

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2008-0581

MANDATORY PENALTY
IN THE MATTER OF

SAN ANDREAS SANITARY DISTRICT
WASTEWATER TREATMENT PLANT
CALAVERAS COUNTY

This Complaint is issued to the San Andreas Sanitary District, Wastewater Treatment Plant (hereafter Discharger) 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. This Complaint is based on findings that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Orders 95-033, 5-01-118, and R5-2003-0151 (NPDES CA0079464).

The Assistant 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 domestic wastewater collection, treatment, and disposal system, and provides sewerage service to the community of San Andreas, in Calaveras County. Secondary treated effluent is discharged solely to a designated land disposal area from 1 May through 31 October of each year. Between 1 November and 30 April each year, the secondary treated effluent is discharged to the land disposal area to the extent feasible. Treated effluent that cannot be discharged to land is discharged to San Andreas Creek, a tributary to Murray Creek, a tributary of the North Fork of the Calaveras River, a water of the United States
2. On 24 February 1995, the Central Valley Water Board adopted WDRs Order 95-033 to regulate discharges of waste from the wastewater treatment plant (WWTP). On 11 May 2001, the Central Valley Water Board adopted WDRs Order 5-01-118, which contained new requirements and rescinded WDRs Order 95-033. On 17 October 2003, the Central Valley Water Board adopted WDRs Order R5-2003-0151, which contained new requirements and rescinded WDRs Order 5-01-118.
3. On 17 October 2003, the Central Valley Water Board adopted Cease and Desist Order (CDO) R5-2003-0152, which provided a time schedule until 1 October 2008 to comply with new effluent limitations for bis(2-ethylhexyl) phthalate, aluminum, ammonia, nitrates plus nitrites, iron, manganese, MBAS, and diazinon. This Complaint considers the protection from Mandatory Minimum Penalties provided by CDO R5-2003-0152.
4. On 13 November 2007, the Central Valley Water Board sent the Discharger a draft Record of Violations (ROV). The Discharger agreed with the violations. The ROV has been extended through 30 June 2008.

5. 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.”*

6. 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.”*

7. WDRs Order No. R5-2003-0151 Effluent Limitations No. B.1., include, in part, the following effluent limitations: *“Secondary treated effluent discharged to San Andreas Creek shall not exceed the following limits.”*

<u>Constituents</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Weekly Average¹⁶</u>	<u>Monthly Median</u>	<u>Daily Maximum</u>
BOD ¹	mg/L	30 ²	45 ²		60 ²
Total Suspended Solids	mg/L	30 ²	45 ²		60 ²
Settleable Solids	mL/L	0.1			0.2
Total Coliform	MPN/100mL			23	230

¹ 5-day, 20°C biochemical oxygen demand (BOD)

² To be ascertained by a 24-hour composite

8. WDRs Order No. R5-2003-0151 Effluent Limitations No. B.3., include, in part, the following effluent limitations: *“Effluent discharged to the Calaveras River shall not exceed the following limits.”*

<u>Constituents</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Weekly Average</u> ¹³	<u>Monthly Median</u>	<u>Daily Maximum</u>
BOD ¹	mg/L	30 ²	45 ²		60 ²
Total Suspended Solids	mg/L	30 ²	45 ²		60 ²
Settleable Solids	mL/L	0.1			0.2
Total Coliform	MPN/100mL			23	230

¹ 5-day, 20°C biochemical oxygen demand (BOD)

² To be ascertained by a 24-hour composite

9. WDRs Order No. R5-2003-0151 Effluent Limitations B.4 states: *“The discharge shall not have a pH less than 6.5 nor greater than 8.5.”*
10. According to the Discharger’s self-monitoring reports, the Discharger committed three (3) serious Group I violations of the above effluent limitations contained in Order Nos. 95-033, 5-01-118 and R5-2003-0151 during the period beginning 1 January 2000 and ending 30 June 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 **nine thousand dollars (\$9,000)**.
11. According to the Discharger’s self-monitoring reports, the Discharger committed eighteen (18) non-serious violations of the above effluent limitations contained in Order Nos. 95-033, 5-01-118 and R5-2003-0151 during the period beginning 1 January 2000 and ending 30 June 2008. Eight (8) of the non-serious violations are subject to mandatory penalties under CWC section 13385(i)(1) because these violations were preceded by three or more similar violations within a six-month period. The mandatory minimum penalty for these non-serious violations is **twenty-four thousand dollars (\$24,000)**.
12. The total amount of the mandatory penalties assessed for the cited effluent violations is **thirty-three thousand dollars (\$33,000)**. A detailed list of the cited effluent violations is included in Attachment A, a part of this Complaint.
13. 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 SAN ANDREAS SANITARY DISTRICT WASTEWATER TREATMENT PLANT IS
HEREBY GIVEN NOTICE THAT:**

