection By-Product Limitations, Violations 30-31, 33-56, and 58-61. The Discharger requested that the Regional Water Board retroactively remove these violations. However, Resolution R5-2008-0086, which amended certain effluent limitations, was not adopted until 12 June 2008. These were retained because the effluent limitations were in effect at the time of the violations.
11. According to the Discharger's self-monitoring reports, the Discharger committed nine (9) serious Group I violations of the above effluent limitations contained in Order Nos. 96-104 and R5-2007-0036 during the period beginning 1 January 2003 and ending 31 January 2008. 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 these serious violations is **twenty-seven thousand dollars (\$27,000)**.
  12. According to the Discharger's self-monitoring reports, the Discharger committed thirty (30) serious Group II violations of the above effluent limitations contained in Order Nos. 96-104 and R5-2007-0036 during the period beginning 1 January 2003 and ending 31 January 2008. These violations are defined as serious because measured concentrations of Group II constituents exceeded maximum prescribed levels by more than 20 percent on this occasion. The mandatory minimum penalty for these serious violations is **ninety thousand dollars (\$90,000)**.
  13. According to the Discharger's self-monitoring reports, the Discharger committed thirteen (13) non-serious violations of the above effluent limitations contained in Order Nos. 96-104 and R5-2007-0036 during the period beginning 1 January 2003 and ending 31 January 2008. Eight (8) 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 **twenty-four thousand dollars (\$24,000)**.
  14. The total amount of the mandatory penalties assessed for the cited effluent violations is **one hundred forty-one thousand dollars (\$141,000)**. A detailed list of the cited effluent violations is included in Attachment A, a part of this Complaint.
  15. 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 TRACY 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 **one hundred forty-one thousand dollars (\$141,000)**.
2. A hearing on this matter will be held at the Regional Water Board meeting scheduled on **23/24 October 2008**, unless the Discharger does either of the following by **8 September 2008**:
  - a) Waives the hearing by completing the attached form (checking off the box next to item #4) and returning it to the Regional Water Board, along with payment for the proposed civil liability of **one hundred forty-one thousand dollars (\$141,000)**; or
  - b) Agrees to enter into settlement discussions with the Regional 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 Regional Water Board.
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.

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JACK E. DEL CONTE, Assistant Executive Officer

8 August 2008

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Attachment A: Record of Violations  
Attachment B: Technical Memorandum  
BLH: 08/08/08

**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 City of Tracy Wastewater Treatment Plant (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint No. R5-2008-0559 (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 (Regional 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 **one hundred and forty-one thousand dollars (\$141,000)** by check, which contains a reference to "ACL Complaint No. R5-2008-0559" and is made payable to the "State Water Pollution Cleanup and Abatement Account." Payment must be received by the Regional Water Board by **8 September 2008** or this matter will be placed on the Regional 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 Regional Water Board receive new information or comments during this comment period, the Regional 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 Regional 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)** I certify that the Discharger will promptly engage the Regional 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. I understand that this waiver is a request to delay the hearing so the Discharger and Regional Water Board staff can discuss settlement. It does not constitute the Regional Water Board's agreement to delay the hearing. A hearing on the matter may be held before the Regional 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 Regional 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.

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(Print Name and Title)

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(Signature)

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(Date)

**ATTACHMENT A  
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2008-0559**

**City of Tracy  
Wastewater Treatment Plant**

RECORD OF VIOLATIONS (1 January 2003 – 31 January 2008) MANDATORY PENALTIES  
(Data reported under Monitoring and Reporting Program Nos. 96-104 and R5-2007-0036)

