

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2009-0518

MANDATORY PENALTY
IN THE MATTER OF

CALIFORNIA DEPARTMENT OF CORRECTIONS
DEUEL VOCATIONAL INSTITUTION
SAN JOAQUIN COUNTY

This Complaint is issued to the Department of Corrections, Deuel Vocational Institution (hereafter Discharger) pursuant to California Water Code (CWC) section 13385, which authorizes the imposition of Administrative Civil Liability, and CWC section 13323, which authorizes the Executive Officer to issue this Complaint. This Complaint is based on findings that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Order R5-2003-0065 (NPDES No. CA0078093).

The 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 collection, treatment, and disposal system, and provides sewerage service to Deuel Vocational Institution. Treated municipal wastewater is discharged into Deuel Drain, a water of the United States and part of the Sacramento-San Joaquin Delta, and is tributary to Paradise Cut and Old River.
2. On 25 April 2003, the Central Valley Water Board issued WDRs Order R5-2003-0065 to regulate discharges of waste from the wastewater treatment plant (WWTP). On 11 July 2003, the Central Valley Water Board issued Resolution R5-2003-0109, which provided a time schedule to meet the new chlorine residual effluent limitation, and allowed an alternative point of compliance until 1 March 2005 for that constituent.
3. On 25 April 2003, the Central Valley Water Board issued Cease and Desist Order (CDO) R5-2003-0066, providing a time schedule until 1 March 2008 to comply with new Effluent Limitations B.1., for nitrate, ammonia, TDS, and electrical conductivity. It also provided a time schedule until 1 March 2005 to comply with new Effluent Limitations C.1. for benzene, bromoform, chloroform, dibromochloromethane, cis-1,2-dichloroethane, ethylbenzene, tetrachloroethene, toluene, trichloroethene, and xylenes.
4. On 21 October 2005, the Central Valley Water Board issued Cease and Desist Order (CDO) R5-2005-0152, which rescinded CDO R5-2003-0066. The CDO extended the time schedule until 1 March 2009 to comply with new effluent limitations B.1. and B3. for electrical conductivity, total dissolved solids, ammonia, nitrate, total coliform, turbidity, bromodichloromethane, bromoform, and dibromochloromethane, and to comply with Provision H.1. It also extended the time schedule until 1 March 2008 to comply with new effluent limitations C.1. for benzene, bromoform, chloroform, dibromochloromethane, cis-1,2-dichloroethane, ethylbenzene, tetrachloroethene, toluene, trichloroethene, and

xylenes. This Complaint considered the protection from Mandatory Minimum Penalties provided by CDO R5-2005-0152.

5. On 22 September 2008, the Assistant Executive Officer of the Central Valley Water Board issued Administrative Civil Liability Complaint R5-2008-0578 for mandatory minimum penalties for effluent violations from 1 June 2004 through 31 May 2008. The Discharger paid the Complaint and the Central Valley Water Board considers the matter resolved.
6. On 24 February 2009, Central Valley Water Board staff sent the Discharger a draft Record of Violations (ROV) for the period 1 June 2008 through 31 December 2008. The Discharger responded by email on 10 March 2009. Central Valley Water Board staff has prepared a technical memorandum, included as Attachment B and discussed in Finding 11 of this Complaint, which explains adjustments made to the ROV.
7. 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.

8. 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.

9. WDRs Order R5-2003-0065 Effluent Limitations No. B.1 (Outfall 001) states, in part, "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>
Total Dissolved Solids	mg/L	450	--	--	1000
	lb/day ³	2330	--	--	5174

³ Based upon a dry weather flow of 0.62 mgd

10. WDRs Order R5-2003-0065 Effluent Limitations No. C.1., include, in part, the following effluent limitations: "Effluent from Outfalls 003 and 004 shall not exceed the following limits:" CDO R5-2005-0152 revised the final compliance date to 1 March 2008.

<u>Constituents</u>	<u>Units</u>	<u>30-Day Average</u>	<u>Daily Maximum</u>
Tetrachloroethene	µg/l	<0.5	1.0

11. As described in the technical memorandum mentioned in Finding No. 6, Central Valley Water Board staff made the following adjustments to the draft Record of Violations (all violation numbers reference those contained in the draft Record of Violations).

