

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ACL COMPLAINT NO. R5-2007-0505

ADMINISTRATIVE CIVIL LIABILITY  
IN THE MATTER OF

STATE OF CALIFORNIA  
DEPARTMENT OF CORRECTIONS AND REHABILITATION  
MULE CREEK STATE PRISON WASTEWATER TREATMENT PLANT  
AMADOR COUNTY

This Administrative Civil Liability Complaint (hereafter Complaint) is issued to the State of California, Department of Corrections and Rehabilitation (hereafter known as "CDCR" or "Discharger"), based on failure to comply with Waste Discharge Requirements (WDRs) Order No. 5-00-088 and Cease and Desist Order (CDO) No. R5-2007-0130. This Complaint is issued pursuant to California Water Code Section 13350, which authorizes the imposition of administrative civil liability.

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

1. WDRs Order No. 5-00-088, which was adopted by the Regional Water Board on 28 April 2000, prescribes requirements for the CDCR Mule Creek State Prison wastewater treatment plant (WWTP). The WDRs set forth discharge requirements and specifications for discharge.
2. The CDCR Mule Creek State Prison, Preston Youth Correctional Facility, and California Department of Forestry are jointly responsible for compliance with the WDRs. However, this Order pertains to issues at the Mule Creek State Prison WWTP, and therefore is issued solely to the CDCR (hereafter referred to as Discharger).

**WASTE DISCHARGE REQUIREMENTS AND CEASE AND DESIST ORDER**

3. Discharge Prohibitions A.1, A.2, A.3, and A.7 of WDRs Order No. 5-00-088 prohibit the discharge of waste to surface waters, bypass of the treatment system, discharge of treated wastewater outside the disposal areas, and runoff of reclaimed water. Specifically:
  - a. Discharge Prohibition A.1 of WDRs Order No. 5-00-088 states: "*Discharge of wastes to surface waters or surface water drainage courses is prohibited.*"
  - b. Discharge Prohibition A.2 of WDRs Order No. 5-00-088 states: "*Bypass or overflow of untreated or partially treated waste is prohibited.*"
  - c. Discharge Prohibition A.3 of WDRs Order No. 5-00-088 states: "*Discharge [of] treated wastewater or runoff from spray irrigation disposal areas into wetlands or*

*surface waters is prohibited.”*

- d. Discharge Prohibition A.7 of WDRs Order No. 5-00-088 states: *“Excessive irrigation with reclaimed water that results in runoff of reclaimed water, or irrigation of reclaimed water during periods of precipitation, and within 24 hours of cessation of precipitation, is prohibited.”*
4. In addition, Discharge Specification B.4 of WDRs Order No. 5-00-088 states that: *“The waste discharge shall at all times remain in the designated disposal area.”*
5. On 8 December 2006, the Regional Water Board adopted Cease and Desist Order (CDO) No. R5-2006-0130 for violations of WDRs Order No. 5-00-088. Pursuant to Sections 13301 and 13267 of the California Water Code, Order No. R5-2006-0130 requires, with the exception of Discharge Specification No. B.1, immediate compliance with all aspects of WDRs Order No. 5-00-088.
6. Item 1 of CDO No. R5-2006-0130 states, in part, the following: *“With the exception of Discharge Specification No. B.1 of WDRs Order No. 5-00-088 (pertaining to the dry weather inflow to the wastewater treatment plant) the Discharger shall **immediately** comply with all aspects of WDRs Order No. 5 00-088.”*
7. Item 10 of CDO No. R5-2006-0130 states the following: *“By **30 January 2007**, the Discharger shall submit a report certifying that it has installed an alarm feature on the filter belt press wet well to notify WWTP staff of potential overflows of the wet well.”*

