

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2009-0524

MANDATORY PENALTY  
IN THE MATTER OF

SAN ANDREAS SANITARY DISTRICT  
WASTEWATER TREATMENT PLANT  
CALAVERAS COUNTY

This Order is issued to the San Andreas Sanitary District (hereafter Discharger) pursuant to California Water Code (CWC) section 13385, which authorizes the imposition of Administrative Civil Liability. This Order 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 No. CA0079464).

The 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 issued WDRs Order 95-033 to regulate discharges of waste from the wastewater treatment plant (WWTP). On 11 May 2001, the Board issued WDRs Order 5-01-118, which contained new requirements and rescinded WDRs Order 95-033. On 17 October 2003, the Central Valley Water Board issued WDRs Order R5-2003-0151, which contained new requirements and rescinded WDRs Order 5-01-118.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 Order considers the protection from Mandatory Minimum Penalties provided by CDO R5-2003-0152.
4. On 22 September 2008, the Assistant Executive Officer of the Central Valley Water Board issued Administrative Civil Liability (ACL) Complaint R5-2008-0581. The ACL Complaint charged the Discharger with civil liability in the amount of \$33,000, which represented the sum of the statutory Mandatory Minimum Penalties (MMPs) for effluent limitation violations that occurred at the WWTP from 1 January 2000 to 30 June 2008. In a subsequent review of this matter, staff determined that three additional violations

(violations 1, 2, and 20) were omitted in the ACL Complaint, and need to be added to the Record of Violations for this ACL Order. Violations 4 and 5 were exempt from being assessed MMPs in the ACL Complaint because there were three or fewer violations during the previous 180 days. However, after adding omitted violations 1 and 2, violations 4 and 5 become subject to MMPs. Staff also determined that no additional effluent limitation violations occurred from 1 July 2008 through 31 December 2008. A listing of all violations subject to MMPs from 1 January 2000 through 31 December 2008 is found in Attachment A, a part of this Order.

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 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 Average</u> <sup>16</sup> | <u>Monthly Median</u> | <u>Daily Maximum</u> <sup>16</sup> |
|------------------------|--------------|------------------------|-------------------------------------|-----------------------|------------------------------------|
| BOD <sup>1</sup>       | mg/L         | 30 <sup>2</sup>        | 45 <sup>2</sup>                     | --                    | 60 <sup>2</sup>                    |
| Total Suspended Solids | mg/L         | 30 <sup>2</sup>        | 45 <sup>2</sup>                     | --                    | 60 <sup>2</sup>                    |
| Settleable Solids      | mL/L         | 0.1                    | --                                  | --                    | 0.2                                |
| Total Coliform         | MPN/100mL    | --                     | --                                  | 23                    | 230                                |

<sup>1</sup> 5-day, 20°C biochemical oxygen demand (BOD).

<sup>2</sup> To be ascertained by a 24-hour composite.

<sup>16</sup> Except as noted.

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> <sup>13</sup> | <u>Monthly Median</u> | <u>Daily Maximum</u> <sup>13</sup> |
|------------------------|----------------------|------------------------|-------------------------------------|-----------------------|------------------------------------|
| BOD <sup>1</sup>       | mg/L                 | 30 <sup>2</sup>        | 45 <sup>2</sup>                     | --                    | 60 <sup>2</sup>                    |
| Total Suspended Solids | mg/L                 | 30 <sup>2</sup>        | 45 <sup>2</sup>                     | --                    | 60 <sup>2</sup>                    |
|                        | lbs/day <sup>3</sup> | 375                    | 563                                 | --                    | 751                                |
| Settleable Solids      | mL/L                 | 0.1                    | --                                  | --                    | 0.2                                |
| Total Coliform         | MPN/100mL            | --                     | --                                  | 23                    | 230                                |
| Chlorine Residual      | µg/L                 | --                     | 11 <sup>11</sup>                    | --                    | 19 <sup>12</sup>                   |

<sup>1</sup> 5-day, 20°C biochemical oxygen demand (BOD).

<sup>2</sup> To be ascertained by a 24-hour composite.

<sup>3</sup> Based upon a wet weather design discharge capacity of 1.5 mgd (x mg/L x 8.34 x 1.5 mgd = y lbs/day).

<sup>11</sup> Maximum four day average concentration limitation.

<sup>12</sup> Maximum one hour concentration.

<sup>13</sup> Except as noted.

9. WDRs Order No. R5-2003-0151 Effluent Limitations B.5 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 Orders 95-033, 5-01-118 and R5-2003-0151 during the period beginning 1 January 2000 and ending 31 December 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 two (2) serious Group II violations of the above effluent limitations contained in Orders 95-033, 5-01-118 and R5-2003-0151 during the period beginning 1 January 2000 and ending 31 December 2008. The violations are defined as serious because measured concentrations of Group II constituents exceeded maximum prescribed levels by more

than 20 percent on these occasions. The mandatory minimum penalty for these serious violations is **six thousand dollars (\$6,000)**.

