

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R5-2007-0528

MANDATORY MINIMUM PENALTIES
FOR VIOLATION OF WASTE DISCHARGE REQUIREMENTS
ORDER NOS. 95-150 AND R5-2002-0088 (NPDES NO. CA0081621)

IN THE MATTER OF

DONNER SUMMIT PUBLIC UTILITY DISTRICT
WASTEWATER TREATMENT PLANT
NEVADA COUNTY

This Order is issued to Donner Summit Public Utility District (hereafter referred to as Discharger) based on a finding of violations of Waste Discharge Requirements (WDR) Order No. 95-150 (NPDES No. CA0081621), and WDR Order No. R5-2002-0088 (NPDES No. CA0081621) pursuant to California Water Code (CWC) Section 13385, subdivisions (h) and (i) which authorize the imposition of administrative civil liability and require assessment of mandatory minimum penalties.

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

1. The Discharger owns and operates the Donner Summit Public Utility District Wastewater Treatment Plant (WWTP), which provides sewerage service to Norden and Soda Springs areas, the Sugar Bowl and Soda Springs Ski Resorts, the Serene Lakes Subdivision, and Sierra Lakes Community Water District in Nevada County. Treated domestic, commercial and industrial wastewater is discharged to the South Yuba River, a water of the United States.
2. On 23 June 1995, the Regional Water Board adopted WDR Order No 95-150 (NPDES No. CA0081621). On 7 June 2002, the Regional Water Board adopted WDR Order No. R5-2002-0088 (NPDES No. CA0081621) to regulate discharges of waste from the WWTP. On 7 June 2002, the Regional Water Board also adopted Cease and Desist Order (CDO) No. R5-2002-0089. WDR Order No. R5-2002-0088 rescinded WDR Order No. 95-150.
3. CWC section 13385, subdivisions (h) and (i) require the Regional Water Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each specified violation of effluent limitations and state, in part, the following:

13385(h)(1): 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.

13385 (h)(2): 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.

13385(i)(1): *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.*

4. CWC section 13385, subdivision (k)(1) allows the Regional Water Board to direct a publicly owned treatment work (POTW) that serves a small community to put all or part of the penalty toward a compliance project in accordance with section X of the *State Water Resources Control Board's Water Quality Enforcement Policy* (Enforcement Policy) and states, in part, the following:

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 toward 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.

5. CWC section 79084(b) defines a small community as *"a municipality with 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 board.*
6. The Enforcement Policy, adopted by the State Water Resources Control Board on 19 February 2002 states, in part, the following: *It is the policy of the SWRCB that "financial hardship" means that the median annual household income for the community is less than 80% of the California median annual household income. It is the policy of the SWRCB that "median annual household income" means the median annual household income of the community based on the most recent census data or a local survey approved by the SWRCB... The SWRCB will maintain a current list of designated small communities with a financial hardship.*

7. On 16 October 2006, the State Water Resources Control Board designated Donner Summit Public Utility District as a Small Community with a Financial Hardship.
8. WDR Order No. 95-150 Discharge Prohibitions No. A.3. states: *The arithmetic mean of 20°C BOD (5-day) and total suspended solids in effluent samples collected over a monthly period shall not exceed 15 percent of the arithmetic mean of the values for influent samples collected at approximately the same times during the same period (85 percent removal).*
9. WDR Order No. 95-150 Effluent Limitations No. B.2. includes, in part, the following effluent limitations:

<u>Constituent</u>	<u>Unit</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Daily Maximum</u>
BOD	mg/L	10	15	30
	lbs/day	43	65	129
Total Suspended Solids	mg/L	10	15	30
	lbs/day	43	65	129
Total Coliform Organisms	MPN/100 mL	--	--	23

10. WDR Order No. 95-150 Effluent Limitations No. B.3. states: *The discharge shall not have a pH less than 6.5 nor greater than 8.5.*
11. WDR Order No. R5-2002-0088 Effluent Limitations No. B.1. includes, in part, the following effluent limitations:

<u>Constituent</u>	<u>Unit</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Daily Maximum</u>
BOD	mg/L	10	15	30
	lbs/day	43	65	130
Total Suspended Solids	mg/L	10	15	30
	lbs/day	43	65	130
Total Coliform Organisms	MPN/100 mL	--	--	23