#### **VIOLATIONS OF THE CDO AND WDRs**

8. July 2006 Spill of 12,000 Gallons to Mule Creek. During Regional Water Board staff’s 16 August 2006 inspection, the Discharger stated that a spill had occurred at one of the spray disposal fields a few weeks prior to the inspection. According to the Discharger, the spill occurred when a sprayfield distribution line broke, allowing approximately 12,000 gallons of treated effluent to flow into Mule Creek. Staff was not notified of the spill. Also per the Discharger, Mule Creek was not flowing at the time of the spill, and the spill was reportedly contained within the Mule Creek State Prison property. The Office of Emergency Services spill reporting database does not contain any record of a report for this spill. Staff verbally reminded the Discharger of the proper spill reporting procedures during the inspection. The spill was a violation of Prohibitions A.1, A.3, and A.7, and Discharge Specification B.4 of the WDRs.
9. 16 August 2006 Spill of 20,000 Gallons to Mule Creek. During a 16 August 2006 inspection, Regional Water Board staff observed a wastewater spill in progress. The Discharger stated that a sprayfield pump was left running on the evening of 15 August 2006. This event resulted in an excessive amount of wastewater discharged to the disposal area. The Discharger estimated 20,000 gallons of wastewater ran off the

disposal area and spilled into Mule Creek. Staff observed runoff flowing into a surface water drainage course that flows into Mule Creek. Because of the location of the spill and the fact that Mule Creek was not flowing at the time of the spill, the wastewater was contained within the prison property and did not flow off site. The Discharger reported the spill to the Office of Emergency Services on 16 August 2006, following staff's inspection. The discharge was a violation of Prohibitions A.1, A.3, and A.7, and Discharge Specification B.4 of the WDRs.

10. 21 September 2006 Spill of 5,000 Gallons to Mule Creek. On 21 September 2006, the Amador County Environmental Health Department notified Regional Water Board staff that Department staff had observed tailwater runoff from the Discharger's sprayfields entering Mule Creek. In response, Regional Water Board staff immediately called the Discharger and requested that they investigate the complaint. On the evening of 21 September 2006, the Discharger notified staff that a spill did in fact occur at the sprayfield in question. The Discharger estimates that approximately 5,000 gallons of wastewater spilled into Mule Creek due to over- application to the sprayfields. Mule Creek was dry at the time of the spill and wastewater was contained within the prison property. The Discharger notified the Office of Emergency services on 21 September 2006. The spill was a violation of Prohibitions A.1, A.3, and A.7, and Discharge Specification B.4 of the WDRs.
11. 21 September 2006 Spill of 3,000 Gallons to Mule Creek. On 21 September 2006, the Discharger notified Regional Water Board staff and the Office of Emergency Services that a wastewater spill had occurred at a second sprayfield, and that the spill had also entered Mule Creek. The spill was approximately 3,000 gallons, and was also caused by excessive application of wastewater to the sprayfields. The Discharger stated that it removed wastewater from the Mule Creek drainage by placing loose dirt in the creek to soak up the water, and removing and placing the saturated dirt in the sprayfields. The spill was a violation of Prohibitions A.1, A.3, and A.7, and Discharge Specification B.4 of the WDRs.
12. 28 September 2006 Spill of 750 Gallons to Surface Drainage Course. On 28 September 2006, the Discharger notified Regional Water Board staff and the Office of Emergency Services that a 750-gallon spill occurred from the filter belt press wet well located at the sludge drying facility. The spill occurred because the wet well did not have an alarm system to notify plant personnel if the well was full. The spill entered a storm drain which discharges into a surface water drainage course that flows into Mule Creek. The surface drainage course was dry at the time of the spill, and wastewater did not flow into Mule Creek. The Discharger removed the spilled wastewater that was present in the drainage course. The spill was a violation of Prohibitions A.1 and A.2, and Discharge Specification B.4 of the WDRs. The Discharger has since submitted verification that a strobe light and audible alarm system had been installed and tested on the filter belt press wet well in accordance with Item 10 of CDO No. R5-2006-0130.