- Cis-1,2 dichloroethene, Violations 3 and 4. The Discharger certified that it ceased discharge to Discharge Point 004 prior to the sample date. The water was routed through the WWTP and the samples were collected in error. The violations were deleted.
- Tetrachloroethene Violations 5 and 6. The Discharger certified that it ceased discharge to Discharge Point 004 prior to the sample date. The water was routed through the WWTP and the samples were collected in error. The violations were deleted.

12. According to the Discharger's self-monitoring reports, the Discharger committed two (2) serious Group I violation of the above effluent limitations contained in Order R5-2003-0065 during the period beginning 1 June 2008 and ending 31 December 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 **six thousand dollars (\$6,000)**.

13. According to the Discharger's self-monitoring reports, the Discharger committed one (1) serious Group II violation of the above effluent limitations contained in Order R5-2003-0065 during the period beginning 1 June 2008 and ending 31 December 2008. This violation is 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 this serious violation is **three thousand dollars (\$3,000)**.
14. According to the Discharger's self-monitoring reports, the Discharger committed one (1) non-serious violation of the above effluent limitations contained in Order R5-2003-0065 during the period beginning 1 June 2008 and ending 31 December 2008. This non-serious violation is subject to mandatory penalties under CWC section 13385(i)(1) because this violation was preceded by three or more similar violations within a six-month period. The mandatory minimum penalty for this non-serious violation is **three thousand dollars (\$3,000)**.
15. The total amount of the mandatory penalties assessed for the cited effluent violations is **twelve thousand dollars (\$12,000)**. A detailed list of the cited effluent violations is included in Attachment A, a part of this Complaint.
16. 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 CALIFORNIA DEPARTMENT OF CORRECTIONS, DEUEL VOCATIONAL INSTITUTION IS HEREBY GIVEN NOTICE THAT:

1. The Executive Officer of the Central Valley Water Board proposes that the Discharger be assessed an Administrative Civil Liability in the amount of **twelve thousand dollars (\$12,000)**.
2. A hearing on this matter will be held at the Central Valley Water Board meeting scheduled on **11/12 June 2009**, unless the Discharger does either of the following by **15 April 2009**:
 - 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 **twelve thousand dollars (\$12,000)**; 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.

PAMELA C. CREEDON, Executive Officer

16 March 2009

Attachment A: Record of Violations
Attachment B: Memorandum
BLH: 16-Mar-09

**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 the Department of Corrections, Deuel Vocational Institution (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint R5-2009-0518 (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 Central Valley Regional Water Quality Control Board (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 **twelve thousand dollars (\$12,000)** by check, which contains a reference to "ACL Complaint R5-2009-0518" and is made payable to the "State Water Pollution Cleanup and Abatement Account." Payment must be received by the Central Valley Water Board by **15 April 2009** 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 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.

(Print Name and Title)

(Signature)

(Date)

**ATTACHMENT A
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2009-0518**

**Deuel Vocational Institution
Wastewater Treatment Plant**

RECORD OF VIOLATIONS (1 June 2008 – 31 December 2008) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Program R5-2003-0065)

<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measure</u> <u>d</u>	<u>Period</u> <u>Type</u>	<u>Dschg</u> <u>Point</u>	<u>Remarks</u>	<u>CIWQS</u>
1 6/26/2008	Tetrachloroethene	µg/L	1	1.2	Daily	004	4	80541 2
2 6/30/2008	Tetrachloroethene	µg/L	0.5	1.2	Monthly	004	2	80541 5
3 12/3/2008	Total Dissolved Solids	mg/L	1000	2500	Daily	001	1	80647 7
4 12/3/2008	Total Dissolved Solids	lbs/day	5174	7899	Daily	001	1	80648 3

Remarks:

1. Serious Violation: For Group I pollutants that exceed the effluent limitation by 40 percent or more.
2. Serious Violation: For Group II pollutants that exceed the effluent limitation by 20 percent or more.
3. Non-serious violations falls within the first three violations in a six-month period, thus is exempt.
4. Non-serious violation subject to mandatory penalties.

