

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2009-0551

MANDATORY PENALTY  
IN THE MATTER OF

PLANADA COMMUNITY SERVICES DISTRICT  
WASTEWATER TREATMENT FACILITY  
MERCED COUNTY

This Order is issued to the Planada Community Services District (hereafter Discharger), pursuant to California Water Code (CWC) section 13385, which authorizes the imposition of Administrative Civil Liability (ACL), and CWC section 7, which authorizes the delegation of the Executive Officer's authority to a deputy, in this case the Assistant Executive Officer

The Assistant Executive Officer of the California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board or Board) finds with respect to the Discharger's acts, or failure to act, the following:

1. The Discharger owns and operates a wastewater collection, treatment, and disposal system and provides sewerage service for the community of Planada.
2. On 20 June 1997, the Central Valley Water Board issued WDRs Order 97-123 to regulate the Discharger's Wastewater Treatment Facility (WWTF or Facility) and the Facility's discharge of treated wastewater to Miles Creek, a water of the United States and tributary to the San Joaquin River, also a water of the United States.
3. On 27 January 2005, the Central Valley Water Board issued WDRs Order R5-2005-0009, which prescribed new requirements for the discharge and rescinded WDRs Order 97-123.
4. On 23 June 2005, the Central Valley Water Board issued Administrative Civil Liability Order R5-2005-0076 for assessment of mandatory minimum penalties in the amount of two hundred fifty-five thousand dollars for violations that occurred during the period of 1 January 2000 to 30 April 2004. The Discharger was granted a compliance project pursuant to CWC section 13385(k) to be completed by 1 December 2009. The compliance project is ongoing and entails the acquisition of land for effluent disposal and the cessation of discharge to a water of the United States.
5. CWC section 13385(h)(1) requires assessment of mandatory penalties and states, in part, the following:

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.

6. CWC section 13323 states, in part, that:

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. CWC section 13323(b) provides that the regional board shall conduct a hearing within 90 days after issuance of an ACL Complaint. It provides further that the party served with the complaint may waive the right to a hearing.

8. WDRs Order 97-123, Effluent Limitation B.1, prescribes, in part, the following limitations:

<u>Constituent</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>7-sample Median</u>	<u>Daily Maximum</u>
5-day Biochemical Oxygen Demand (BOD <sub>5</sub> )	mg/L	10	15		20
Total Suspended Solids (TSS)	mg/L	10	15		20
Total Coliform Organisms (TCO)	MPN/100 mL	---	---	2.2	23

9. WDRs Order 97-123, Effluent Limitation B.3, states, "The discharge shall not have a pH less than 6.5 nor greater than 8.5."

10. WDRs Order R5-2005-0009, Effluent Limitation B.2, states, "The discharge shall not have a pH less than 6.5 standard units nor greater than 8.5 standard units at any time."

11. WDRs Order R5-2005-0009, Effluent Limitation B.4, prescribes, in part, a limitation for average monthly effluent Conductivity @ 25°C (EC) of 700 µmhos/cm.

12. WDRs Order R5-2005-0009, Effluent Limitation B.5, prescribes interim and final effluent limitations for four California Toxic Rule (CTR) constituents – Cyanide and three trihalomethane (THM) constituents – that are to be implemented in accordance with the conditions and final compliance dates set forth in Provision G.7. Effluent Limitation B.5.b prescribes the following interim CTR effluent limitations:

<u>Constituent</u>	<u>Units</u>	<u>Average Monthly</u>	<u>Maximum Daily</u>
Cyanide	µg/L	10	20
Carbon Tetrachloride	µg/L	0.45	0.9
Chlorodibromo-methane	µg/L	1.6	2.1
Dichlorobromo-methane	µg/L	6	12

13. WDRs Order R5-2005-0009, Effluent Limitation B.6, prescribes interim and final effluent limitations for conventional pollutants and for bacteria that are to be implemented in accordance with the conditions and final compliance dates set forth in Provision G.8. Effluent Limitation B.6.b prescribes, in part, the following interim effluent limitations:

<u>Constituent</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>7-sample Median</u>	<u>Daily Maximum</u>
BOD <sub>5</sub>	mg/L	30	45		60
	lb/day	133 <sup>1</sup>	199 <sup>1</sup>		265 <sup>1</sup>
TSS	mg/L	30	45		60
	lb/day	133 <sup>1</sup>	199 <sup>1</sup>		265 <sup>1</sup>
TCO	MPN/100 mL	---	---	23	240

