

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2011-0521

MANDATORY PENALTY
IN THE MATTER OF

CITY OF PLACERVILLE
HANGTOWN CREEK WATER RECLAMATION FACILITY
EL DORADO COUNTY

This Order is issued to the City of Placerville (hereafter "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 R5-2008-0053 (NPDES No. CA0078956).

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 the Hangtown Creek Water Reclamation Facility (WRF), which provides sewerage service to the City of Placerville and outlying areas in El Dorado County. Treated domestic, commercial and industrial wastewater is discharged to Hangtown Creek, a water of the United States, tributary to Weber Creek and tributary to the South Fork of the American River.
2. On 25 April 2008, the Central Valley Water Board issued WDRs Order R5-2008-0053, effective 14 June 2008, which contained new requirements and rescinded WDRs Order 5-01-045 except for purposes of enforcement. The WDRs include effluent limitations and other requirements regarding the waste discharges.
3. On 8 December 2009, the Executive Officer issued Administrative Civil Liability Order R5-2009-0586 for mandatory penalties for effluent limitation violations from 1 January 2008 to 30 June 2009 in the amount of \$60,000. Order R5-2009-0586 stated that the entire \$60,000 penalty would be deemed satisfied by the Central Valley Water Board through the completion of a compliance project. The project has been completed, and the Board considers this prior matter resolved for the violations specifically listed in Attachment A to Order R5-2009-0586.
4. On 25 June 2010, the Executive Officer issued ACL Complaint R5-2010-0522 for mandatory penalties for effluent limitation violations from 1 July 2009 through 28 February 2010. This Order extends the period of record through 31 October 2010 and includes additional violations. These violations are specifically listed in Attachment A to this Order as subject to mandatory minimum penalties. Attachment A is attached to this Order and incorporated herein by reference.
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 R5-2008-0053 Effluent Limitations IV.A.1.a. include, in part, the following effluent limitations:

The Discharger shall maintain compliance with the effluent limitations specified in Table 6.

Table 6. Final Effluent Limitations

Parameter	Units	Effluent Limitations	
		Average Monthly	Average Daily
Total Ammonia (as N)	mg/L	2.80	5.62
	lbs/day ¹	53.7	108

¹ Based on the average Dry Weather Flow of 2.3 mgd.

8. According to the Discharger's self-monitoring reports, the Discharger committed two (2) serious Group I violations of the above effluent limitations contained in Order R5-2008-0053 during the period beginning 1 July 2009 and ending 31 October 2010. 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 **six thousand dollars (\$6,000)**.
9. According to the Discharger's self-monitoring reports, the Discharger committed five (5) non-serious violations of the above effluent limitations contained in Order R5-2008-0053 during the period beginning 1 July 2009 and ending 31 October 2010. Four (4) 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 **twelve thousand dollars (\$12,000)**.
10. The total amount of the mandatory penalties assessed for the cited effluent violations is eighteen **thousand dollars (\$18,000)**. A detailed list of the cited effluent violations 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.
11. 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.

12. On 24 October 2008, the Central Valley Water Board issued Resolution R5-2008-0159, which finds that the Discharger's WRF serves a "small community with a financial hardship."
13. On 25 June 2010, the Executive Officer issued ACL Complaint R5-2010-0522, which charged the Discharger with \$6,000 in mandatory minimum penalties for violations that occurred during the period 1 July 2009 through 28 February 2010. On 6 August 2010, the Discharger submitted an email proposing a compliance project. Pursuant to CWC section 13385(k), the Board may allow the Discharger to fund a compliance project instead of making payments to the State Water Board's Cleanup and Abatement Account. The proposed project is a slip lining/pipe bursting project on Main Street between Bedford Avenue and Sacramento Street in Placerville.
14. The slip lining/pipe bursting project is designed to reduce infiltration/inflow into the Hangtown Creek Water Reclamation Facility, thereby helping ensure consistent nitrification during storm events. This Order also extends the period of record to 31 October 2010 and allows the Discharger to address additional violations by completing the proposed slip lining/pipe bursting project. The Discharger will complete the project in the time frame described in Attachment B, a part of this Order.
15. The Central Valley Water Board finds that the slip lining/pipe bursting project qualifies under CWC section 13385(k) as a compliance project, as the project has been designed to correct the violations that led to the issuance of this ACL Order within five years, the project is in accordance with the enforcement policy of the State Water Board, and the Discharger has prepared a financing plan to complete the project. The amount that the Discharger will expend on the compliance project is an amount in excess of the mandatory minimum penalty that is required by CWC sections 13385(h) and (i), excluding grants.
16. This Order constitutes a settlement of the violations 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 C.F.R. § 123.27) has expired and no comments were received.
17. 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.
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).