13. 11 October 2006 Spill of 4,000 Gallons to Adjacent Property. On 11 October 2006, the Discharger notified Regional Water Board staff and the Office of Emergency Services that a broken sprinkler main had resulted in the discharge of approximately 4,000 gallons of secondary treated wastewater onto a neighboring property. The Discharger responded by scraping the soil into which the spill had infiltrated. The spill was a violation of Discharge Prohibition A.7 and Discharge Specification B.4 of the WDRs.
14. 9 January 2007 Spill of 5,000 Gallons to Surface Drainage Course. On 9 January 2007, the Discharger notified Regional Water Board staff and the Office of Emergency Services that an irrigation system valve had stuck in the open position resulted in the discharge of approximately 5,000 gallons of secondary treated wastewater from a manhole into a tributary of Mule Creek. The discharge was contained within the tributary, which was dry at the time of the spill. The Discharger responded by pumping the spilled effluent back into its sanitary sewer system, scraping the soil into which the spill had infiltrated, and clearing the valve. The spill violated Discharge Prohibition A.1 and Discharge Specification B.4 of the WDRs and Item 1 of CDO No. R5-2006-0130.
15. 24 January 2007 Spill of 5,000 Gallons to On-Site Land. On 24 January 2007, the Discharger notified Regional Water Board staff and the Office of Emergency Services that an irrigation system valve had stuck in the open position resulting in the discharge of approximately 5,000 gallons of secondary treated wastewater from a manhole. The Discharger's report stated that the spill was contained prior to entering any surface water drainage courses. The spill violated Discharge Specification B.4 of the WDRs and Item 1 of CDO No. R5-2006-0130.
16. As described in the above Findings, the Discharger has violated Waste Discharge Requirements Order No. 5-00-088, and Cease and Desist Order No. R5-2006-0130 by discharging waste to surface waters and by discharging outside of the designated disposal area. A summary of the eight spill events follows:

<u>Spill Dates</u>	<u>Spill Duration (days)</u>	<u>Volume Discharged (gallons)</u>
Late July 2006	1	12,000
15 August 2006	1	20,000
21 September 2006	1	5,000
21 September 2006	1	3,000
28 September 2006	1	750
11 October 2006	1	4,000
9 January 2007	1	5,000
24 January 2007	1	5,000
<b>Total</b>	<b>7 days</b>	<b>54,750 gallons</b>

### REGULATORY CONSIDERATIONS

17. California Water Code (CWC) Section 13271 states, in part, the following: "*(a) (1) Except as provided by subdivision (b), any person who, without regard to intent or negligence, causes or permits any hazardous substance or sewage to be discharged in or on any waters of the state, or discharged or deposited where it is, or probably will be, discharged in or on any waters of the state, shall, as soon as (1) that person has knowledge of the discharge, (2) notification is possible, and (3) notification can be provided without substantially impeding cleanup or other emergency measures, immediately notify the Office of Emergency Services of the discharge... (b) The notification required by this section shall not apply to a discharge in compliance with waste discharge requirements or other provisions of this division. (c) Any person who fails to provide the notice required by this section is guilty of a misdemeanor and shall be punished by a fine of not more than twenty thousand dollars (\$20,000) or imprisonment for not more than one year, or both. Except where a discharge to the waters of this state would have occurred but for a cleanup or emergency response by a public agency, this subdivision shall not apply to any discharge to land which does not result in a discharge to the waters of this state.*"
18. The Discharger violated CWC Section 13271 by failing to report the July 2006 report to the Office of Emergency Services.
19. CWC Section 13350(a) states, in part, the following: "*Any person who (1) violates any cease and desist order or cleanup and abatement order hereafter issued, reissued, or amended by a regional board or the state board, or (2) in violation of any waste discharge requirement... or other order or prohibition issued, reissued, or amended by a regional board or the state board, discharges waste, or causes or permits waste to be deposited where it is discharged, into the waters of the state,... except in accordance with waste discharge requirements or other actions or provisions of this division, shall be liable civilly, and remedies may be proposed, in accordance with subdivision (d) or (e).*"
20. CWC Section 13350(e) states: "*The state board or a regional board may impose civil liability administratively pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 either on a daily basis or on a per gallon basis, but not both.*"
21. CWC Section 13350(e)(1) states: "*The civil liability on a daily basis may not exceed five thousand dollars (\$5,000) for each day the violation occurs.*"
22. CWC Section 13350(e)(2) states: "*The civil liability on a per gallon basis may not exceed ten dollars (\$10) for each gallon of waste discharged.*"

### CALCULATION OF LIABILITIES

23. July 2006 Spill of 12,000 Gallons to Mule Creek. For discharging waste to surface waters in violation of the WDRs, the Regional Water Board may assess administrative civil liability based on CWC Section 13350. The maximum administrative civil liability that can

be imposed by the Regional Water Board under CWC Section 13350 is \$5,000 per day of discharge [13350(e)(1)] or \$10 per gallon discharged [13350(e)(2)]. Therefore, the maximum administrative civil liability for this spill is \$120,000 [maximum of (one day x \$5,000 per day = \$5,000) or (12,000 gallons x \$10 per gallon = \$120,000)].

