

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ACL COMPLAINT NO. R5-2008-0509

ADMINISTRATIVE CIVIL LIABILITY  
IN THE MATTER OF

THE CITY OF CHICO  
CHICO WATER POLLUTION CONTROL PLANT  
BUTTE COUNTY

This Administrative Civil Liability Complaint (hereafter Complaint) is issued to the City of Chico (hereafter Discharger) based on violations of Waste Discharge Requirements (WDRs) Order No. R5-2004-0073 (NPDES No. CA0079081). This Complaint is issued 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.

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. Waste Discharge Requirements Order No. R5-2004-0073, which was adopted by the Regional Water Board on 4 June 2004, prescribes requirements for the Chico Water Pollution Control Plant (CWPCP) operated by the City of Chico. The City of Chico is solely responsible for collection and treatment of the wastewater at the CWPCP.
2. The CWPCP serves the Chico community, and is comprised of screening for removal of large solids, grit removal, primary clarification, activated sludge treatment with secondary clarification, and chlorination/dechlorination.
3. The City of Chico has a population of approximately 85,150 residents, and the CWPCP has an annual capital expenditure budget of \$5,246,000. There are approximately 25,121 connections to the City of Chico sewer system.
4. The secondary treatment system design capacity is 9.0 million gallons per day (mgd) average daily dry weather flow and 11.8 mgd peak wet weather flow.
5. Order No. R5-2004-0073 contains an average dry weather (July through September) discharge flow of 9.0 mgd. However, there are three holding/oxidation ponds that can be used during increased wet weather flow period. The total capacity of the three storage ponds is approximately 54 million gallons.

6. On 15 May 2007, the Regional Water Board adopted Complaint No. R5-2007-0512. Pursuant to CWC section 13385(h), a mandatory penalty of \$3,000 was imposed due to effluent chlorine residual violations from an incident on 9 December 2006. The complaint indicated that approximately 388,180 gallons of effluent was discharged to the Sacramento River, which was not properly chlorinated and /or dechlorinated, due to electrical power problems with the chemical feed supply system.
7. On 19 July 2005, the Regional Water Board adopted Complaint No. R5-2005-0520. Pursuant to CWC section 13385(h), a mandatory penalty of \$9,000 was imposed due to effluent chlorine residual violations from several incidents that occurred on 14 March 2004, 24 July 2004, and 16 March 2005. The complaint indicated that effluent was discharged to the Sacramento River, which was not properly chlorinated and /or dechlorinated, due to electrical and mechanical failures with the chemical feed supply system.
8. On 19 February 2004, the Regional Water Board adopted Complaint No. R5-2004-0500. Pursuant to CWC section 13385(h), a mandatory penalty of \$15,000 was imposed due to effluent chlorine residual violations from several incidents that occurred on 16 October 2002, 5 April 2003, 1 May 2003, 7 November 2003, and 29 January 2004. The complaint indicated that effluent was discharged to the Sacramento River, which was not properly chlorinated and /or dechlorinated, due to electrical and mechanical failures with the chemical feed supply system.
9. On 24 July 2002, the Regional Water Board adopted Complaint No. R5-2002-0515. Pursuant to CWC section 13385(h), a mandatory penalty of \$9,000 was imposed due to effluent chlorine residual violations from several incidents that occurred on 24 January 2002, 25 January 2002, and 30 June 2002. The complaint indicated that effluent was discharged to the Sacramento River, which was not properly chlorinated and /or dechlorinated, due to mechanical and electrical failures with the chemical feed supply system.
10. On 29 November 2000, the Regional Water Board adopted Complaint No. R5-2000-0528. Pursuant to CWC section 13385(h), a mandatory penalty of \$6,000 was imposed due to effluent chlorine residual violations from several incidents that occurred on 1 January 2000 and 28 February 2000. The complaint indicated that effluent was discharged to the Sacramento River, which was not properly chlorinated and /or dechlorinated, due to mechanical and electrical failures with the chemical feed supply system.
11. WDRs Order No. R5-2004-0073 contains the following Prohibition that was violated by the Discharger by discharging the partially-treated wastewater to the Sacramento River:  
Discharge Prohibition A.1.:
  1. *Discharge of treated wastewater at allocation or in a manner different from that described in Findings Nos. 2, 3 and 4 is prohibited.*

12. WDRs Order No. R5-2004-0073 contains the following effluent limitations that were violated by the Discharger by discharging the partially-treated wastewater to the Sacramento River:

Effluent Limitation B.1:

1. *Effluent shall not exceed the following limits at Discharge 001:*

<u>Constituents</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Monthly Median</u>	<u>4-day Average</u>	<u>Daily Maximum</u>
Chlorine Residual	mg/L	--	--	--	0.01	0.02 <sup>c</sup>