<sup>1</sup> Based upon a design flow of 0.53 million gallons per day

14. According to the Discharger's self-monitoring reports (SMRs) covering the period from 1 May 2004 through 27 January 2005, the Discharger committed 19 violations of WDRs Order 97-123 for exceedances of effluent limitations for pH, TSS, BOD<sub>5</sub>, and TCO. According to the Discharger's SMRs covering the period from 28 January 2005 through 30 June 2008, the Discharger committed 63 violations of WDRs Order R5-2005-0009 for exceedances of effluent limitations for EC, pH, TSS, BOD<sub>5</sub>, TCO, Carbon Tetrachloride, Chlorodibromo-methane (a.k.a. Dibromochloromethane), and Dichlorobromo-methane (a.k.a. Bromodichloromethane). Attachment A to this Order summarizes these violations.
15. In accordance with CWC section 13385.1(a)(1), the total amount of the mandatory minimum penalty for the 82 violations cited in Attachment A is two hundred forty-six thousand dollars (\$246,000).
16. On 21 November 2008, Assistant Executive Officer Loren J. Harlow issued the Discharger ACL Complaint R5-2008-0580 (Complaint) for two hundred forty-six thousand dollars (\$246,000) pursuant to CWC sections 13385(h)(1), 13385(h)(2), 13385(i)(1) and 13323 for violations identified in Attachment A that occurred during the period of 1 May 2004 to 30 June 2008.
17. The Discharger did not pay the penalty assessed in the Complaint and requested the liability be settled through the ongoing compliance project. On 26 December 2008, the Discharger submitted a signed waiver to waive its right to a hearing within 90 days of issuance of the Complaint.
18. Since issuance of the Complaint, staff has reviewed Discharger SMRs for the period 1 July 2008 through 31 March 2009 and, as a result, on 28 May 2009 issued the District a Notice of Violation (NOV) for seven effluent limitation violations for EC and Cyanide of WDRs Order R5-2005-0009 that occurred during this period, also identified in Attachment A.

19. By letter dated 6 June 2009, the Discharger's attorney responded to the 28 May 2009 NOV indicating that the Discharger does not contest the violations cited in the NOV, waives the 90-day public hearing requirement, does not request a hearing before the Board, and requests that the cited violations be included in this ACL Order.
20. As a result of the additional seven effluent limitation violations, twenty-one thousand dollars (\$21,000) of additional mandatory minimum penalties will be considered in this ACL Order bringing the total liability to **two hundred sixty-seven thousand dollars (\$267,000)**.
21. 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 less, a rural county, or a reasonably isolated and divisible segment of a larger municipality where the population of the segment is 10,000 persons or less, 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.
22. On 2 September 2008, staff at the State Water Resources Control Board (State Water Board) determined that the Planada Community Services District Wastewater Treatment Facility is a publicly owned treatment works serving a small community within the meaning of CWC section 13385(k)(2).
23. The Discharger is in the process of spending an estimated \$14,000,000 on a WWTF upgrade project, which features obtaining sufficient land to dispose of all of the Facility's effluent, thereby eliminating the need for discharge to a water of the United States and

coverage under the NPDES regulatory program. On 24 December 2008 and 5 May 2009, the Discharger's attorney submitted an updated cost analysis, an itemization of expenditures to date, and a finance plan for the project, including repayment of the United States Department Agriculture Rural Development loan at 4.5 percent for 40 years and proposed increased sewer rates. To date, the District has spent \$2,416,063.50 for 108.55 acres purchased towards the compliance project. This amount exceeds the mandatory minimum penalty that is required by CWC sections 13385(h) and (i).

24. The compliance project meets the requirements of CWC section 13385(k)(1), and is in accordance with the enforcement policy of the State Water Board.
25. This Order does not propose to assess a discretionary penalty above the minimum required by CWC sections 13385(h)(1), 13385(h)(2), 13385(i)(1) and 13323.
26. 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 (Public Resources Code section 21000 et seq.), in accordance with Title 14, California Code of Regulations (CCR), section 15321(a)(2).
27. 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 D. Landau has the authority to issue this Order.

**IT IS HEREBY ORDERED** pursuant to CWC sections 13385(a), (h), (i), and (k), that:

1. Planada Community Services District shall be assessed an Administrative Civil Liability in the amount of **two hundred sixty-seven thousand dollars (\$267,000)**.
2. The Central Valley Water Board considers payment of the above penalty satisfied through the steps taken by the Discharger to complete the compliance project described above in accordance with CWC section 13385(k).
3. This Order constitutes a settlement of the violations herein mentioned. This Order is effective immediately upon issuance.