24. 16 August 2006 Spill of 20,000 Gallons to Mule Creek. For discharging waste to surface waters in violation of the WDRs, the Regional Water Board may assess administrative civil liability based on CWC Section 13350. The maximum administrative civil liability that can be imposed by the Regional Water Board under CWC Section 13350 is \$5,000 per day of discharge [13350(e)(1)] or \$10 per gallon discharged [13350(e)(2)]. Therefore, the maximum administrative civil liability for this spill is \$200,000 [maximum of (one day x \$5,000 per day = \$5,000) or (20,000 gallons x \$10 per gallon = \$200,000)].
25. 21 September 2006 Spill of 5,000 Gallons to Mule Creek. For discharging waste to surface waters in violation of the WDRs, the Regional Water Board may assess administrative civil liability based on CWC Section 13350. The maximum administrative civil liability that can be imposed by the Regional Water Board under CWC Section 13350 is \$5,000 per day of discharge [13350(e)(1)] or \$10 per gallon discharged [13350(e)(2)]. Therefore, the maximum administrative civil liability for this spill is \$50,000 [maximum of (one day x \$5,000 per day = \$5,000) or (12,000 gallons x \$10 per gallon = \$50,000)].
26. 21 September 2006 Spill of 3,000 Gallons to Mule Creek. For discharging waste to surface waters in violation of the WDRs, the Regional Water Board may assess administrative civil liability based on CWC Section 13350. The maximum administrative civil liability that can be imposed by the Regional Water Board under CWC Section 13350 is \$5,000 per day of discharge [13350(e)(1)] or \$10 per gallon discharged [13350(e)(2)]. The per-day liability for the 21 September 2006 spills is considered in Finding 26. Therefore, the maximum administrative civil liability for this spill is \$30,000 [maximum of (one day x \$5,000 per day = \$5,000) or (3,000 gallons x \$10 per gallon = \$30,000)].
27. 28 September 2006 Spill of 750 Gallons to Surface Drainage Course. For discharging waste to surface waters in violation of the WDRs, the Regional Water Board may assess administrative civil liability based on CWC Section 13350. The maximum administrative civil liability that can be imposed by the Regional Water Board under CWC Section 13350 is \$5,000 per day of discharge [13350(e)(1)] or \$10 per gallon discharged [13350(e)(2)]. Therefore, the maximum administrative civil liability for this spill is \$7,500 [maximum of (one day x \$5,000 per day = \$5,000) or (750 gallons times \$10 per gallon = \$7,500)].
28. 11 October 2006 Spill of 4,000 Gallons to Adjacent Property. For discharging waste in violation of the WDRs, the Regional Water Board may assess administrative civil liability based on CWC Section 13350. The maximum administrative civil liability that can be imposed by the Regional Water Board under CWC Section 13350 is \$5,000 per day of discharge [13350(e)(1)] or \$10 per gallon discharged [13350(e)(2)]. Therefore, the maximum administrative civil liability for this spill is \$40,000 [maximum of (one day x

\$5,000 per day = \$5,000) or (4,000 gallons x \$10 per gallon = \$40,000)].