12. WDR Order No. R5-2002-0088 Effluent Limitations No. B.3 states: *The arithmetic mean of 20°C BOD (5-day) and the total suspended solids in effluent samples collected over a monthly period shall not exceed 15 percent of the arithmetic mean of the values for influent samples collected at approximately the same times during the same period (85 percent removal).*
13. WDR Order No. R5-2002-0088 Effluent Limitations No. B.4. states: *The discharge shall not have a pH less than 6.5 nor greater than 8.5.*
14. According to the Discharger's self-monitoring reports, the Discharger committed thirty-six (36) serious violations of the effluent limitations contained in Order No. 95-150 and Order No. R5-2002-0088 during the period beginning 1 January 2000 and ending 31 December 2006. The mandatory minimum penalty for these serious violations is one **hundred eight thousand dollars (\$108,000).**

15. According to the Discharger's self-monitoring reports, the Discharger committed forty (40) non-serious violations of the effluent limitations contained In Order No. 95-150 and Order No. R5-2002-0088 during the period beginning 1 January 2000 and ending 31 December 2006. Thirty-two (32) of the non-serious violations are subject to mandatory penalties under CWC Section 13385 (i)(1). The mandatory minimum penalty for these non-serious violations is **ninety-six thousand dollars (\$96,000)**.
16. The total amount of the mandatory penalties assessed for the cited effluent violations is **two hundred four thousand dollars (\$204,000)**. A detailed list of all the effluent violations is included in Attachment A, a part of this Order.
17. 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, Enforcement Actions by Regulatory Agencies, Section 15321(a)(2).
18. The Regional Water Board received a letter from the Discharger dated 30 April 2007, in which it waived its right to a hearing before the Regional Water Board and requested that the Regional Water Board accept its compliance project. The project included a new activated sludge treatment system. The Discharger indicated that four million dollars (\$4,000,000) had been spent on the project.
19. On 15 March 2007, the Regional 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).

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

1. The Discharger, its agents, successors, and assigns, shall be assessed a Mandatory Minimum Penalty of **two hundred four thousand dollars (\$204,000)**.
2. **Two hundred four thousand dollars (\$204,000)** shall be credited toward the Mandatory Minimum Penalty amount as having been spent by the Discharger to complete the compliance Project (Finding No. 18) to prevent further effluent limit violations.

This Order is effective immediately upon issuance by the Executive Officer of the Regional Water Quality Control Board, Central Valley Region.

PAMELA C. CREEDON, Executive Officer

15 November 2007

ATTACHMENT A
DONNER SUMMIT PUBLIC UTILITY DISTRICT
WASTEWATER TREATMENT PLANT

RECORD OF VIOLATIONS (1 January 2000 – 31 December 2006) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Program Nos. 95-150 and R5-2002-0098)

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measured</u>	<u>Period</u> <u>Type</u>	<u>Remarks</u>
1	1/1/2000	Total Suspended Solids	mg/L	15	19	Weekly	3
2	1/11/2000	Total Coliform Organisms	MPN/100 mL	23	110	Daily	3
3	4/1/2000	BOD	lbs/day	65	192	Weekly	1
4	5/3/2000	pH	pH units	6.5	6.4	Daily	4
5	7/1/2000	Total Suspended Solids	mg/L	10	12	Monthly	4
6	7/8/2000	Total Suspended Solids	mg/L	15	20	Weekly	4
7	1/1/2001	Total Suspended Solids	mg/L	10	11	Monthly	3
8	1/3/2001	Total Suspended Solids	mg/L	30	31	Daily	4
9	1/6/2001	Total Suspended Solids	mg/L	15	21	Weekly	4
10	1/9/2001	Total Coliform Organisms	MPN/100 mL	23	27	Daily	4
11	5/10/2001	Total Coliform Organisms	MPN/100 mL	23	1600	Daily	4
12	6/12/2001	Total Coliform Organisms	MPN/100 mL	23	130	Daily	4
13	12/29/2001	BOD	mg/L	15	26	Weekly	1
14	12/31/2001	BOD	lbs/day	130	186	Daily	1
15	12/31/2001	BOD	mg/L	30	51	Daily	1
16	12/31/2001	BOD	mg/L	10	16	Monthly	1
17	12/31/2001	BOD	% removal	85	71	Monthly	4
18	1/1/2002	Total Suspended Solids	mg/L	10	13	Monthly	4
19	1/2/2002	Total Suspended Solids	lbs/day	129	133	Daily	4
20	1/2/2002	Total Suspended Solids	mg/L	30	47	Daily	1
21	1/3/2002	BOD	lbs/day	130	140	Daily	4
22	1/3/2002	BOD	mg/L	30	60	Daily	1
23	1/5/2002	BOD	lbs/day	65	163	Weekly	1
24	1/5/2002	BOD	mg/L	15	56	Weekly	1
25	1/5/2002	Total Suspended Solids	lbs/day	65	133	Weekly	1
26	1/5/2002	Total Suspended Solids	mg/L	15	47	Weekly	1
27	1/8/2002	BOD	mg/L	30	36	Daily	4
28	1/12/2002	BOD	mg/L	15	23	Weekly	1
29	1/22/2002	BOD	mg/L	30	43	Daily	1
30	1/26/2002	BOD	lbs/day	65	66	Weekly	4

