

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R5-2011-0519

MANDATORY PENALTY
IN THE MATTER OF

CITY OF COLUSA
WASTEWATER TREATMENT PLANT
COLUSA COUNTY

This Order is issued to the City of Colusa (hereafter referred to as Discharger) pursuant to California Water Code (CWC) section 13385, which authorizes the imposition of Administrative Civil Liability (ACL). This Order is based on findings that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Order R5-2002-0020 (NPDES No. CA0078999).

The Assistant Executive Officer of the Central Valley Regional Water Quality Control Board (Central Valley Water Board or Board) finds the following:

1. The Discharger owns and operates a wastewater collection, treatment, and disposal system, and provides sewerage service to the City of Colusa. Treated municipal wastewater is discharged to Powell Slough, tributary to the Colusa Trough, and to the Colusa Basin Drain, a water of the United States.
2. On 1 March 2002, the Board issued WDRs Order R5-2002-0020, which contained new regulations and rescinded Order 96-238, except for purposes of enforcement. The WDRs include effluent limitations and other requirements regarding the wastewater discharges, including a time schedule to comply with tertiary treatment requirements and copper effluent limitations by 1 February 2007. Because the Discharger could not consistently comply with the effluent limitations for ammonia and aluminum contained in the WDRs, the Board also adopted Cease and Desist Order (CDO) No. R5-2002-0021 on 1 March 2002. The CDO required the Discharger to comply with final effluent limitations for ammonia and aluminum by 1 February 2007.
3. On 5 December 2008, the Board issued WDRs Order R5-2008-0184 and rescinded WDRs Order R5-2002-0020, except for purposes of enforcement. The new Order became effective 50 days after adoption, on 24 January 2009. This ACL Order only covers violations of WDRs Order R5-2002-0020.
4. On 1 October 2008, the Executive Officer of the Central Valley Water Board issued ACL Order R5-2008-0535. The ACL Order assessed the Discharger a civil liability in the amount of \$486,000, which represented mandatory minimum penalties for effluent violations (identified in Attachment A to Order R5-2008-0535) that occurred from 1 January 2000 through 31 January 2008. ACL Order R5-2008-0535 allowed the Discharger to apply the \$486,000 penalty toward a compliance project that was designed to correct the violations. The Board considers payment of the mandatory minimum penalties specifically listed in Attachment A to ACL Order R5-2008-0535 satisfied through completion of the compliance project.
5. On 10 June 2010, the Assistant Executive Officer of the Central Valley Water Board issued ACL Order R5-2010-0518. The ACL Order assessed the Discharger a civil liability

in the amount of \$78,000, which represented mandatory minimum penalties for effluent violations (identified in Attachment A to Order R5-2010-0518) that occurred from 1 January 2000 through 31 December 2008. ACL Order R5-2010-0518 assessed penalties for 28 effluent limitations violations that were inadvertently overlooked in ACL Order R5-2008-0535 or that occurred after that ACLO was issued, but before the compliance project was completed. ACL Order R5-2010-0518 allowed the Discharger to apply the \$78,000 penalty toward the same compliance project allowed under ACL Order R5-2008-0535. The Board considers payment of the mandatory minimum penalties specifically listed in Attachment A to ACL Order R5-2010-0518 satisfied through completion of the compliance project.

6. This Order assesses administrative civil liability for one effluent violation that occurred during the period from 1 April 2004 through 31 May 2004. This violation is specifically identified in Attachment A to this Order as subject to mandatory minimum penalties. Attachment A to this Order is attached hereto and incorporated herein by this reference. This effluent violation was not addressed in either ACL Order R5-2008-0535 or R5-2010-0518. On 16 November 2010, Central Valley Water Board staff issued the Discharger a Notice of Violation and draft Record of Violations. On 24 November 2010, the Discharger responded, agreed with the violation, and requested that the penalty be applied to the compliance project described in ACL Orders R5-2008-0535 and R5-2010-0518. No other comments were received.
7. CWC section 13385(i) requires assessment of mandatory penalties and state, in part, the following:

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.

8. 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.

9. WDRs Order No. R5-2002-0020 Effluent Limitations No. B.1.a. include, in part, the following effluent limitations:

Effluent shall not exceed the following limits (from adoption until 31 January 2007):

<u>Constituents</u>	<u>Units</u>	<u>Average Monthly</u>	<u>Average Weekly</u>	<u>30-Day Median</u>	<u>Average Daily</u>	<u>Daily Maximum</u>
Total Coliform Organisms	MPN/100mL	--	--	23	--	500

10. According to the Discharger's self-monitoring reports, the Discharger committed one (1) non-serious violation of the effluent limitations contained in Order R5-2002-0020 during the period beginning 1 April 2004 and ending 31 May 2004, and was not previously assessed a mandatory penalty. This non-serious violation is subject to a mandatory penalty under CWC section 13385(i)(1) because this violation was preceded by three or more similar violations within a six-month period. The mandatory minimum penalty for the non-serious violation is **three thousand dollars (\$3,000)**.
11. The total amount of the mandatory penalty assessed for the cited effluent violation is **three thousand dollars (\$3,000)**. As stated above, the cited effluent violation is included in Attachment A, a part of this Order. This Order addresses administrative civil liability for violations that are specifically identified in Attachment A as subject to mandatory minimum penalties.
12. 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.

