

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2014-0577

ADMINISTRATIVE CIVIL LIABILITY
AND MANDATORY PENALTY
IN THE MATTER OF

DONNER SUMMIT PUBLIC UTILITY DISTRICT
WASTEWATER TREATMENT PLANT
NEVADA COUNTY

This Order is issued to the Donner Summit Public Utility District (hereafter Discharger) pursuant to California Water Code (Water Code) section 13385, which authorizes the imposition of Administrative Civil Liability, Water Code section 13323, which authorizes the Executive Officer to issue this Order. This Order is based on findings that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Order R5-2009-0034 (NPDES No. CA0081621).

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 (WWTP), and provides sewerage service to the Norden and Soda Springs areas, the Sugar Bowl and Soda Springs Ski Resorts, the Serene Lakes Subdivision, and the Sierra Lakes County Water District. During the months of October through July, treated wastewater is discharged to the South Yuba River, a water of the United States.
2. On 24 April 2009, effective 13 June 2009, the Central Valley Water Board issued WDRs Order R5-2009-0034. On the same date, the Board issued CDO R5-2009-0035 (2009 CDO). The 2009 CDO provided a time schedule for compliance with the final effluent limits for ammonia, nitrate, copper, cyanide, dichlorobromomethane, aldrin, alpha BHC, manganese, silver, and zinc, and provides interim effluent limitations for these same constituents. Because a previous CDO (CDO R5-2002-0089) already provided exemption from mandatory minimum penalties for a five year period for nitrate, CDO R5-2009-0034 does not exempt violations of the final effluent limit for nitrate from mandatory minimum penalties. This Order considers the exemption from mandatory minimum penalties provided by CDO R5-2009-0034.
3. On 28 March 2014, the Central Valley Water Board issued CDO R5-2014-0044 (2014 CDO). The 2014 CDO rescinded and replaced the 2009 CDO. The 2014 CDO updated interim effluent limitations, extended time schedules, and provided MMP protection for aluminum, ammonia, copper, cyanide, dichlorobromomethane, manganese, nitrate, silver, and zinc. This Order also considers the exemption from mandatory minimum penalties provided by CDO R5-2014-0044.
4. On 11 July 2012, the Assistant Executive Officer issued Administrative Civil Liability Order (ACLO) R5-2012-0552 for both discretionary civil liability and mandatory penalties

for effluent limitation violations from 1 January 2007 to 29 February 2012. The liability was in the amount of \$49,000, consisting of \$24,000 in mandatory penalties and \$25,000 in discretionary penalties. The discretionary penalty was paid by the Discharger and the mandatory penalties were satisfied by the completion of a compliance project. The Board considers those effluent violations specifically listed in Attachment A to ACLO R5-2012-0552 to be resolved.

5. This Order addresses administrative civil liability for effluent violations that occurred during the period from 1 March 2012 through 30 June 2014. 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.
6. On 6 June 2014, Central Valley Water Board staff issued the Discharger a Notice of Violation and draft Record of Violations for effluent limitation violations from 1 March 2012 through 31 March 2014. On 22 July 2014, the Discharger responded and agreed that the violations occurred. The Discharger requested that the Board allow the penalties be applied towards a compliance project. This Order extends the period of record through 30 June 2014.
7. Water Code section 13385(h) and (i) require assessment of mandatory penalties and state, in part, the following:

Water Code 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.

Water Code 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.

Water Code section 13385 subdivision (i)(1) states, in part:

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.

8. In accordance with the provisions of Water Code section 13385(j)(3), violations of the ammonia and manganese interim effluent limitations contained in CDO R5-2009-0035 subject the Discharger to mandatory minimum penalties for violations of the final manganese and ammonia effluent limitation contained in WDRs Order R5-2009-0034.

9. WDRs Order R5-2009-0034 Effluent Limitations IV.A.1.a, include, in part, the following effluent limitation:

<u>Constituents</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Maximum Daily</u>
Ammonia (as N)	mg/L	2.1	5.6

10. WDRs Order R5-2009-0034 Effluent Limitations and Discharge Specifications IV.A.1.h., include, the following final effluent limitation:

- h. **Manganese.** The annual average manganese concentration in the effluent shall not exceed 50 µg/L on a calendar year basis.