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measured</u>	<u>Period</u> <u>Type</u>	<u>Remarks</u>
31	1/26/2002	BOD	mg/L	15	31	Weekly	1
32	1/29/2002	BOD	mg/L	30	34	Daily	4
33	1/31/2002	BOD	lbs/day	43	60	Monthly	4
34	1/31/2002	BOD	mg/L	10	27	Monthly	1
35	1/31/2002	BOD	% removal	85	73	Monthly	4
36	2/1/2002	Total Suspended Solids	mg/L	10	12	Monthly	4
37	2/2/2002	BOD	mg/L	15	27	Weekly	1
38	2/9/2002	BOD	mg/L	15	26	Weekly	1
39	2/12/2002	BOD	mg/L	30	38	Daily	4
40	2/16/2002	BOD	mg/L	15	30	Weekly	1
41	2/19/2002	BOD	mg/L	30	53	Daily	1
42	2/21/2002	BOD	mg/L	30	41	Daily	4
43	2/23/2002	BOD	lbs/day	65	70	Weekly	4
44	2/23/2002	BOD	mg/L	15	47	Weekly	1
45	2/26/2002	BOD	mg/L	30	43	Daily	1
46	2/28/2002	BOD	lbs/day	43	55	Monthly	4
47	2/28/2002	BOD	mg/L	10	33	Monthly	1
48	2/28/2002	BOD	% removal	85	66	Monthly	4
49	3/2/2002	BOD	mg/L	15	30	Weekly	1
50	3/5/2002	BOD	mg/L	30	43	Daily	1
51	3/9/2002	BOD	mg/L	15	30	Weekly	1
52	3/12/2002	BOD	mg/L	30	38	Daily	4
53	3/16/2002	BOD	lbs/day	65	70	Weekly	4
54	3/16/2002	BOD	mg/L	15	29	Weekly	1
55	3/23/2002	BOD	mg/L	15	19	Weekly	4
56	3/26/2002	BOD	mg/L	30	31	Daily	4
57	3/30/2002	BOD	lbs/day	65	68	Weekly	4
58	3/30/2002	BOD	mg/L	15	26	Weekly	1
59	3/31/2002	BOD	lbs/day	43	50	Monthly	4
60	3/31/2002	BOD	mg/L	10	26	Monthly	1
61	3/31/2002	BOD	% removal	85	73	Monthly	4
62	1/4/2003	BOD	mg/L	15	21	Weekly	1
63	1/21/2003	BOD	mg/L	30	32	Daily	3
64	1/25/2003	BOD	mg/L	15	27	Weekly	1
65	1/31/2003	BOD	mg/L	10	12	Monthly	4
66	5/31/2003	BOD	% removal	85	79	Monthly	4
67	4/30/2004	Total Suspended Solids	% removal	85	84	Monthly	3

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measured</u>	<u>Period</u> <u>Type</u>	<u>Remarks</u>
68	5/4/2004	Total Coliform Organisms	MPN/100 mL	23	30	Daily	3
69	1/8/2005	BOD	mg/L	15	23	Weekly	1
70	1/5/2006	Total Coliform Organisms	MPN/100 mL	23	900	Daily	3
71	3/2/2006	Total Coliform Organisms	MPN/100 mL	23	1600	Daily	3
72	6/14/2006	Total Suspended Solids	lbs/day	130	269	Daily	1
73	6/14/2006	Total Suspended Solids	mg/l	30	159	Daily	1
74	6/17/2006	Total Suspended Solids	lbs/day	65	139	Weekly	1
75	6/17/2006	Total Suspended Solids	mg/l	15	82	Weekly	1
76	6/30/2006	Total Suspended Solids	mg/l	10	22	Monthly	1

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 violations falls within the first three violations in a six-month period, thus is exempt.
4. Non-serious violation subject to mandatory penalties

<u>VIOLATIONS AS OF:</u>	<u>12/31/2006</u>
Group 1 Serious Violations:	36
Group 2 Serious Violations:	0
Non-Serious Exempt from MPs:	8
Non-serious Violations Subject to MPs:	32
Total Violations Subject to MPs:	68

Mandatory Minimum Penalty = (36 Serious Violations + 32 Non-Serious Violations) x \$3,000 = \$204,000