1. The Assistant Executive Officer of the Central Valley Water Board proposes that the Discharger be assessed an Administrative Civil Liability in the amount of **thirty-three thousand dollars (\$33,000)**.
2. A hearing on this matter will be held at the Central Valley Water Board meeting scheduled on **4/5 December 2008**, unless the Discharger does either of the following by **22 October 2008**:
 - 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 **thirty-three thousand dollars (\$33,000)**; 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.

JACK E. DEL CONTE, Assistant Executive Officer

22 September 2008

**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 San Andreas Sanitary District Wastewater Treatment Plant (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint No. R5-2008-0581 (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 California Regional Water Quality Control Board, Central Valley Region (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 proposed civil liability in the amount of **thirty-three thousand dollars (\$33,000)** by check, which will contain a reference to "ACL Complaint No. R5 2008-0581" and will be made payable to the "*State Water Pollution Cleanup and Abatement Account.*" Payment must be received by the Central Valley Water Board by **22 October 2008** or this matter will be placed on the Central Valley Water Board's agenda for adoption at the **4/5 December 2008** Central Valley Water Board meeting.
 - 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 Assistant 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.

(Print Name and Title)

(Signature)

(Date)

ATTACHMENT A
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2008-0581

**San Andreas Sanitary District
Wastewater Treatment Plant**

RECORD OF VIOLATIONS (1 January 2000 – 30 June 2008) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Program Nos. 95-033, 5-01-118 and R5-2003-0151)

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measured</u>	<u>Period Type</u>	<u>Remarks</u>
1	1-Feb-04	pH	pH units	6.5	6.4	Instant.	3
2	8-Feb-04	pH	pH units	6.5	6	Instant.	3
3	3-Mar-04	Coliform	MPN/100mL	230	900	Daily	3
4	30-Nov-04	BOD	mg/L	30	35	Monthly	3
5	8-Dec-04	TSS	mg/L	60	72	Daily	3
6	8-Dec-04	TSS	mg/L	45	72	Weekly	1
7	30-Dec-04	TSS	mg/L	30	35	Monthly	4
8	9-Feb-05	Coliform	MPN/100mL	230	240	Daily	4
9	16-Mar-05	Sett. Solids	mL/L	0.2	0.5	Daily	1
10	16-Mar-05	TSS	mg/L	45	47	Weekly	4
11	23-Mar-05	BOD	mg/L	45	58	Weekly	4
12	30-Mar-05	Coliform	MPN/100mL	230	500	Daily	4
13	30-Mar-05	Coliform	MPN/100mL	23	70	Monthly	4
14	8-Mar-06	Coliform	MPN/100mL	23	30	Monthly	3
15	18-Mar-06	pH	pH units	8.5	9.5	Instant.	3
16	31-Mar-06	Coliform	MPN/100mL	23	30	Monthly	3
17	5-Apr-06	TSS	mg/L	45	59	Weekly	4
18	20-Dec-06	BOD	mg/L	60	71	Daily	3
19	20-Dec-06	BOD	mg/L	45	71	Weekly	1
20	31-Dec-06	BOD	mg/L	30	36	Monthly	3
21	7-Mar-07	Coliform	MPN/100mL	230	240	Daily	4

Remarks:

1. Serious Violation: For Group 1 pollutants that exceed the effluent limitation by 40 percent or more.
2. Serious Violation: For Group 2 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>6/30/2008</u>
Group 1 Serious Violations:	3
Group 2 Serious Violations:	0
Non-Serious Exempt from MPs:	10
Non-serious Violations Subject to MPs:	8
<u>Total Violations Subject to MPs:</u>	<u>11</u>

Mandatory Minimum Penalty = (3 Serious Violations + 8 Non-Serious Violations) x \$3,000 = \$33,000