12. According to the Discharger's self-monitoring reports, the Discharger committed nineteen (19) non-serious violations of the above effluent limitations contained in Orders 95-033, 5-01-118 and R5-2003-0151 during the period beginning 1 January 2000 and ending 31 December 2008. Eleven (11) 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 **thirty-three thousand dollars (\$33,000)**.
13. The total amount of the mandatory penalties assessed for the cited effluent violations is **forty-eight thousand dollars (\$48,000)**. A detailed list of the cited effluent violations is included in Attachment A, a part of this Order.
14. CWC section 13385 (k) states:
  - (1) In lieu of assessing all or a portion of the mandatory minimum penalties pursuant to subdivisions (h) and (i) against a publicly owned treatment works serving a small community, the state board or the regional board may elect to require the publicly owned treatment works to spend an equivalent amount towards the completion of a compliance project proposed by the publicly owned treatment works, if the state board or the regional board finds all of the following:
    - (A) The compliance project is designed to correct the violations within five years.
    - (B) The compliance project is in accordance with the enforcement policy of the state board, excluding any provision in the policy that is inconsistent with this section.
    - (C) The publicly owned treatment works has prepared a financing plan to complete the compliance project.
  - (2) For the purposes of this subdivision, "a publicly owned treatment works serving a small community" means a publicly owned treatment works serving a population of 10,000 persons or fewer or a rural county, with a financial hardship as determined by the state board after considering such factors as median income of the residents, rate of unemployment, or low population density in the service area of the publicly owned treatment works.
15. On 4 September 2008, the Executive Director of the State Water Resources Control Board transmitted a memorandum determining that the San Andreas Sanitary District Wastewater Treatment Plant is a publicly owned treatment works serving a small community within the meaning of CWC section 13385(k)(2).
16. The Discharger submitted a letter dated 18 November 2008 and an email dated 8 January 2009, which indicated it is in the process of spending \$11,056,000, from a State Revolving Fund Loan, on a Compliance Project to construct a new wastewater treatment plant designed to bring the facility into compliance with its NPDES permit, and therefore correct the violations within 5 years. The project will include a new process feed

pump station, a biological reactor, blowers, a secondary clarifier, rapid mix, flocculation basins, filters, and disinfection system improvements. The letter and email which provided the project outline, financing plan, and project schedule are incorporated into this Order by reference. When the compliance project is completed, the Discharger will have expended in excess of the mandatory minimum penalties that have been assessed pursuant to CWC sections 13385(h) and (i).

17. The Central Valley Water Board finds the Compliance Project has been designed to correct the violations that have led to the issuance of this Administrative Civil Liability Order within five years, that the project is in accordance with the enforcement policy of the State Water Board, and that the Discharger has developed an appropriate financing plan to complete the project.
18. Issuance of this Administrative Civil Liability Order 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).
19. On 15 March 2007, the Central Valley Water Board explicitly delegated to the Executive Officer the authority to issue orders to assess administrative civil liability where the matter is not contested by the Discharger (Resolution R5-2007-0009).
20. This Order constitutes a settlement of the violations herein mentioned. Notice of this settlement was published on the Central Valley Water Board's website, in a newspaper of general circulation in the community, and was provided to all interested parties on 5 February 2009. The 30-day public notice and comment period mandated by Federal regulations (40 CFR 123.27) has expired.
21. Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with CWC section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date that this Order becomes final, except that if the thirtieth day following the date that this Order becomes final falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: [http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

**IT IS HEREBY ORDERED** pursuant to California Water Code sections 13385(a), (h), (i), and (k), and Resolution R5-2007-0009, that:

1. San Andreas Sanitary District, its agents, successors and assigns, shall be assessed an Administrative Civil Liability in the amount of **forty-eight thousand dollars (\$48,000)**.
2. The Central Valley Water Board shall consider the entire \$48,000 penalty satisfied through the expenditure of an equivalent or greater amount on the completion of the

compliance project described in Finding 16, if the Discharger complies with the following time schedule:

| <u>Task</u>   | <u>Compliance Date</u> |
|---|------------------------|
| Award Bid   | 1 June 2009            |
| Complete construction of the new wastewater treatment plant | 1 January 2011         |
| Submit final documentation of Compliance Project costs      | 1 April 2011           |
| Achieve Full Compliance                                     | 1 April 2011           |