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Result</u>	<u>Period Type</u>	<u>Remarks</u>
1	30-Apr-04	BOD	mg/L	2	21	Monthly	3
2	31-Dec-04	BOD	mg/L	20	21	Monthly	3
3	6-Jan-05	BOD	mg/L	50	60	Daily	3
4	11-Jan-05	BOD	mg/L	50	51	Daily	3
5	21-Jan-05	BOD	mg/L	50	75	Daily	1
6	23-Jan-05	BOD	mg/L	50	74	Daily	1
7	31-Jan-05	BOD	mg/L	20	39	Monthly	1
8	14-Feb-05	BOD	mg/L	50	71	Daily	1
9	15-Feb-05	BOD	mg/L	50	83	Daily	1
10	16-Feb-05	BOD	mg/L	50	67	Daily	4
11	18-Feb-05	BOD	mg/L	50	63	Daily	4
12	28-Feb-05	BOD	mg/L	20	37	Monthly	1
13	31-Mar-05	BOD	mg/L	20	25	Monthly	4
14	2-Apr-05	BOD	mg/L	50	58	Daily	4
15	5-Apr-05	BOD	mg/L	50	51	Daily	4
16	14-Apr-05	BOD	mg/L	50	85	Daily	1
17	16-Apr-05	BOD	mg/L	50	61	Daily	4
18	17-Apr-05	BOD	mg/L	50	53	Daily	4
19	20-Apr-05	BOD	mg/L	50	56	Daily	4
20	24-Apr-05	BOD	mg/L	50	74	Daily	1
21	30-Apr-05	BOD	mg/L	20	40	Monthly	1
22	17-Jul-07	Chlorodibromomethane	µg/L	7.6	16	Daily	2
23	17-Jul-07	Dichlorobromomethane	µg/L	9.5	32	Daily	2
24	27-Jul-07	Coliform	MPN/100mL	500	900	Daily	4
25	30-Jul-07	Chlorodibromomethane	µg/L	3.6	16	Monthly	2
26	30-Jul-07	Dichlorobromomethane	µg/L	6.8	32	Monthly	2
27	29-Aug-07	Chlorodibromomethane	µg/L	7.6	21	Daily	2
28	29-Aug-07	Dichlorobromomethane	µg/L	9.5	24	Daily	2
29	31-Aug-07	Chlorodibromomethane	µg/L	3.6	21	Monthly	2
30	31-Aug-07	Dichlorobromomethane	µg/L	6.8	24	Monthly	2
31	1-Oct-07	Chlorodibromomethane	µg/L	7.6	14	Daily	2
32	1-Oct-07	Dichlorobromomethane	µg/L	9.5	23	Daily	2
33	9-Oct-07	Chlorodibromomethane	µg/L	7.6	16	Daily	2
34	9-Oct-07	Dichlorobromomethane	µg/L	9.5	22	Daily	2
35	18-Oct-07	Chlorodibromomethane	µg/L	7.6	19	Daily	2
36	18-Oct-07	Dichlorobromomethane	µg/L	9.5	28	Daily	2
37	31-Oct-07	Chlorodibromomethane	µg/L	3.6	16	Monthly	2

ATTACHMENT A  
 ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2008-0559  
 MANDATORY PENALTY  
 CITY OF TRACY  
 WASTEWATER TREATMENT PLANT  
 SAN JOAQUIN COUNTY

38	31-Oct-07	Dichlorobromomethane	µg/L	6.8	24	Monthly	2
39	13-Nov-07	Chlorodibromomethane	µg/L	7.6	13	Daily	2
40	13-Nov-07	Dichlorobromomethane	µg/L	9.5	22	Daily	2
41	30-Nov-07	Chlorodibromomethane	µg/L	3.6	13	Monthly	2
42	30-Nov-07	Dichlorobromomethane	µg/L	6.8	22	Monthly	2
43	3-Dec-07	Chlorodibromomethane	µg/L	7.6	12	Daily	2
44	3-Dec-07	Dichlorobromomethane	µg/L	9.5	20	Daily	2
45	30-Dec-07	Chlorodibromomethane	µg/L	3.6	12	Monthly	2
46	30-Dec-07	Dichlorobromomethane	µg/L	6.8	20	Monthly	2
47	3-Jan-08	Chlorodibromomethane	µg/L	7.6	14	Daily	2
48	3-Jan-08	Dichlorobromomethane	µg/L	9.5	24	Daily	2
49	23-Jan-08	Chlorodibromomethane	µg/L	7.6	15	Daily	2
50	23-Jan-08	Dichlorobromomethane	µg/L	9.5	20	Daily	2
51	30-Jan-08	Chlorodibromomethane	µg/L	3.6	15	Monthly	2
52	30-Jan-08	Dichlorobromomethane	µg/L	6.8	22	Monthly	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.