<sup>c</sup> 1-hour average

13. On 21 August 2007, effluent chlorine residual concentration was measured at 3.0 mg/L. The daily maximum chlorine residual is 0.02 mg/L. Approximately 514,000 gallons (volume of chlorine contact basin) was discharged to the Sacramento River with an average 3.0 mg/L of residual chlorine. Additionally, approximately 2.486 million gallons of effluent was discharged to the Sacramento River, which was secondary treated effluent without chlorination/dechlorination.
14. The cause of the 21 August 2007 violation was a result of a blown fuse in an Uninterruptible Power Supply (UPS) unit during off-hours of the plant operation. The UPS powers a Programmable Logic Controller (PLC) that controls the chemical feed pumps. The power loss caused the chemical feed pumps to shut down. The Supervisory Control and Data Acquisition (SCADA) system did indicate an alarm condition, however, the system failed to send the alarm information to the on-call plant personnel.
15. On 4 September 2007 effluent chlorine residual concentration was measured at 2.38 mg/L. The daily maximum chlorine residual is 0.02 mg/L. Approximately 123,963 gallons was discharged to the Sacramento River with an average chlorine residual of 2.38 mg/L.
16. The cause of the 4 September 2007 violation was a result of a ground fault (electrical short) that occurred when the power was turned back onto to a slide gate at Chlorine Contact Basin No. 2. The electrical short blew fuses in the two UPS units that power the chemical feed pump PLC, the sodium hypochlorite pumps, and the sodium bisulfite pumps. Upon discovery of the alarm, the plant operators immediately diverted effluent discharge from the Sacramento River to the onsite emergency storage ponds.
17. On 4 October 2007, staff issued a Notice of Violation (NOV) to CWPCP indicating that the violations described above are subject to further enforcement actions, including the assessment of administrative civil liability (a monetary fine).
18. In the past seven years, there have been approximately sixteen separate effluent violations of residual chlorine. Out of the sixteen events, eleven of the events have been related to electrical failure problems with the chemical feed system electronics.

There has been a total of \$42,000 mandatory minimum penalties assessed during the last seven years.

19. In summary, during August and September 2007, the Discharger violated the total residual chlorine effluent limitations set forth in Effluent Limitations B.1 for 637,963 gallons, and violated Discharge Prohibition A.1 for 2.486 million gallons of effluent (not properly chlorinated/dechlorinated). A total of approximately 3.124 million gallons of partially treated secondary treated effluent were discharged to the Sacramento River in violation of Board Order No. R5-2004-0073.

### REGULATORY CONSIDERATIONS

20. Discharge Prohibition A.1 of Order No. R5-2004-0073 states: *“Discharge of treated wastewater at allocation or in a manner different from that described in Findings Nos. 2, 3 and 4 is prohibited”*. Finding No. 4 states *“The treatment system consists of ... and chlorination/dechlorination.”*
21. Effluent Limitation B.1 of Order No. R5-2004-0073 states: Effluent shall not exceed 0.02 mg/L chlorine residual as a 1-hour average.
22. As described in the above Findings, the Discharger has violated Order No. R5-2004-0073 by violating the effluent limitations and by discharging waste to surface waters without the proper treatment that includes chlorination and dechlorination.
23. Section 301 of the Clean Water Act and CWC section 13376 prohibit the discharge of pollutants to surface waters except in compliance with a National Pollutant Discharge Elimination System (NPDES) permit.
24. CWC section 13376 states, in part:  
*“Any person discharging pollutants or proposing to discharge pollutants to the navigable waters of the United States ... shall file a report of the discharge in compliance with the procedures set forth in Section 13260...” and “The discharge of pollutants...except as authorized by waste discharge requirements [NPDES permit]...is prohibited.”*
25. CWC section 13385 states, in part:  
*“(a) Any person who violates any of the following shall be liable civilly in accordance with subdivisions (b), (c), (d), (e), and (f):*  
  
*(1) Section 13375 or 13376.”*  
  
*“(c) Civil liability may be imposed administratively by the state board or a regional board pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 in an amount not to exceed the sum of both the following:*

*(1) Ten thousand dollars (\$10,000) for each day in which the violation occurs.*

*(2) Where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) times the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.”*