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 Title 23, CCR, 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 Friday, 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 will be provided upon request or 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).



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KENNETH D. LANDAU, Assistant Executive Officer

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30 November 2009

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Attachment A: Record of Violations  
JKW: 11/24/09

**ATTACHMENT A  
ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2009-0551**

**PLANADA CSD WWTF  
RECORD OF VIOLATIONS (1 May 2004 to 31 March 2009) MANDATORY PENALTIES  
(Data reported under Monitoring and Reporting Programs 97-123 and R5-2005-0009)**

<u>Violation ID<sup>1</sup></u>	<u>Violation Date</u>	<u>Violation Type<sup>2</sup></u>	<u>Violation Description<sup>3</sup></u>	<u>MMP Type<sup>4</sup></u>
778957	5/7/2004	OEV	5M; pH; 6.5-8.5; I; 8.8	CHRONIC <sup>5</sup>
258119	5/11/2004	OEV	5M; pH; 6.5-8.5; I; 6.4	CHRONIC
258120	5/17/2004	OEV	5M; pH; 6.5-8.5; I; 6.2	CHRONIC
778948	5/18/2004	CAT1	5M; TSS; 45; mg/L; W; 64	SERIOUS
778947	5/25/2004	CAT1	5M; BOD; 45; mg/L; W; 46	CHRONIC
778952	5/25/2004	CAT1	5M; TSS; 45; mg/L; W; 72	SERIOUS
778954	5/31/2004	CAT1	5M; TSS; 30; mg/L; M; 38.25	CHRONIC
778960	6/4/2004	OEV	6M; pH; 6.5-8.5; I; 6.4	CHRONIC
778941	7/2/2004	OEV	7M; pH; 6.5-8.5; I; 8.64	CHRONIC
266066	7/8/2004	OEV	7M; TCO; 240; MPN/100 mL; D; 1600	CHRONIC
778968	7/8/2004	OEV	7M; TCO; 240; MPN/100 mL; D; 900	CHRONIC
778943	7/16/2004	OEV	7M; pH; 6.5-8.5; I; 8.7	CHRONIC
266065	7/23/2004	OEV	7M; pH; 6.5-8.5; I; 9.1	CHRONIC
778963	7/27/2004	OEV	7M; TCO; 23; MPN/100 mL; 7DM; 30	CHRONIC
266067	7/29/2004	OEV	7M; TCO; 240; MPN/100 mL; D; 500	CHRONIC
778868	8/2/2004	OEV	8M; pH; 6.5-8.5; I; 8.6	CHRONIC
778945	8/12/2004	OEV	7M; pH; 6.5-8.5; I; 8.6	CHRONIC
255726	8/24/2004	OEV	8M; TCO; 240; MPN/100 mL; D; 1600	CHRONIC
778940	8/26/2004	OEV	8M; TCO; 23; MPN/100 mL; 7DM; 110	CHRONIC
267541	3/8/2005	OEV	3M; TCO; 23; MPN/100 mL; 7DM; 30	EXEMPT
267542	3/10/2005	OEV	3M; TCO; 23; MPN/100 mL; 7DM; 30	EXEMPT
267543	3/17/2005	OEV	3M; TCO; 23; MPN/100 mL; 7DM; 30	EXEMPT
232472	3/29/2005	OEV	3M; TCO; 23; MPN/100 mL; 7DM; 34	CHRONIC
269272	4/5/2005	OEV	4M; TCO; 23; MPN/100 mL; 7DM; 30	CHRONIC
269280	4/5/2005	OEV	4M; TCO; 240; MPN/100 mL; D; 900	CHRONIC
269273	4/7/2005	OEV	4M; TCO; 23; MPN/100 mL; 7DM; 34	CHRONIC
269274	4/12/2005	OEV	4M; TCO; 23; MPN/100 mL; 7DM; 80	CHRONIC
269281	4/12/2005	OEV	4M; TCO; 240; MPN/100 mL; D; >1600	CHRONIC
269275	4/14/2005	OEV	4M; TCO; 23; MPN/100 mL; 7DM; 80	CHRONIC
269283	4/14/2005	OEV	4M; TCO; 240; MPN/100 mL; D; 300	CHRONIC
269284	4/21/2005	OEV	4M; TCO; 240; MPN/100 mL; D; 500	CHRONIC
269276	4/21/2005	OEV	4M; TCO; 23; MPN/100 mL; 7DM; 300	CHRONIC
269277	4/22/2005	OEV	4M; TCO; 23; MPN/100 mL; 7DM; 300	CHRONIC

