

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2011-0577

MANDATORY PENALTY  
IN THE MATTER OF  
SAN JUAN WATER DISTRICT  
WATER DISTRIBUTION MAINTENANCE  
PLACER COUNTY

This Complaint is issued to the San Juan Water District (hereafter Discharger) pursuant to California Water Code (CWC) section 13385, which authorizes the imposition of Administrative Civil Liability, and CWC section 13323, which authorizes the Executive Officer to issue this Complaint. This Complaint is based on findings that the Discharger violated provisions of Waste Discharge Requirements Orders R5-2008-0081 (NPDES CAG995001) and R5-2008-0082 (NPDES No. CAG995002).

The 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 drinking water distribution system in a service area that includes portions of the City of Roseville and the community of Granite Bay. Due to mandatory system operation procedures, the Discharger is required to make discharges from the distribution system for repairs, replacement of existing lines, and annual flushing of hydrants and dead-end mains. All discharges are within the Discharger's service area.
2. On 16 June 2000, the Central Valley Water Board adopted Waste Discharge Requirements Order 5-00-175 ("2000 Low Threat General Order") to regulate dewatering and other low threat discharges to surface waters. On 8 October 2002, the Discharger was granted coverage under this Order.
3. On 12 June 2008, the Central Valley Water Board adopted Waste Discharge Requirements Order R5-2008-0081 ("2008 Low Threat General Order") to regulate dewatering and other low threat discharges to surface waters. The 2008 Low Threat General Order rescinded and replaced Order 5-00-175, and states that

*Dischargers currently covered by Order No. 5-00-175 are automatically granted coverage under this General Order for a period of 180 days following adoption of this General Order. Within 90 days, the Discharger shall file a new Notice of Intent for coverage under this General Order. Coverage under this General Order shall be terminated after the 180-day period unless the Executive Officer has issued the Discharger a written Notice of Applicability.*

4. On 12 June 2008, the Central Valley Water Board adopted Waste Discharge Requirements Order R5-2008-0082 ("Limited Threat General Order") to regulate dewatering and other limited threat discharges to surface waters.

5. The Discharger was automatically granted coverage under the 2008 Low Threat General Order from 12 June 2008 through 9 December 2008 (180 days following adoption) because the Discharger had been enrolled under Order 5-00-175. As required, the Discharger submitted a Notice of Intent prior to 10 September 2008 to extend coverage under the 2008 Low Threat General Order. On 4 November 2008, Central Valley Water Board staff notified the Discharger that extension of coverage under the Low Threat General Order would not be granted, and the Discharger was instructed to submit a Notice of Intent for coverage under the Limited Threat General Order.
6. On 19 November 2008, the Discharger submitted a Notice of Intent for coverage under the Limited Threat General Order. On 9 December 2008, Central Valley Water Board staff issued a Notice of Applicability granting coverage under the Limited Threat General Order and assigned the project General Order No. R5-2008-0082-002.
7. On 9 June 2009, Central Valley Water Board staff issued the Discharger a Notice of Violation for failure to submit self-monitoring reports required under the 2008 Low Threat General Order for third and fourth quarters 2008. By electronic mail on 16 June 2009, the Discharger submitted monitoring data for discharges that occurred during third and fourth quarters 2008 under the Low Threat General Order.
8. On 6 July 2009, Board staff issued the Discharger a Notice of Violation for failure to submit self-monitoring reports required under the Limited Threat General Order for fourth quarter 2008 and first quarter 2009. On 24 July 2009, the Discharger submitted a report containing the monitoring results for the period 28 July 2008 through 9 December 2008 under the 2008 Low Threat General Order and the period 5 January 2009 through 29 January 2009 under the Limited Threat General Order. On 28 July 2009, the Discharger submitted additional monitoring data for the period 23 February 2009 through 15 April 2009 under the Limited Threat General Order. The monitoring results submitted by the Discharger indicated that discharges occurred during the monitoring periods cited in the Notices of Violation and there were no effluent limitation violations.
9. This Complaint addresses administrative civil liability for failure to submit discharge monitoring reports required by both the 2008 Low Threat General Order and the Limited Threat Order during the period from 1 July 2008 through 28 July 2009. Each 30-day period following the report submittal due date is a serious violation subject to a mandatory minimum penalty. However, in accordance with CWC section 13385.1(b), as discussed below, a mandatory minimum penalty shall continue to apply for the third and fourth quarter 2008 reports required by the Low Threat General Order but only for each required report that is not timely filed if certain conditions are met. In accordance with CWC section 13385.1(a), as discussed below, mandatory minimum penalties shall be assessed for each 30-day period for the first quarter 2009 report required by the Limited Threat General Order. These violations are specifically identified in Attachment A to this Complaint as subject to mandatory minimum penalties. Attachment A to this Complaint is attached hereto and incorporated herein by this reference.