3. A progress report shall be submitted on or before each of the above compliance dates. The report shall describe the work undertaken to comply with this Order.
4. The Executive Officer may extend the abovementioned deadlines if the Discharger demonstrates that unforeseeable contingencies have created delays, provided that the Discharger continues to undertake all appropriate measures to meet the deadlines. The Discharger shall make any deadline extension request in writing. Under no circumstances may the completion of the Compliance Project extend past five (5) years from the issuance of this Order.
5. The Discharger must obtain explicit approval from the Executive Officer for any significant departures from the project outline submitted on 18 November 2008 and project schedule submitted on 8 January 2009. Failure to obtain approval for any significant departures will result in the assessment of the full amount of the suspended mandatory minimum penalty.
6. If, in the judgment of the Executive Officer, the Discharger fails to complete the compliance project in accordance with the specified time schedule or fails to construct the Compliance Project in accordance with the Proposal without obtaining Central Valley Water Board approval, the suspended mandatory minimum penalty **(\$48,000)** must be paid within 30 days of notification by the Executive Officer of such failure.

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PAMELA C. CREEDON, Executive Officer

30 April 2009

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**ATTACHMENT A  
ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2009-0524**

**San Andreas Sanitary District  
Wastewater Treatment Plant**

RECORD OF VIOLATIONS (1 January 2000 – 31 December 2008) MANDATORY PENALTIES  
(Data reported under Monitoring and Reporting Programs 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  | 31-Jan-04   | Chlorine Res.         | µg/L         | 11           | 41              | Weekly Avg         | 2              |
| 2  | 31-Jan-04   | Chlorine Res.         | µg/L         | 19           | 30              | Daily              | 2              |
| 3  | 1-Feb-04    | pH                    | pH units     | 6.5          | 6.4             | Instant.           | 3              |
| 4  | 8-Feb-04    | pH                    | pH units     | 6.5          | 6               | Instant.           | 4              |
| 5  | 3-Mar-04    | Coliform              | MPN/100mL    | 230          | 900             | Daily              | 4              |
| 6  | 30-Nov-04   | BOD                   | mg/L         | 30           | 35              | Monthly            | 3              |
| 7  | 8-Dec-04    | TSS                   | mg/L         | 60           | 72              | Daily              | 3              |
| 8  | 8-Dec-04    | TSS                   | mg/L         | 45           | 72              | Weekly             | 1              |
| 9  | 30-Dec-04   | TSS                   | mg/L         | 30           | 35              | Monthly            | 4              |
| 10 | 9-Feb-05    | Coliform              | MPN/100mL    | 230          | 240             | Daily              | 4              |
| 11 | 16-Mar-05   | Sett. Solids          | mL/L         | 0.2          | 0.5             | Daily              | 1              |
| 12 | 16-Mar-05   | TSS                   | mg/L         | 45           | 47              | Weekly             | 4              |
| 13 | 23-Mar-05   | BOD                   | mg/L         | 45           | 58              | Weekly             | 4              |
| 14 | 30-Mar-05   | Coliform              | MPN/100mL    | 230          | 500             | Daily              | 4              |
| 15 | 30-Mar-05   | Coliform              | MPN/100mL    | 23           | 70              | Monthly            | 4              |
| 16 | 8-Mar-06    | Coliform              | MPN/100mL    | 23           | 30              | Monthly            | 3              |
| 17 | 18-Mar-06   | pH                    | pH units     | 8.5          | 9.5             | Instant.           | 3              |
| 18 | 31-Mar-06   | Coliform              | MPN/100mL    | 23           | 30              | Monthly            | 3              |
| 19 | 5-Apr-06    | TSS                   | mg/L         | 45           | 59              | Weekly             | 4              |
| 20 | 5-Apr-06    | TSS                   | lbs/day      | 563          | 627             | Daily              | 4              |
| 21 | 20-Dec-06   | BOD                   | mg/L         | 60           | 71              | Daily              | 3              |
| 22 | 20-Dec-06   | BOD                   | mg/L         | 45           | 71              | Weekly             | 1              |
| 23 | 31-Dec-06   | BOD                   | mg/L         | 30           | 36              | Monthly            | 3              |
| 24 | 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 violation falls within the first three violations in a six-month period, thus is exempt.
4. Non-serious violation subject to mandatory penalties

|  |                          |
|--|--------------------------|
| <b><u>VIOLATIONS AS OF:</u></b>                | <b><u>12/31/2008</u></b> |
| Group 1 Serious Violations:                    | 3                        |
| Group 2 Serious Violations:                    | 2                        |
| Non-Serious Exempt from MPs:                   | 8                        |
| Non-serious Violations Subject to MPs:         | 11                       |
| <b><u>Total Violations Subject to MPs:</u></b> | <b><u>16</u></b>         |

**Mandatory Minimum Penalty = (5 Serious Violations + 11 Non-Serious Violations) x \$3,000 = \$48,000**