

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION
895 Aerovista Place, Suite 101
San Luis Obispo, California 93401**

ORDER NO. R3-2009-0005

**MANDATORY PENALTY
IN THE MATTER OF
CUYAMA COMMUNITY SERVICES DISTRICT
SANTA BARBARA COUNTY**

This Order to assess Mandatory Minimum Penalties pursuant to California Water Code section 13385(h) and (i) is issued to the Cuyama Community Services District (Discharger) based on findings of violations of Waste Discharge Requirements Order No. R3-2007-0020, National Pollutant Discharge Elimination System (NPDES) Permit No. CA0048089.

The Regional Water Quality Control Board, Central Coast Region finds that:

1. On May 11, 2007, the Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board), adopted *Waste Discharge Requirements Order No. 2007-0020, NPDES Permit No. CA0048089, for the Cuyama CSD Wastewater Facility*] (Order No. R3-2007-0020).
2. California Water Code section 13385(h)(1) requires the Central Coast Water Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious violation.
3. California Water Code section 13385(h)(2) provides that a serious violation occurs if the discharge exceeds the effluent limitations for a Group II pollutant, as specified in Appendix A to section 123.45 of Title 40 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 Code of Federal Regulations, by 40 percent or more.
4. California Water Code section 13385(i) requires the Central Coast Water 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 a period of six consecutive months:
 - 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; or
 - 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.

5. California Water Code section 13385(i)(2) defines a "period of six consecutive months" as "the period commencing on the date that one of the violations described in this subdivision [California Water Code section 13385(i) of Finding No. 3 of this Order] occurs and ending 180 days after that date." However, serious violations may qualify as chronic violations for the purpose of determining a "period of six consecutive months," and may count as the first three chronic violations, though such violations are not counted twice for the purpose of assessing a penalty amount.
6. In accordance to Appendix A to section 123.45 of Title 40 Code of Federal Regulations, bromodichloromethane and dibromochloromethane are categorized as Group II Pollutants. Group II pollutants are subject to serious violations as defined in Finding No. 3, above.
7. Order No. R3-2007-0020 includes the following:

Effluent Limitations – Discharge Point 001: The discharger shall maintain compliance with the following effluent limitations at Discharge Point 001, with compliance measured at Monitoring Location EFF-001, as described in the attached Monitoring and Reporting Program (Section IV.A.1.Table 5).

Constituent	Units	Effluent Limit	
		Average Monthly	Maximum Daily
Bromodichloromethane	µg/L	0.56	1.13
Dibromochloromethane	µg/L	0.40	0.81

8. According to monitoring reports submitted by the Discharger from September 1, 2007, to September 30, 2007, the Discharger violated the following effluent limitations in Order No. R3-2007-0020:

Table 1 – Effluent Limitation Violations

#	Violation Date	CIWQS Violation No.	Constituent	Permit Limit ¹	Reported Value	Violation Type
1	09/10/2007	691958	Bromodichloromethane	0.56 µg/L 1.13 µg/L	4.8 µg/L	Serious
2	09/10/2007	691962	Dichlorobromomethane	0.40 µg/L 0.81 µg/L	3.7 µg/L	Serious

¹ – Effluent limitation is identified in Finding No. 7 (above) and Section IV.A.1.c. of Order R3-2006-0032.
CIWQS – California Integrated Water Quality System

9. As defined in Finding No. 3, the Discharger committed two serious violations as shown on lines 1 and 2 of Table 1 from September 1st, 2007 to September 30th, 2007. The amount of the mandatory penalty for these two serious violations (\$3,000 x 2) is six thousand dollars (\$6,000).

10. The total amount of the mandatory minimum penalty from September 1, 2007, to September 30, 2007, is six thousand dollars (\$6,000).
11. California Water Code section 13385(l) states that "(1) In lieu of assessing penalties pursuant to subdivision (h) or (i), the...regional board, with the concurrence of the discharger, may direct a portion of the penalty amount to be expended on a supplemental environmental project in accordance with the enforcement policy of the state board. If the penalty amount exceeds fifteen thousand dollars (\$15,000), the portion of the penalty amount that may be directed to be expended on a supplemental environmental project may not exceed fifteen thousand dollars (\$15,000) plus 50 percent of the penalty amount that exceeds fifteen thousand dollars (\$15,000).
12. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000, et seq.) in accordance with the California Code of Regulations Title 14, Chapter 3, section 15321.

IT IS HEREBY ORDERED, pursuant to California Water Code section 13385, that Cuyama Community Services District is assessed administrative civil liability in the amount of Six Thousand Dollars (\$6,000).

The Discharger shall submit a check payable to State Water Resources Control Board in the amount of **\$6,000** to *SWRCB Accounting, Attn: Enforcement, P.O. Box 100, Sacramento, California 95812-0100* by **March 8, 2009**. A copy of the check shall also be submitted to *Regional Water Quality Control Board, Attn: Harvey Packard, 895 Aerovista Place, Suite 101, San Luis Obispo, California 93401* by **March 8, 2009**.

Any person aggrieved by this action of the Central Coast Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and the following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of the order, except that if the thirtieth day following the date of the order falls on a Saturday, Sunday, or state holiday, the petition must be received by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions are available on the internet at the following website or will be provided upon request.
http://www.waterboards.ca.gov/public_notices/petitions/water_quality

I, **Roger W. Briggs, Executive Officer**, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the Central Coast Water Board on February 5, 2009.

Roger W. Briggs
Executive Officer