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269285	4/22/2005	OEV	4M; TCO; 240; MPN/100 mL; D; 300	CHRONIC
269278	4/26/2005	OEV	4M; TCO; 23; MPN/100 mL; 7DM; 300	CHRONIC
269279	4/28/2005	OEV	4M; TCO; 23; MPN/100 mL; 7DM; 300	CHRONIC
269286	4/30/2005	CAT1	4M; TSS; 30; mg/L; M; 31	CHRONIC
778867	5/1/2005	OEV	3M; TCO; 240; MPN/100 mL; D; 300	CHRONIC
778854	8/9/2005	CAT2	3Q; Carbon Tetrachloride; 0.45; µg/L; M; 1.1	SERIOUS
778857	8/9/2005	CAT2	3Q; Carbon Tetrachloride; 0.9; µg/L; D; 1.1	SERIOUS
778861	8/31/2005	CAT2	3Q; Bromodichloromethane; 6; µg/L; M; 12	SERIOUS
778864	10/4/2005	CAT1	10M; TSS; 45; µg/L; W; 47	CHRONIC
778846	11/10/2005	OEV	11M; TCO; 240; MPN/100 mL; D; 500	CHRONIC
778829	1/3/2006	CAT1	1M; TSS; 60; mg/L; D; 65	CHRONIC
778833	1/3/2006	CAT1	1M; TSS; 45; mg/L; W; 65	SERIOUS
778831	1/31/2006	CAT1	1M; TSS; 30; mg/L; M; 34.8	CHRONIC
696670	4/18/2006	CAT1	4M; BOD; 60; mg/L; D; 130	SERIOUS
778835	4/18/2006	CAT1	4M; BOD; 45; mg/L; W ; 130	SERIOUS
778840	4/18/2006	CAT1	4M; TSS; 45; mg/L; W; 59	CHRONIC
696668	4/25/2006	OEV	2M; EC; 700; µmhos/cm; M; 820	CHRONIC
778842	4/25/2006	CAT2	1Q; Carbon Tetrachloride; 0.45; µg/l; M; 0.58	SERIOUS
778837	4/30/2006	CAT1	4M; BOD; 30; mg/L; M; 47.5	SERIOUS
696673	5/4/2006	OEV	5M; TCO; 240; MPN/100 mL; D; 350	CHRONIC
778844	5/4/2006	CAT1	5M; TSS; 45; mg/L; W; 52	CHRONIC
696674	6/27/2006	OEV	6M; TCO; 240; MPN/100 mL; D; 900	CHRONIC
696677	8/22/2006	OEV	8M; pH; 6.5-8.5; I; 6.39	CHRONIC
696681	8/30/2006	OEV	8M; EC; 700; µmhos/cm; M; 768	CHRONIC
696682	9/30/2006	OEV	9M; EC; 700; µmhos/cm; M; 749	CHRONIC
696683	10/31/2006	OEV	10M; EC; 700; µmhos/cm; M; 729.4	CHRONIC
696684	11/30/2006	OEV	11M; EC; 700; µmhos/cm; M; 724.25	CHRONIC
778796	4/3/2007	OEV	4M; TCO; 240; MPN/100 mL; D; 500	CHRONIC
778786	4/10/2007	CAT1	4M; BOD; 45; mg/L; W; 50	CHRONIC
778788	4/10/2007	CAT1	4M; TSS; 45; mg/L; W; 51	CHRONIC
696688	4/30/2007	CAT1	4M; TSS; 30; mg/L; M; 34.75	CHRONIC
696686	4/30/2007	CAT1	4M; BOD; 30; mg/L; M; 35.75	CHRONIC
696689	5/1/2007	OEV	5M; EC; 700; µmhos/cm; M; 710	CHRONIC
696690	6/30/2007	OEV	6M; EC; 700; µmhos/cm; M; 744	CHRONIC