13. Staff at the State Water Resources Control Board has determined that the City of Colusa Wastewater Treatment Plant is a publicly owned treatment works serving a small community with a financial hardship within the meaning of CWC section 13385(k)(2).
14. The Discharger spent an estimated \$15,500,000 on a compliance project to construct a new wastewater treatment plant to meet effluent limitations that will correct the violations that occurred between 2000 and 2008. Of this amount, \$2,000,000 of revenue was from a grant and cannot be used to offset the mandatory minimum penalties. The new plant consists of a new influent pump station, new headworks with mechanical screening and flow measurement, a new ultra-violet disinfection system, a new liquid chemical feed system, a re-aeration basin and a new effluent pump station. On 20 October 2008, the Discharger submitted documentation that it had completed the project and expended in excess of the mandatory minimum penalty that is required by CWC sections 13385(h) and (i).
15. As described in Findings 4 and 5, the Discharger was allowed to apply its previous \$564,000 in mandatory penalties toward the compliance project described in Finding 14. This Order allows \$3,000 in mandatory penalties to be applied to the same compliance project. Because the project cost approximately \$13.5 million in non-grant funds, applying a total of \$567,000 in mandatory penalties toward the cost of the project complies with CWC 13385(k) and the Enforcement Policy. The violation listed in this Order took place prior to completion of the compliance project on 20 October 2008.
16. The Central Valley Water Board finds that the compliance project was designed to correct the violation that 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 had appropriate financing to complete the project.
17. This Order constitutes a settlement of the violation herein mentioned. Notice of this settlement was published on the Central Valley Water Board's website, and was provided to all interested parties. The 30-day public notice and comment period mandated by Federal regulations (40 CFR 123.27) has expired.
18. On 23 April 2009, the Central Valley Water Board delegated the authority to issue Administrative Civil Liability Orders, where the matter is not contested by the Discharger, to the Executive Officer, or to an Assistant Executive Officer when the Executive Officer is serving as head of the Board's Prosecution Team (Resolution R5-2009-0027). Pamela Creedon is serving as the head of the Board's Prosecution Team for this matter, and therefore Assistant Executive Officer Kenneth Landau has the authority to issue this Order.
19. 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).

THE CITY OF COLUSA IS HEREBY GIVEN NOTICE THAT:

1. The Discharger shall be assessed an Administrative Civil Liability in the amount of **three thousand dollars (\$3,000)**.
2. The entire \$3,000 penalty has been satisfied through the completion of the compliance project described in Finding 14 above, in accordance with CWC Section 13385(k).
3. This Order is final upon signature.

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 of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, state holiday or furlough day, 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 or will be provided upon request.

Original signed by

KENNETH D. LANDAU, Assistant Executive Officer

4 February 2011
DATE

ATTACHMENT A
ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R5-2011-0519

**City of Colusa
Wastewater Treatment Plant**

RECORD OF VIOLATIONS (1 April 2004 – 31 May 2004) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Programs R5-2002-0020)

<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measure</u> <u>d</u>	<u>Period</u>	<u>Remarks</u>	<u>CIWQS</u>
3-Apr-04	TSS	mg/L	165	170	Weekly	4*	496365
* 22-Apr-04	TSS	mg/L	220	380	Daily	1*	252771
* 24-Apr-04	TSS	mg/L	165	270	Weekly	1*	252772
* 30-Apr-04	TSS	mg/L	110	160	Monthly	1*	252773
		MPN/100m					
1 20-May-04	Coliform	L	500	1600	Daily Max	4	252777
* 31-May-04	TSS	mg/L	110	142	Monthly	4*	252776

Remarks:

1. Serious Violation: For Group I pollutants that exceed the effluent limitation by 40 percent or more.
2. Serious Violation: For Group II 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 minimum penalties.

<u>VIOLATIONS AS OF:</u>	<u>5/31/2004</u>
Group I Serious Violations:	0
Group II Serious Violations:	0
Non-Serious Violations Exempt from MMPs:	0
Non-serious Violations Subject to MMPs:	1
<u>Total Violations Subject to MMPs:</u>	<u>1</u>

Mandatory Minimum Penalty = (0 serious Violation + 1 Non-Serious Violations) x \$3,000 = \$3,000

***Violations addressed in ACLO R5-2010-0518**