29. 9 January 2007 Spill of 5,000 Gallons to Surface Drainage Course. For discharging waste to surface waters in violation of the WDRs and CDO No. R5-2006-0130, the Regional Water Board may assess administrative civil liability based on CWC Section 13350. The maximum administrative civil liability that can be imposed by the Regional Water Board under CWC Section 13350 is \$5,000 per day of discharge [13350(e)(1)] or \$10 per gallon discharged [13350(e)(2)]. Therefore, the maximum administrative civil liability for this spill is \$50,000 [maximum of (one day x \$5,000 per day = \$5,000) or (5,000 gallons x \$10 per gallon = \$50,000)].
30. 24 January 2007 Spill of 5,000 Gallons to On-Site Land. For discharging waste in violation of the WDRs and CDO No. R5-2006-0130, the Regional Water Board may assess administrative civil liability based on CWC Section 13350. The maximum administrative civil liability that can be imposed by the Regional Water Board under CWC Section 13350 is \$5,000 per day of discharge [13350(e)(1)] or \$10 per gallon discharged [13350(e)(2)]. Therefore, the maximum administrative civil liability for this spill is \$50,000 [maximum of (one day x \$5,000 per day = \$5,000) or (5,000 gallons x \$10 per gallon = \$50,000)].
31. Pursuant to CWC Section 13350(e), the total maximum liability for these eight violations is \$547,500.
32. CWC Section 13327 states: *"In determining the amount of civil liability, the regional board, and the state board upon review of any order pursuant to Section 13320, shall take into consideration the nature, circumstance, extent and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters as justice may require."*
33. The State Water Resources Control Board's *Water Quality Enforcement Policy* states, at VII.I that *"[i]t is the policy of the SWRCB that all ACLs that are not Mandatory Minimum Penalties should be assessed at a level that at a minimum recovers the economic benefit."* Pursuant to the *Water Quality Enforcement Policy*, the minimum administrative civil liability is equivalent to the economic benefit accrued by the Discharger for not implementing management measures necessary to prevent the discharges.
34. The late July, 15 August, and both 21 September 2006 spills could have been avoided had the Discharger expended the necessary resources to provide adequate tailwater control. The remaining spills may not have been preventable, so the economic benefit obtained for these is probably minimal. However, adequate staffing at the facility would likely have reduced or mitigated the results of those spills.

Staff estimates that, at a minimum, at least one additional operations staff person should have been hired for routine maintenance and inspection of the treatment processes and disposal fields. It is estimated that the Discharger has avoided a cost of approximately \$36,000 by not employing necessary operations staff for facility oversight and maintenance.

35. Issuance of this Complaint is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, *et. seq.*), in accordance with Section 15321 (a)(2), Title 14, of the California Code of Regulations.

**THE STATE OF CALIFORNIA, DEPARTMENT OF CORRECTIONS AND REHABILITATION,  
IS HEREBY GIVEN NOTICE THAT:**

1. The Executive Officer of the Regional Water Board proposes that the Discharger be assessed an administrative civil liability in the amount of \$50,000 (fifty thousand dollars). The amount of the liability proposed is based upon a review of the factors set forth in California Water Code Sections 13327 and 13350, the State Water Resources Control Board's Water Quality Enforcement Policy, and consideration of the economic benefit or savings resulting from the violations.
2. A hearing shall be held on **3/4 May 2007** unless the Discharger agrees to waive the hearing and pay the proposed civil liability in full.
3. If a hearing 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.
4. In lieu of a hearing, the Discharger may waive the right to a hearing. If you wish to waive the right to a hearing, sign the enclosed waiver and return it with the full amount of civil liability (in a check made payable to the *State Water Resources Control Board Waste Discharge Permit Fund*), to the Regional Water Board's office at 11020 Sun Center Drive, Suite #200, Rancho Cordova, CA 95670, by **2 April 2007**.

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PAMELA C. CREEDON, Executive Officer

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2 March 2007  
(Date)

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**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 State of California, Department of Corrections and Rehabilitation (hereinafter "Discharger"), in connection with Administrative Civil Liability Complaint No. R5-2007-0505 (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 issuance 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 issuance of the Complaint; and
4. I certify that the Discharger will remit payment for the civil liability imposed in the amount of fifty thousand dollars (\$50,000) by check, which contains a reference to "ACL Complaint No. R5-2007-0505" and is made payable to the "*State Water Resources Control Board Waste Discharge Permit Fund.*"
5. I understand the payment of the above amount constitutes a settlement of the Complaint that will not become final until after a public comment period.
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.

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(Name)

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(Title)

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(Date)