

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2008-0516

IN THE MATTER OF

STEPHEN SCHUSTER
AND
PHEASANT LANDING PHASE III HOMEOWNERS ASSOCIATION
BUTTE COUNTY

This complaint is issued to Stephen Schuster and the Pheasant Landing Phase III Homeowners Association, (hereafter Discharger) pursuant to California Water Code (CWC) section 13268, 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 the CWC, and Order No. 5-01-277.

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

1. The Discharger is the owner and operator of the Pheasant Landing Phase III subdivision, a 30-acre residential development in North Chico with 31 homes.
2. On 7 December 2001, the Regional Water Board adopted Order No. 5-01-277, implementing Waste Discharge Requirements (WDRs) for operation and maintenance of a wastewater collection, treatment, and disposal facility at the Pheasant Landing Phase III subdivision.
3. Monitoring and Reporting Program No. 5-01-277 states: "Monthly monitoring reports shall be submitted on the first day of the second month following the monitoring period."
4. On or about 3 January 2008, Regional Board staff contacted the Discharger to inform them that monitoring reports had not been submitted since the July report.
5. On 10 January 2008, the Discharger submitted self-monitoring reports for August through November 2007. Cumulatively, these reports were a total of 240 days late at the time of submittal.
6. On 16 January 2008 Regional Water Board staff issued a Notice of Violation to the Discharger for failing to submit the aforementioned self-monitoring reports in a timely fashion.

7. 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.”

8. CWC section 13268 states, in part:

“(a)(1) Any person failing or refusing to furnish technical or monitoring program reports as required by subdivision (b) of Section 13267, or failing or refusing to furnish a statement of compliance as required by subdivision (b) of Section 13399.2, or falsifying any information provided therein, is guilty of a misdemeanor, and may be liable civilly in accordance with subdivision (b).

...

(b)(1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (a) in an amount which shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs.”

9. **Maximum Civil Liability.** Per CWC section 13268(b)(1), the maximum administrative civil liability in this case is two hundred forty thousand dollars (\$240,000) (\$1,000 per day × 240 days).
10. **Minimum Civil Liability.** There is no minimum civil liability amount in accordance with CWC section 13268.
11. 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).

STEPHEN SCHUSTER 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 **seven thousand five hundred dollars (\$7,500)**.
2. A hearing on this matter will be held at the Regional Water Board meeting scheduled on **12/13 June 2008**, unless the Discharger agrees to complete the following **by 16 April 2008**:

- a) Waive the hearing by completing the attached form and returning it to the Regional Water Board; and
 - b) Pay the proposed civil liability of **seven thousand five hundred dollars (\$7,500)** in full.
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.

Signed By

JAMES C. PEDRI

Assistant Executive Officer

19 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 Stephen Schuster (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint No. R5-2008-0516 (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 service of the Complaint;
3. I hereby waive the Discharger's right to such a hearing before the California Regional Water Quality Control Board, Central Valley Region; and
4. I certify that the Discharger will remit payment for the civil liability imposed in the amount of **seven thousand five dollars (\$7,500)** by check, which contains a reference to "ACL Complaint No. R5-2008-0516" and is made payable to the "*State Water Pollution Cleanup and Abatement Account.*"
5. I understand the payment of the above amount constitutes a settlement of the 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.

(Print Name and Title)

(Signature)