<u>VIOLATIONS AS OF:</u>	<u>12/31/2008</u>
Group I Serious Violations:	2
Group II Serious Violations:	1
Non-Serious Exempt from MPs:	0
Non-serious Violations Subject to MPs:	1
<u>Total Violations Subject to MPs:</u>	<u>4</u>

Mandatory Minimum Penalty = (3 Serious Violations + 1 Non-Serious Violations) x \$3,000 = \$12,000



Linda S. Adams
Secretary for
Environmental Protection

ATTACHMENT B

California Regional Water Quality Control Board Central Valley Region

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



Arnold
Schwarzenegger
Governor

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: Wendy Wyels, Supervisor
NPDES Compliance and Enforcement

FROM: Barry Hilton, WRCE
NPDES Compliance and Enforcement

DATE: 11 March 2009

SIGNATURE: _____

SUBJECT: DEPARTMENT OF CORRECTIONS, DEUEL VOCATIONAL INSTITUTION
ASSESSMENT OF MMPS

On 24 February 2009, Central Valley Water Board staff sent the Discharger a draft Record of Violations (ROV) for the period 1 June 2008 through 31 December 2008. The Discharger responded by email on 6 March 2009. The following discusses the changes I made to the ROV during my preparation of the Administrative Civil Liability Complaint.

Cis 1,2 dichloroethene

Violations 3 and 4. The Discharger certified that the self-monitoring reports incorrectly stated discharge from Discharge Point 004 because on 15 July 2008 it commenced diverting this discharge for treatment in the wastewater treatment plant. I deleted these violations.

Tetrachloroethene

Violations 5 and 6. The Discharger certified that the self-monitoring reports incorrectly stated discharge from Discharge Point 004 because on 15 July 2008 it commenced diverting this discharge for treatment in the wastewater treatment plant. I deleted these violations.

California Environmental Protection Agency



**Deuel Vocational Institution
Wastewater Treatment Plant**

RECORD OF VIOLATIONS (1 June 2008 – 31 December 2008) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Program R5-2003-0065)

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measure</u> <u>d</u>	<u>Period</u> <u>Type</u>	<u>Dschg</u> <u>Point</u>	<u>Remarks</u>	<u>CIWQS</u>
									80541
1	6/26/2008	Tetrachloroethene	µg/L	1	1.2	Daily	004	4	2
									80541
2	6/30/2008	Tetrachloroethene	µg/L	0.5	1.2	Monthly	004	2	5
									80542
3	7/30/2008	cis-1,2-dichloroethene	µg/L	4	1.3	Daily	004	2	4
									80542
4	7/30/2008	cis-1,2-dichloroethene	µg/L	0.5	1.3	Monthly	004	2	0
									80542
5	7/30/2008	Tetrachloroethene	µg/L	4	1.2	Daily	004	4	7
									80542
6	7/30/2008	Tetrachloroethene	µg/L	0.5	1.2	Monthly	004	2	9
									80647
37	12/3/2008	Total Dissolved Solids	mg/L	1000	2500	Daily	001	1	7
									80648
48	12/3/2008	Total Dissolved Solids	lbs/day	5174	7899	Daily	001	1	3

Remarks:

1. Serious Violation: For Group I pollutants that exceed the effluent limitation by 40 percent or more.
2. Serious Violation: For Group II pollutants that exceed the effluent limitation by 20 percent or more.
3. Non-serious violations falls within the first three violations in a six-month period, thus is exempt.
4. Non-serious violation subject to mandatory penalties.

<u>VIOLATIONS AS OF:</u>	<u>12/31/2008</u>
Group I Serious Violations:	2
Group II Serious Violations:	14
Non-Serious Exempt from MPs:	0
Non-serious Violations Subject to MPs:	12
<u>Total Violations Subject to MPs:</u>	<u>48</u>

Mandatory Minimum Penalty = (36 Serious Violations + 12 Non-Serious Violations) x \$3,000 = \$2412,000