10. On 1 April 2011, Central Valley Water Board staff issued the Discharger a draft Record of Violations (ROV).
11. CWC section 13385(h)(1) requires 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.

12. CWC sections 13385.1(a)(1) states, in part, the following:

For the purposes of subdivision (h) of Section 13385, a "serious violation" also means a failure to file a discharge monitoring report required pursuant to Section 13383 for each complete period of 30 days following the deadline for submitting the report, if the report is designed to ensure compliance with limitations contained in waste discharge requirements that contain effluent limitations.

13. CWC section 13385.1(b) states, in part:

(1) Notwithstanding paragraph (1) of subdivision (a), a mandatory minimum penalty shall continue to apply and shall be assessed pursuant to subdivision (h) of Section 13385, but only for each required report that is not timely filed, and shall not be separately assessed for each 30-day period following the deadline for submitting the report, if both of the following conditions are met:

(A) The discharger did not on any occasion previously receive, from the state board or a regional board, a complaint to impose liability pursuant to subdivision (b) or (c) of Section 13385 arising from a failure to timely file a discharge monitoring report, a notice of violation for failure to timely file a discharge monitoring report, or a notice of the obligation to file a discharge monitoring report required pursuant to Section 13383, in connection with its corresponding waste discharge requirements.

(B) The discharges during the period or periods covered by the report do not violate effluent limitations, as defined in subdivision (d), contained in waste discharge requirements.

(2) Paragraph (1) shall only apply to a discharger who does both of the following:

(A) Files a discharge monitoring report that had not previously been timely filed within 30 days after the discharger receives written notice, including notice transmitted by electronic mail, from the state board or regional board concerning the failure to timely file the report.

(B) Pays all penalties assessed by the state board or regional board in accordance with paragraph (1) within 30 days after an order is issued to pay these penalties pursuant to Section 13385.

14. For the third and fourth quarter 2008 reports required by the Low Threat General Order, the Discharger is subject to only one mandatory minimum penalty per report because (a) the Discharger was not previously notified of a failure to timely file a discharger monitoring report, (b) the monitoring report was submitted within 30 days of written notice that it was overdue, and (c) the monitoring report did not show any effluent limit violations.
15. For the first quarter 2009 report required by the Limited Therat General Order, the Discharger is subject to mandatory minimum penalties for each 30-day period the report is not timely filed because the Discharger has previously been notified of a failure to timely file a discharge monitoring report.
16. 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.

17. WDRs Order R5-2008-0081, Self Monitoring Reports Attachment E.X.B.3, states, in part:

3. Monitoring periods and reporting for all required monitoring shall be completed according to the following schedule:

<b>Table E-6. Monitoring Periods and Reporting Schedule</b>			
<b>Sampling Frequency</b>	<b>Monitoring Period Begins On...</b>	<b>Monitoring Period</b>	<b>SMR Due Date</b>
1/Quarter	Closest of 1 January, 1 April, 1 July, or 1 October following (or on) Notice of Applicability effective date	1 January through 1 March 1 April through 30 June 1 July through 30 September 1 October through 31 December	1 May 1 August 1 November 1 February

18. WDRs Order R5-2008-0082, Self Monitoring Reports Attachment E.X.B.3, states, in part:

3. Monitoring periods and reporting for all required monitoring shall be completed according to the following schedule:

<b>Table E-6. Monitoring Periods and Reporting Schedule</b>			
<b>Sampling Frequency</b>	<b>Monitoring Period Begins On...</b>	<b>Monitoring Period</b>	<b>SMR Due Date</b>
1/Day	Notice of Applicability effective date	(Midnight through 11:59 PM) or any 24-hour period that reasonably represents a calendar day for purposes of sampling	1 May 1 August 1 November 1 February

1/Month	First day of calendar month following Notice of Applicability effective date or on Notice of Applicability effective date if that date is the first day of months	First day of calendar month through last day of calendar month	1 May 1 August 1 November 1 February
1/Year	1 January following (or on) Notice of Applicability effective date	1 January through 31 December	1 May 1 August 1 November 1 February

19. According to the Discharger's self-monitoring reports submitted 16 June 2009, 24 July 2009 and 28 July 2009, the Discharger did not violate any effluent limitations for the discharges which occurred from 1 July 2008 through 31 March 2009. However, the Discharger committed four (4) serious violations for failure to timely submit the self-monitoring reports required by the 2008 Low Threat General Order and the Limited Threat Order, as identified in Attachment A. The mandatory minimum penalty for these serious violations is **twelve thousand dollars (\$12,000)**.
20. The total amount of the mandatory penalties assessed for the cited violations is **twelve thousand dollars (\$12,000)**. As stated herein, the violation is included in Attachment A. This Complaint addresses administrative civil liability for the violation that is specifically identified in Attachment A as subject to mandatory minimum penalties.
21. 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 (Public Resources Code section 21000 et seq.), in accordance with California Code of Regulations, title 14, section 15321(a)(2).