11. CDO R5-2009-0035 interim effluent limitations include, in part, the following limitations:

<u>Constituents</u>	<u>Units</u>	<u>Effluent Limitations Maximum Daily</u>
Ammonia (as N)	mg/L	39
Manganese	µg/L	275

12. According to the Discharger's self-monitoring reports, the Discharger committed three (3) serious Group I violations of the above effluent limitations contained in Order R5-2009-0034 during the period beginning 1 March 2012 and ending 30 June 2014. These 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 **nine thousand dollars (\$9,000)**.

13. The total amount of the mandatory penalties assessed for the alleged effluent violations is **nine thousand dollars (\$9,000)**. As stated herein, a detailed list of the alleged effluent violations is included in Attachment A. This Order addresses administrative civil liability for violations that are specifically identified in Attachment A as subject to mandatory minimum penalties.

14. On 30 May 2014, Central Valley Water Board staff confirmed an earlier determination that the Discharger's wastewater treatment plant is a publicly owned treatment works serving a small community within the meaning of Water Code section 13385(k)(2).
15. Water Code 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.
16. The Discharger began construction on major facility upgrades in August 2012 in order to comply with final effluent limitations contained in WDR Order R5-2009-0034. The major facility upgrade project includes new influent flow equalization storage to control seasonal flow surges, new headworks and screening, lime addition equipment to control pH and reduce salinity, conversion of the existing activated sludge process to a membrane bioreactor process, improved filtration, and conversion from chlorine to ultraviolet light disinfection. The capitol costs of this project are estimated at approximately \$23 million dollars. The project will allow full compliance with effluent limitations contained in WDRs Order R5-2009-0034. According to a 22 July 2014 correspondence from the Discharger, the upgraded plant will be in full operation by 28 February 2015 and the Discharger requested the \$9,000 mandatory minimum penalty be applied toward the completion of the facility upgrade project.
17. On 22 September 2014, the Discharger submitted documentation showing that it spent in excess of \$9,000 on the compliance project described in Finding 16 after the violations occurred.
18. The Central Valley Water Board finds that the Compliance Project has been designed to correct the violations that led to the issuance of this Administrative Civil Liability Order within five years, and that the Compliance Project is in accordance with the enforcement

policy of the State Water Board. The Discharger has expended an amount in excess of the mandatory minimum penalty that is required by Water Code sections 13385(h) and (i), excluding grants.

19. 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. No comments were received.
20. Issuance of this Administrative Civil Liability Order to enforce Water Code 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).

DONNER SUMMIT PUBLIC UTILITY DISTRICT IS HEREBY GIVEN NOTICE THAT:

1. The Discharger shall be assessed an Administrative Civil Liability in the amount of **nine thousand dollars (\$9,000)**.
2. In accordance with Water Code section 13385(k), the \$9,000 penalty for the violations specifically listed in Attachment A to this Order has been satisfied through the completion of the compliance project described in Finding 16.
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, 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

ANDREW ALTEVOGT, Assistant Executive Officer

11/6/2014
DATE

Attachment A
ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2014-0577

Donner Summit PUD
Wastewater Treatment Plant

RECORD OF VIOLATIONS (1 March 2012 – 30 June 2014) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Program R5-2009-0034)

	<u>Date</u>	<u>Parameter</u>	<u>Units</u>	<u>Limit</u>	<u>Measured</u>	<u>Period</u>	<u>Remarks</u>	<u>CIWQS</u>
1	12/31/2013	Manganese	µg/L	50	181 ^a	Annual Average	1	962696
2	1/13/2014	Ammonia	mg/L	5.6	47.3 ^b	Maximum Daily	1	969556
3	1/21/2014	Ammonia	mg/L	5.6	55 ^b	Maximum Daily	1	969557

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.

VIOLATIONS through 6/30/2014

Group I Serious Violations:	3
Group II Serious Violations:	0
Non-Serious Exempt from MPs:	0
Non-serious Violations Subject to MPs:	0
Total Violations Subject to MPs:	<u>3</u>

Mandatory Minimum Penalty = (3 Serious Violations) x \$3,000 = \$9,000

Notes: ^a The 2009 CDO's Maximum Daily imitation of 275 µg/L was exceeded with an effluent concentration of 540 µg/L on 5 December 2013; therefore, MMP protection for the WDRs effluent limitation was lost per Water Code section 13385(j)(3).

^b The 2009 CDO's Maximum Daily imitation of 39 mg/L was exceeded; therefore, MMP protection for the WDRs effluent violation was lost per Water Code section 13385(j)(3).