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696695	7/10/2007	CAT2	2Q; Bromodichloromethane; 12; ug/l; D; 14	CHRONIC
696692	7/17/2007	OEV	7M; EC; 700; µmhos/cm; M; 801	CHRONIC
778809	7/31/2007	CAT2	2Q; Bromodichloromethane; 6; ug/l; M; 14	SERIOUS
778811	7/31/2007	CAT2	2Q; Dibromochloromethane; 1.6; ug/l; M; 1.8	CHRONIC
778815	8/7/2007	OEV	8M; EC; 700; µmhos/cm; M; 919	CHRONIC
778816	9/11/2007	OEV	9M; EC; 700; µmhos/cm; M; 718	CHRONIC
778819	10/9/2007	CAT1	3Q; Bromodichloromethane; 6; ug/l; M; 9.2	SERIOUS
778820	10/9/2007	CAT1	3Q; Dibromochloromethane; 1.6; ug/l; M; 2.1	CHRONIC
778825	12/5/2007	OEV	12M; EC; 700; µmhos/cm; M; 704	CHRONIC
696651	1/31/2008	OEV	1M; EC; 700; µmhos/cm; M; 719	CHRONIC
778774	3/31/2008	OEV	3M; EC; 700; µmhos/cm; M; 742	CHRONIC
339408	4/30/2008	OEV	4M; EC; 700; µmhos/cm; M; 718	CHRONIC
778776	5/31/2008	OEV	5M; EC; 700; µmhos/cm; M; 762	CHRONIC
778779	6/3/2008	CAT1	6M; TSS; 45; mg/L; W; 46	CHRONIC
778781	6/10/2008	CAT1	6M; TSS; 45; mg/L; W; 54	CHRONIC
778782	6/17/2008	CAT1	6M; TSS; 45; mg/L; W; 50	CHRONIC
778778	6/30/2008	OEV	6M; EC; 700; µmhos/cm; M; 725	CHRONIC
778784	6/30/2008	CAT1	6M; TSS; 30; mg/L; M; 44.25	SERIOUS
819431	7/31/2008	OEV	7M; EC; 700; µmhos/cm; M; 719	CHRONIC
819432	8/31/2008	OEV	8M; EC; 700; µmhos/cm; M; 781	CHRONIC
819433	8/5/2008	CAT2	8M; Cyanide; 20; µg/L; D; 22	CHRONIC
819435	8/31/2008	CAT2	8M; Cyanide; 10; µg/L; M; 22	SERIOUS
819436	9/30/2008	OEV	9M; EC; 700; µmhos/cm; M; 726	CHRONIC
819437	1/31/2009	OEV	1M; EC; 700; µmhos/cm; M; 714	CHRONIC
819438	2/28/2009	OEV	2M; EC; 700; µmhos/cm; M; 776	CHRONIC

<sup>1</sup> Violation ID in CIWQS

<sup>2</sup> Table of Abbreviations below defines abbreviations used in this table.

<sup>3</sup> Violation Descriptions are coded as follows: Reporting period (e.g., 2M = February); constituent or parameter (e.g., pH, Flow); effluent limitation; units; limitation period; and reported result.

<sup>4</sup> Exempt non-serious violations fall within the first three violations in a six-month period, thus are exempt. Serious violations are subject to MMPs.

<sup>5</sup> Violations supporting the classification of Violation ID 778957 as "CHRONIC" were the three violations of the daily maximum effluent limitation for total coliform organisms that occurred on 3/23/04, 4/27/04, and 4/29/04, which were all previously addressed by ACL Order R5-2005-0076 issued 2 August 2005.

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<u>Abbreviation</u>	<u>Definition</u>
7DM	7-day median
BOD	5-day biochemical oxygen demand
CAT1	Violation of Group I pollutant effluent limitation as defined in Enforcement Policy
CAT2	Violation of Group II pollutant effluent limitation as defined in Enforcement Policy
CIWQS	California Integrated Water Quality System database
D	Daily
EC	Electrical conductivity
I	Instantaneous
M	Monthly
MMP	Mandatory Minimum Penalty
OEV	Other Effluent Violation
TCO	Total coliform organisms
TSS	Total suspended solids
W	Weekly

<b><u>MMP VIOLATION TYPE</u></b>	<b><u>VIOLATION PERIOD</u></b> <b><u>5/1/04 TO 3/31/09</u></b>
Serious Violations of Group I Pollutant Effluent Limitations Subject to MMPs:	8
Serious Violations of Group II Pollutant Effluent Limitations Subject to MMPs:	6
Chronic Non-serious Violations Subject to MMPs:	75
<b>Total Violations Subject to MMPs:</b>	<b>89</b>
Non-serious Violations Exempt from MMPs:	3
<b>Mandatory Minimum Penalty = (14 Serious Violations + 75 Chronic Violations) x \$3,000 = \$267,000</b>	