

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2010-0519

MANDATORY PENALTY  
IN THE MATTER OF

CITY OF NEVADA CITY  
WASTEWATER TREATMENT PLANT  
NEVADA COUNTY

This Order is issued to the City of Nevada City (hereafter Discharger) pursuant to California Water Code (CWC) section 13385, which authorizes the imposition of Administrative Civil Liability. This Order is based on findings that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Orders R5-2002-0050 and R5-2008-0177 (NPDES No. CA0079901).

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 Nevada City. Treated municipal wastewater is discharged to Deer Creek, a water of the United States and a tributary to the Yuba River.
2. On 26 April 2002, the Central Valley Water Board adopted Waste Discharge Requirements (WDRs) Order R5-2002-0050 to regulate discharges of waste from the wastewater treatment plant (WWTP). On 4 December 2008, effective 23 January 2009, the Board adopted WDRs Order R5-2008-0177, which contained new requirements and rescinded WDRs Order R5-2002-0050.
3. On 10 November 2008, the Assistant Executive Officer of the Central Valley Water Board issued Administrative Civil Liability Complaint (ACLC) R5-2008-0607. The ACLC charged the Discharger with civil liability in the amount of \$69,000 which represented Mandatory Minimum Penalties for effluent violations that occurred at the WWTP from 1 January 2000 through 30 April 2008. The ACLC allowed the Discharger to apply the \$69,000 towards a compliance project, pursuant to CWC section 13395(k). The Board considers payment of the mandatory minimum penalties satisfied through completion of the compliance project.
4. On 14 September 2009, the Executive Officer of the Central Valley Water Board issued ACLC R5-2009-0560. The ACLC charged the Discharger with civil liability in the amount of \$3,000 which represented Mandatory Minimum Penalties for effluent violations that occurred at the WWTP from 1 May 2008 through 30 June 2009. The Discharger responded and asked that it be allowed to apply the penalty toward a compliance project.
5. This Order allows the \$3,000 penalty to be applied toward a compliance project, and extends the period of record from the original date of 30 June 2009 to 28 February 2010. There were no additional violations between 30 June 2009 and 28 February 2010.

6. CWC section 13385(h) and (i) require 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.”

7. 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.

8. WDRs Order R5-2002-0050 Effluent Limitations No. B.2. states, in part: “*Effluent shall not exceed the following limitations (from 1 April 2007 forward):*”

<u>Constituents</u>	<u>Units</u>	<u>Average Monthly</u>	<u>Average Weekly</u>	<u>7-Day Median</u>	<u>Average Daily</u>	<u>Instantaneous Maximum</u>
<u>Total Coliform Organisms</u>	MPN/100 mL		--	2.2	--	23 <sup>4</sup>

<sup>4</sup> The total coliform organisms concentration shall not exceed 23 MPN/100 mL more than once in any 30-day period. No sample shall exceed a concentration of 240 MPN/100 mL.

9. According to the Discharger’s self-monitoring reports, the Discharger committed two (2) non-serious violations of the above effluent limitations contained in Orders R5-2002-0050 and R5-2008-0177 during the period beginning 1 May 2008 and ending 28 February 2010. One (1) of the non-serious violations is subject to mandatory penalties 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 one (1) non-serious violation is **three thousand dollars (\$3,000)**.
10. The total amount of the mandatory penalties assessed for the cited effluent violation is **three thousand dollars (\$3,000)**. A detailed list of the cited effluent violations is included in Attachment A, a part of this Order.

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 22 September 2008, the Executive Director of the State Water Resources Control Board determined that the service area of the Nevada City Wastewater Treatment Plant meets the definition of a small community with a financial hardship.
13. On 21 March 2010, the Discharger submitted information showing that it spent \$7,209 to install a sulfur dioxide analyzer at its effluent monitoring station. The analyzer allows the Discharger to provide a "tighter control" on the chlorination/dechlorination process, and will therefore correct the coliform violations which are the subject of this Order. The invoice shows that payment for the project was made on 18 May 2008, which is after the date of the last violation.
14. With the completion of the Compliance Project, the Discharger has expended in excess of the mandatory minimum penalty that is required by CWC Sections 13385(h) and (i). The Compliance Project has been designed to correct the violations that have led to this Administrative Civil Liability Order within five years. The completed project is in accordance with the State Water Board *Water Quality Enforcement Policy*.
15. 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.

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 CFR 123.27) has expired.
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 (Pub. Resources Code section 21000 et seq.), in accordance with California Code of Regulations, title 14, section 15321(a)(2).

**NEVADA CITY 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 is satisfied through the completion of the compliance project described 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 that this Order becomes final, except that if the thirtieth day following the date that this Order becomes final 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](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

10 June 2010  
DATE

**ATTACHMENT A  
ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R5-2010-0519**

**City of Nevada City  
Wastewater Treatment Plant**

RECORD OF VIOLATIONS (1 May 2008 – 28 February 2010) MANDATORY PENALTIES  
(Data reported under Monitoring and Reporting Programs R5-2002-0050 and R5-2008-0177)

#	Date	Violation Type	Units	Limit	Measured	Period Type	Remarks	CIWQS
*	2-Feb-08	Coliform	MPN/100 mL	2.2	2.5	7-Day Median	*	773332
*	9-Feb-08	Coliform	MPN/100 mL	2.2	4	7-Day Median	*	773333
1	10-May-08	Coliform	MPN/100 mL	2.2	112	7-Day Median	3	807514
2	17-May-08	Coliform	MPN/100 mL	2.2	9	7-Day Median	4	807516

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 violations falls within the first three violations in a six-month period, thus is exempt.
  4. Non-serious violation subject to mandatory penalties.
- \* Violations previously addressed in ACLC R5-2008-0607

**VIOLATIONS FROM 5/1/2008 THROUGH 2/28/2010**

Group I Serious Violations:	0
Group II Serious Violations:	0
Non-Serious Exempt from MPs:	1
Non-serious Violations Subject to MPs:	1
<b><u>Total Additional Violations Subject to MPs:</u></b>	<b><u>1</u></b>

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