THE CITY OF PLACERVILLE IS HEREBY GIVEN NOTICE THAT:

1. The Discharger shall be assessed an Administrative Civil Liability in the amount of eighteen **thousand dollars (\$18,000)**.
2. The entire \$18,000 penalty shall be deemed satisfied by the Central Valley Water Board if the Discharger complies with the following time schedule to complete its compliance project. Each component of the project shall be completed as described in Attachment B of this Order.

<u>Task</u>	<u>Compliance Date</u>
Engineering Design	1 June 2011
Complete Construction	30 September 2011
Submit Report Certifying Completion and Documenting Costs	1 November 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. In addition, the written plan (Item 2 of Attachment B) shall be submitted by **1 April 2011**.
4. The Assistant 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 at least 30 days prior to the deadline. Under no circumstances may the completion of the Compliance Project extend past five (5) years from the issuance of this Order. The Discharger must obtain written approval from the Assistant Executive Officer for any significant departure from the project outline submitted by the Discharger on 6 August 2010 and the time schedule shown above. Failure to obtain written approval for any significant departures may result in the assessment of the full amount of the suspended mandatory minimum penalty.

If, in the judgment of the Assistant Executive Officer, the Discharger fails to complete the compliance project by the due date listed above (including any extensions approved by the Assistant Executive Officer), or fails to construct the compliance project in accordance with the proposal submitted by the Discharger on 6 August 2010 without obtaining Central Valley Water Board approval, the Assistant Executive Officer may demand payment of the suspended liability that reflects the portion of the compliance project that has not been satisfactorily completed. Payment must be made within 30 days of such a demand.

5. Should the Discharger fail to take any of the above actions, the Assistant Executive Officer may refer the matter to the State Attorney General for enforcement of the terms of this Order.
6. 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 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
or will be provided upon request.

Original signed by

KENNETH D. LANDAU, Assistant Executive Officer

28 February 2011

DATE

Attachment A: Record of Violations
Attachment B: City of Placerville Compliance Project

Attachment A
ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2011-0521

City of Placerville
Hangtown Creek Water Reclamation Facility
RECORD OF VIOLATIONS (1 July 2009 –31 October 2010) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Program R5-2008-0053)

	<u>Date</u>	<u>Violation Type</u>	<u>Unit</u> <u>s</u>	<u>Limit</u>	<u>Measure</u> <u>d</u>	<u>Period</u>	<u>Remarks</u>	<u>CIWQS</u>
1	15-Feb-10	Ammonia, Total (as N)	mg/L	5.62	6.8	Avg Daily	3	867476
2	22-Feb-10	Ammonia, Total (as N)	mg/L	5.62	10	Avg Daily	1	867480
3	28-Feb-10	Ammonia, Total (as N)	mg/L	2.8	7	Monthly Avg	1	867482
4	1-Mar-10	Ammonia, Total (as N)	mg/L	5.62	7.4	Avg Daily	4	869665
5	8-Mar-10	Ammonia, Total (as N)	mg/L	5.62	7.2	Avg Daily	4	869666
6	31-Mar-10	Ammonia, Total (as N)	mg/L	2.8	3.1	Monthly Avg	4	869671
7	20-Oct-10	Ammonia, Total (as N)	mg/L	5.62	6.1	Daily Max	4	887232

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.

<u>VIOLATIONS through</u>	<u>10/31/2010</u>
Group I Serious Violations:	2
Group II Serious Violations:	0
Non-Serious Exempt from MPs:	1
Non-serious Violations Subject to MPs:	4
Total Violations Subject to MPs:	<u>6</u>

Mandatory Minimum Penalty = (2 serious Violation + 4 Non-Serious Violations) x \$3,000 = \$18,000

Attachment B
TENTATIVE ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2011-0521

CITY OF PLACERVILLE—COMPLIANCE PROJECT 2011

SCOPE OF WORK

1. Contract for detailed TV camera investigation of the sewer main to identify specific problem areas, and provide detailed locations of all service laterals within the project area.
2. Based upon the results of the TV camera investigation, prepare a plan identifying the limits of the project, and the locations of all affected service laterals.
3. Prepare a request for proposals from at least three qualified contractors for bids to either slip line the existing sewer pipe, or “Pipe Burst” the existing pipe to replace it with HDPE pipe, and reconnect all existing sewer laterals to the upgraded sewer main. The reconnected sewer laterals would all include cleanouts to improve maintenance efficiency, and to delineate better the boundary point between public responsibility and private.
5. Based upon the proposals received, the City would select the lowest proposal, and adjust the limits of work, if necessary, to make sure that the contract amount was at least \$18,000.
6. All work would be required to be performed at night (and possibly on Saturday and Sunday) to minimize disruptions to any affected businesses.

Table of Work Summary, Time Schedule and Cost

Task	Approx. Completion Date	Cost Estimate
TV Camera Work and Engineering Design	1 June 2011	\$3,500
Construction	30 September 2011	\$15,000
Inspection and Administration	1 November 2011	\$2,500
Contingencies	--	\$2,100
Total	--	\$23,100