<b><u>VIOLATIONS AS OF:</u></b>	<b><u>1/31/2008</u></b>
Group I Serious Violations:	9
Group II Serious Violations:	30
Non-Serious Exempt from MPs:	5
Non-serious Violations Subject to MPs:	8
<b><u>Total Violations Subject to MPs:</u></b>	<b><u>47</u></b>

**Mandatory Minimum Penalty = (39 Serious Violations + 8 Non-Serious Violations) x \$3,000 = \$141,000**



# California Regional Water Quality Control Board Central Valley Region

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



Arnold  
Schwarzenegger  
Governor

Linda S. Adams  
Secretary for  
Environmental Protection

11020 Sun Center Drive #200, Rancho Cordova, California 95670-6114  
Phone (916) 464-3291 • FAX (916) 464-4645  
<http://www.waterboards.ca.gov/centralvalley>

**TO:** Patricia Leary, Senior Engineer  
NPDES Compliance and Enforcement

**FROM:** Barry Hilton, WRCE  
NPDES Compliance and Enforcement

**DATE:** 8 August 2008

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

**SUBJECT:** CITY OF TRACY WASTEWATER TREATMENT FACILITY, RESPONSE TO NOV AND ASSESSMENT OF MMPS

On 4 March 2008, Regional Water Board staff sent the City of Tracy (Discharger) a Notice of Violation and a draft Record of Violations for the period of 1 January 2003 through 31 January 2008. The Discharger responded by letter dated 28 March 2008. The following discusses the comments and any changes I made to the Record of Violations based on the Discharger's comments.

### Chlorine Residual

Violation 1. Administrative Civil Liability Complaint R5-2005-0143 previously addressed this violation. I deleted this violation.

### Biochemical Oxygen Demand

Violations 6-8, and 9-12. The Record of Violations noted violations 6, 7, and 8 as exceedances resulting from a single operational upset. The Discharger claims the defense of a single operational upset for violations 9-12. The Water Quality Enforcement Policy (19 February 2002) describes a single operational upset:

*"A single operational upset which leads to simultaneous violations of one or more pollutant parameters shall be treated as a single violation. EPA defines 'single operational upset' as 'an exceptional incident which causes simultaneous, unintentional, unknowing... temporary noncompliance with more than one CWA effluent discharge pollutant parameter'... The EPA Guidance further defines an 'exceptional' incident as a 'non-routine malfunctioning of an otherwise generally compliant facility.'" (page 29)*

First, violations 5-7 and 9-12 were intermittent individual exceedances of the daily effluent BOD limitation. As an example, violation 6, BOD = 75 mg/L on 21 January 2005, was more than twice the 20 January 2005 value of 31 mg/L and was more than twice the 22 January 2005 value of 34 mg/L. The Discharger violated the monthly average BOD for January, February, March, and April 2005, a period of four months. Second, the violations were solely for BOD and no other limitations. A single operational upset is for more than one effluent discharge pollutant parameter. The noncompliance was not temporary (four months), was only for one parameter (BOD), the daily violations were intermittent, and the facility was not otherwise compliant with the BOD because it consistently violated the monthly average

effluent limitation. I retained violations 9-12 and deleted the single operational upset notation from violations 6-8.

Violations 15-22. The Discharger claims that bacterial growth in the sampler tubing consumed oxygen in the samples resulting in inaccurate BOD sampling results. BOD is the quantity of oxygen required for aerobic stabilization. If bacteria in the tubing had consumed BOD prior to the test, the test would have resulted in a lower rather than higher BOD because the bacteria would have consumed some of the biodegradable sample. The BOD test requires the laboratory to start with a well aerated sample at the beginning of the test with the oxygen concentration near saturation in the test sample. The oxygen concentration in the initial sample would have no effect on the test because the laboratory aerates the test solution prior to commencing the test. I retained the violations.