**SAN JUAN WATER DISTRICT IS HEREBY GIVEN NOTICE THAT:**

1. The Executive Officer of the Central Valley Water Board proposes that the Discharger be assessed an Administrative Civil Liability in the amount of **twelve thousand dollars (\$12,000)**.
2. A hearing on this matter will be conducted at the Central Valley Water Board meeting scheduled on **3/4/5 August 2011**, unless the Discharger does one of the following by **6 June 2011**:
  - a) Waives the hearing by completing the attached form (checking off the box next to Option 1) and returning it to the Central Valley Water Board, along with payment for the proposed civil liability of **twelve thousand dollars (\$12,000)**; or
  - b) The Central Valley Water Board agrees to postpone any necessary hearing after the Discharger requests to engage in settlement discussions by checking off the box next to Option #2 on the attached form, and returns it to the Board along with a letter describing the issues to be discussed; or

- c) The Central Valley Water Board agrees to postpone any necessary hearing after the Discharger requests a delay by checking off the box next to Option #3 on the attached form, and returns it to the 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.
4. If this matter proceeds to hearing, the Executive Officer reserves the right to amend the proposed amount of civil liability to conform to the evidence presented, including but not limited to, increasing the proposed amount to account for the costs of enforcement (including staff, legal and expert witness costs) incurred after the date of the issuance of this Complaint through completion of the hearing.

Original signed by Frederick Moss for

---

PAMELA C.CREEDON, Executive Officer

6 May 2011

---

Date

Attachment A: Record of Violations

**WAIVER FORM  
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

By signing this waiver, I affirm and acknowledge the following:

I am duly authorized to represent San Juan Water District (hereafter Discharger) in connection with Administrative Civil Liability Complaint R5-2011-0577 (hereafter Complaint). 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. The person who has been issued a complaint may waive the right to a hearing."

**(OPTION 1: Check here if the Discharger waives the hearing requirement and will pay in full.)**

- a. I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board.
- b. I certify that the Discharger will remit payment for the proposed civil liability in the full amount of **twelve thousand dollars (\$12,000)** by check that references "ACL Complaint R5-2011-0577." made payable to the *State Water Pollution Cleanup and Abatement Account*. Payment must be received by the Central Valley Water Board by **6 June 2011**.
- c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after a 30-day public notice and comment period. Should the Central Valley Water Board receive significant new information or comments during this comment period, the Central Valley Water Board's Executive Officer may withdraw the complaint, return payment, and issue a new complaint. I also understand that approval of the settlement will result in the Discharger having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
- d. 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.

**(OPTION 2: Check here if the Discharger waives the 90-day hearing requirement in order to engage in settlement discussions.)** I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board within 90 days after service of the complaint, but I reserve the ability to request a hearing in the future. I certify that the Discharger will promptly engage the Central Valley Water Board Prosecution Team in settlement discussions to attempt to resolve the outstanding violation(s). By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing so that the Discharger and the Prosecution Team can discuss settlement. It remains within the discretion of the Central Valley Water Board to agree to delay the hearing. Any proposed settlement is subject to the conditions described above under "Option 1."

**(OPTION 3: Check here if the Discharger waives the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines. Attach a separate sheet with the amount of additional time requested and the rationale.)** I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board within 90 days after service of the complaint. By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing and/or hearing deadlines so that the Discharger may have additional time to prepare for the hearing. It remains within the discretion of the Central Valley Water Board to approve the extension.

---

(Print Name and Title)

---

(Signature)

---

(Date)

**ATTACHMENT A**  
**ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2011-0577**

**San Juan Water District**  
**Flow Test and Maintenance**

RECORD OF VIOLATIONS (1 June 2008 – 28 July 2009) MANDATORY PENALTIES  
(Reports required under Monitoring and Reporting Programs R5-2008-0081 and R5-2008-0082-002)

	<u>Report</u>	<u>Due</u>	<u>Date Received</u>	<u>30-Day Period Subject to Mandatory Minimum Penalties</u>	<u>CIWQS</u>
1	3 <sup>rd</sup> Quarter 2008	3-Nov-08	16 June 2009	4-Nov-08 through 3-Dec-08	822043
2	4 <sup>th</sup> Quarter 2008	2-Feb-09	16 June 2009	3-Feb-09 through 4-Mar-09	825960
3	1st Quarter 2009	1-May-09	24/28-July-09	2-May-09 through 31-May-09	825965
4	1st Quarter 2009	1-May-09	24/28-July-09	1-Jun-09 through 30-Jun-09	825966

**Mandatory Minimum Penalty = (4 30-day periods) x \$3,000 = \$12,000**