26. For discharging waste to surface waters in violation of the Order, the Regional Water Board may assess administrative civil liability based on CWC section 13385. The maximum administrative civil liability which can be imposed by the Regional Water Board under CWC section 13385 is \$10,000 per day of discharge plus \$10 per gallon discharged in excess of 1,000 gallons not subject to clean up. As stated in the Findings, the Discharger estimates that a total of 637,963 gallons of secondary treated wastewater discharged exceeded the residual chlorine effluent limitation, and that approximately 2.486 million gallons of undisinfected secondary treated wastewater were discharged to the Sacramento River on 21 and 22 August and 4 September 2007. Therefore, the maximum administrative civil liability is \$30,000 (3 days times \$10,000 per day) plus \$31,219,630 (3.124 million gallons minus 1,000 gallons not subject to cleanup \$10 per gallon), for a total maximum liability of **\$31,249,630**.
27. CWC section 13385(e) states:
- “In determining the amount of any liability imposed under this section, the regional board, the state board, or the superior court, as the case may be, shall take into account the nature, circumstances, 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 its ability to continue its 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 that justice may require. At a minimum, liability shall be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation.”*
28. Pursuant to CWC section 13385(e), the minimum administrative civil liability is equivalent to the economic benefit accrued by the Discharger for not implementing management and physical improvements necessary to prevent the discharges. The 3.124 million-gallon discharges were the result of the Discharger’s failure to provide adequate control measures to prevent electrical shortages to the chemical storage facility and/or properly notifying plant personnel of effluent violations by the SCADA system. It is estimated that if site personnel were onsite during the peak flow periods, they would have been able to divert the flow of effluent to the three-holding/oxidation ponds instead of the Sacramento River. If any personnel were at the site (non-operators), they could have called the on-call operators to trouble-shoot the violation in a timely matter. It is estimated that the Discharger may have saved at least **\$79,968** by not taking the actions required to prevent the violations described in this Complaint.

This savings is based on a cost estimate of providing for personnel during the non-working hours of the CWPCP (5:00 pm to 7:00 am). Cost estimates have been obtained from a private security service, which indicates an annual salary of approximately \$79,968 (\$17.00/hr x 14/hrs/day x 7 days/wk) for a security guard to be at the plant to be able to physically make out calls to waste water plant operators when alarm conditions occur. This would be a backup to the existing SCADA system, which has not correctly provided call-outs during the past residual chlorine violations. Additionally, the Discharger has provided information that they have hired an electrician (\$90,000/yr) to troubleshoot the electrical problems at the plant, including the SCADA system. Furthermore, the Discharger has provided additional information regarding the following: approximately \$795 for repair of the SCADA systems, \$230,000 for the installation of an automatic gate to divert the plant effluent to the emergency storage ponds, \$130,000 for a standby generator and approximately \$314 for chlorination/dechlorination chemicals that were not used when the effluent was not being properly chlorinated or dechlorinated during the August and September events. Therefore, the minimum liability for the two occurrences is at least \$79,968.

29. Additional information was obtained from the Discharger and the State Water Resources Control Board (Division of Financial Assurances), that the monthly sewage rate for the City of Chico is approximately \$15.67/mth (based on April 2007 data). A review of other similar wastewater facilities in Butte County, indicate that the average monthly sewage fee is approximately \$17.72/mth (or \$2.05/mth more than CWPCP). Based on the private service laterals in Chico (25,121 lateral connections – from CIWQS), the Discharger annual sewage fees are approximately \$617,977 lower than the average yearly sewage fees for Butte County for similar wastewater treatment facilities.
30. Issuance of this Complaint is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code § 21000, et seq.), in accordance with California Code of Regulations, title 14, section 15321 (a)(2).

**THE CITY OF CHICO, CHICO WATER POLLUTION CONTROL PLANT IS HEREBY GIVEN NOTICE THAT:**

1. The Regional Water Board proposes that the Discharger be assessed an administrative civil liability in the amount of **one hundred thousand dollars (\$100,000)**. The amount of the liability proposed is based upon a review of the factors set forth in CWC section 13385, and includes consideration of the economic benefit or savings resulting from the violations.
2. A hearing shall be held on 12 June 2008 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 payment as provided in Paragraph 1, above, to the Regional Water Board's office at 415 Knollcrest Drive, Suite 100, Redding, CA 96002 by 13 April 2008.

Original Signed by  
\_\_\_\_\_  
JAMES C. PEDRI, Assistant Executive Officer

17 March 2008  
\_\_\_\_\_  
(Date)

**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 Chico Water Pollution Control Plant (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint No. R5-2008-0509 (hereinafter the "Complaint");
2. I am informed of the right provided by CWC section 13323, subdivision (b), to a hearing within ninety (90) days of issuance of this 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 **one hundred thousand dollars (\$100,000)** by check, which contains a reference to "ACL Complaint No. R5-2008-0509" and is made payable to the "*State Water Recourses Control Board Cleanup and Abatement Account.*"
5. 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 Board receive significant new information during this comment period, the Regional Board may withdraw the complaint, return payment, and issue a new complaint.
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.

---

(Name)

---

(Title)

---

(Date)