Violation 25. The Discharger claims exemption from mandatory minimum penalties due to an intentional act of third party or single operational upset. The Discharger documented that during the construction project, the contractor diverted the Leprino Foods waste stream into the domestic wastewater plant influent thereby causing a monthly effluent BOD violation. I have deleted the violation.

### **Total Suspend Solids**

Violation 26. The Discharger claims exemption from mandatory minimum penalties due to the intentional act of a third party or single operational upset. The Discharger documented that during the construction project, the contractor diverted the Leprino Foods waste stream into the domestic wastewater plant influent thereby resulting a monthly effluent total suspended solids violation. I have deleted the violation.

### **Flow**

Violations 23, 24, and 27. Effluent limitation B.4. of WDRs Order 96-104 states: "*The average dry weather discharge flow shall not exceed 9.0 mgd.*" The effluent flow for these three months exceeded the total influent flow. On 29 July 2008, in a telephone conversation, Stephen Bayley, the Public Works Director, stated that the wastewater treatment facility was under construction at that time. Mr. Bayley further stated that dewatering from construction was discharged into the effluent, thus resulting in a violation of the 9.0 mgd dry weather flow limitation. A review of the flow data shows that the facility discharged 2 mgd more flow than was measured in the influent, lending credence to the statement that dewatering flows contributed to the higher flows. The flow limitation is specific to the dry weather period, which is typically from June through September. The elevated flows occurred in May and October; therefore, they are not a violation of the dry weather flow limitation. I deleted the violations.

### **Total Coliform Organisms**

Violation 32. The 27 July 2007 total coliform result of 900 MPN/100 mL exceeded the interim daily effluent limitation of 500 MPN/100mL. The Discharger claimed that the result was either a lab error or an anomaly because the results were inconsistent with the sampling results for the rest of the month. The Discharger did not provide evidence that the laboratory result was erroneous. I retained the violation but changed it from a remark 4 to a remark 3, not subject to

MMP because, after deleting other violations, it was only the third violation during the previous 180 day period.

### **Disinfection By-Product Limitations**

Violations 30-31, 33-56, and 58-61. The Discharger stated that on 28 March 2008, it requested the Regional Water Board issue a compliance schedule for two disinfection by-products, chlorodibromomethane (CDBM) and dichlorobromomethane (DCBM), effective from 23 June 2007 through 18 May 2010. On 12 June 2008, the Regional Water Board adopted Resolution R5-2008-0086, amending WDRs Order No. R5-2007-0036, providing interim effluent limitations for CDBM and DCBM. The Discharger requested that the Regional Water Board retroactively remove violations 30-31, 33-56, and 58-61. I retained the violations because the Discharger violated the effluent limitations in effect at the time of the violations.

### **pH**

Violations 28, 29, and 57. The discharger stated that it has an on-going problem with the automatic monitoring equipment occasionally recording incorrect information. It provided evidence that grab samples for pH showed compliance with effluent limitations. Their request and information are consistent with information from other dischargers. I deleted the violations.

### **Non-Serious Violations not Subject to MMPs**

Violations 24 and 57. The Discharger claimed that the Regional Water Board erred in tabulating violations 24 and 57. I deleted these violations as discussed above (flow, pH).

### **Tabular MMP Summary**

Violations 6-10, 13, 17, 21, and 22. The Discharger claimed that only violations 9-10, 13, 17, 21, and 22 should have been counted as Group 1 serious violations because violations 6-8 were noted as exempt due to a single operational upset. As discussed under "biochemical oxygen demand," I retained violations 6-8 as serious Group 1 violations and I removed the single operation upset notation above.

The Discharger stated that 48 violations are subject to MMPs.

### **Summary**

The total number of Group 1 violations is 9.

The total number of Group 2 violations is 30.

The total number of Group 3 violations is 13; 8 are subject to MMPs.

The ACL decreases from \$147,000 to \$141,000.

**City of Tracy**  
**Wastewater Treatment Plant**

RECORD OF VIOLATIONS (1 January 2003 – 31 January 2008) MANDATORY PENALTIES  
(Data reported under Monitoring and Reporting Program Nos. 96-104 and R5-2007-0036)

ROV #	ACLC #	Date	Violation Type	Units	Limit	Result	Period Type	Remarks
<del>4</del>		<del>21-Oct-03</del>	<del>Chlorine Residual</del>	<del>mg/L</del>	<del>0.1</del>	<del>6.7</del>	<del>Daily</del>	<del>2.5</del>
2	1	30-Apr-04	BOD	mg/L	20	21	Monthly	3
3	2	31-Dec-04	BOD	mg/L	20	21	Monthly	3
4	3	6-Jan-05	BOD	mg/L	50	60	Daily	3
5	4	11-Jan-05	BOD	mg/L	50	51	Daily	3
6	5	21-Jan-05	BOD	mg/L	50	75	Daily	<del>1.6</del>
7	6	23-Jan-05	BOD	mg/L	50	74	Daily	<del>1.6</del>
8	7	31-Jan-05	BOD	mg/L	20	39	Monthly	<del>1.6</del>
9	8	14-Feb-05	BOD	mg/L	50	71	Daily	1
10	9	15-Feb-05	BOD	mg/L	50	83	Daily	1
11	10	16-Feb-05	BOD	mg/L	50	67	Daily	4
12	11	18-Feb-05	BOD	mg/L	50	63	Daily	4
13	12	28-Feb-05	BOD	mg/L	20	37	Monthly	1
14	13	31-Mar-05	BOD	mg/L	20	25	Monthly	4
15	14	2-Apr-05	BOD	mg/L	50	58	Daily	4
16	15	5-Apr-05	BOD	mg/L	50	51	Daily	4
17	16	14-Apr-05	BOD	mg/L	50	85	Daily	1
18	17	16-Apr-05	BOD	mg/L	50	61	Daily	4
19	18	17-Apr-05	BOD	mg/L	50	53	Daily	4
20	19	20-Apr-05	BOD	mg/L	50	56	Daily	4
21	20	24-Apr-05	BOD	mg/L	50	74	Daily	1
22	21	30-Apr-05	BOD	mg/L	20	40	Monthly	1
<del>23</del>		<del>31-May-05</del>	<del>Effluent Flow</del>	<del>MGD</del>	<del>9.0</del>	<del>10.4</del>	<del>Monthly Avg.</del>	<del>4</del>
<del>24</del>		<del>31-Oct-05</del>	<del>Effluent Flow</del>	<del>MGD</del>	<del>9.0</del>	<del>9.9</del>	<del>Monthly Avg.</del>	<del>4</del>
<del>25</del>		<del>30-Apr-06</del>	<del>BOD</del>	<del>mg/L</del>	<del>20</del>	<del>21</del>	<del>Monthly</del>	<del>3</del>
<del>26</del>		<del>30-Apr-06</del>	<del>TSS</del>	<del>mg/L</del>	<del>20</del>	<del>23</del>	<del>Monthly</del>	<del>3</del>
<del>27</del>		<del>1-Oct-06</del>	<del>Effluent Flow</del>	<del>MGD</del>	<del>9.0</del>	<del>10</del>	<del>Monthly Avg.</del>	<del>3</del>
<del>28</del>		<del>14-Jul-07</del>	<del>pH</del>	<del>pH unite</del>	<del>6.5</del>	<del>4.4</del>	<del>Instantaneous</del>	<del>3</del>
<del>29</del>		<del>15-Jul-07</del>	<del>pH</del>	<del>pH unite</del>	<del>6.5</del>	<del>6.4</del>	<del>Instantaneous</del>	<del>3</del>
30	22	17-Jul-07	Chlorodibromomethane	µg/L	7.6	16	Daily	2
31	23	17-Jul-07	Dichlorobromomethane	µg/L	9.5	32	Daily	2
32	24	27-Jul-07	Coliform	mL	500	900	Daily	<del>3</del>
33	25	30-Jul-07	Chlorodibromomethane	µg/L	3.6	16	Monthly	2
34	26	30-Jul-07	Dichlorobromomethane	µg/L	6.8	32	Monthly	2
35	27	29-Aug-07	Chlorodibromomethane	µg/L	7.6	21	Daily	2
36	28	29-Aug-07	Dichlorobromomethane	µg/L	9.5	24	Daily	2
37	29	31-Aug-07	Chlorodibromomethane	µg/L	3.6	21	Monthly	2

ROV #	ACLC #	Date	Violation Type	Units	Limit	Result	Period Type	Remarks
38	30	31-Aug-07	Dichlorobromomethane	µg/L	6.8	24	Monthly	2
39	31	1-Oct-07	Chlorodibromomethane	µg/L	7.6	14	Daily	2
40	32	1-Oct-07	Dichlorobromomethane	µg/L	9.5	23	Daily	2
41	33	9-Oct-07	Chlorodibromomethane	µg/L	7.6	16	Daily	2
42	34	9-Oct-07	Dichlorobromomethane	µg/L	9.5	22	Daily	2
43	35	18-Oct-07	Chlorodibromomethane	µg/L	7.6	19	Daily	2
44	36	18-Oct-07	Dichlorobromomethane	µg/L	9.5	28	Daily	2
45	37	31-Oct-07	Chlorodibromomethane	µg/L	3.6	16	Monthly	2
46	38	31-Oct-07	Dichlorobromomethane	µg/L	6.8	24	Monthly	2
47	39	13-Nov-07	Chlorodibromomethane	µg/L	7.6	13	Daily	2
48	40	13-Nov-07	Dichlorobromomethane	µg/L	9.5	22	Daily	2
49	41	30-Nov-07	Chlorodibromomethane	µg/L	3.6	13	Monthly	2
50	42	30-Nov-07	Dichlorobromomethane	µg/L	6.8	22	Monthly	2
51	43	3-Dec-07	Chlorodibromomethane	µg/L	7.6	12	Daily	2
52	44	3-Dec-07	Dichlorobromomethane	µg/L	9.5	20	Daily	2
53	45	30-Dec-07	Chlorodibromomethane	µg/L	3.6	12	Monthly	2
54	46	30-Dec-07	Dichlorobromomethane	µg/L	6.8	20	Monthly	2
55	47	3-Jan-08	Chlorodibromomethane	µg/L	7.6	14	Daily	2
56	48	3-Jan-08	Dichlorobromomethane	µg/L	9.5	24	Daily	2
<del>57</del>		<del>17-Jan-08</del>	<del>pH</del>	<del>pH units</del>	<del>6.5</del>	<del>6.4</del>	<del>Instantaneous</del>	<del>4</del>
58	49	23-Jan-08	Chlorodibromomethane	µg/L	7.6	15	Daily	2
59	50	23-Jan-08	Dichlorobromomethane	µg/L	9.5	20	Daily	2
60	51	30-Jan-08	Chlorodibromomethane	µg/L	3.6	15	Monthly	2
61	52	30-Jan-08	Dichlorobromomethane	µg/L	6.8	22	Monthly	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. Violation addressed in Administrative Civil Liability Order No. R5-2005-0143.~~
- ~~6. Single operational upset pursuant to report submitted on 24 January 2005.~~

<b><u>VIOLATIONS AS OF:</u></b>	<b><u>1/31/2008</u></b>
Group I Serious Violations:	9 ( <del>7 subject to MMPs</del> )
Group II Serious Violations:	<del>30</del> ( <del>30 subject to MMPs</del> )
Non-Serious Exempt from MPs:	<del>59</del>
Non-serious Violations Subject to MPs:	<del>842</del>
<b><u>Total Violations Subject to MPs:</u></b>	<b><u>4749</u></b>

**Mandatory Minimum Penalty = (~~3937~~ Serious Violations + ~~842~~ Non-Serious Violations) x \$3,000 = \$141447,000**