

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2018-0509

ADMINISTRATIVE CIVIL LIABILITY  
AND MANDATORY PENALTY  
IN THE MATTER OF

DONNER SUMMIT PUBLIC UTILITY DISTRICT  
WASTEWATER TREATMENT PLANT  
NEVADA COUNTY

This Administrative Civil Liability Complaint (Complaint) 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 Complaint, and Water Code section 7, which authorizes the delegation of the Executive Officer's authority to a deputy, in this case the Assistant Executive Officer. This Complaint is based on allegations that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Order R5-2015-0068-01 (NPDES CA0081621) and Cease and Desist Order (CDO) R5-2014-0044.

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

1. The Discharger owns and operates the Donner Summit PUD Wastewater Treatment Plant (Facility), which provides sewerage service for the Donner Summit Public Utility District, the Norden and Soda Springs areas, the Sugar Bowl and Soda Springs Ski Resorts, the Serene Lakes subdivision, Sierra Lakes County Water District, and Caltrans rest areas – in total, the Facility serves a population of approximately 2,000. Due to the ski resorts and seasonal tourism, the daily flows to the Facility can fluctuate greatly. The Facility discharges wastewater to South Yuba River, a water of the United States, within the Upper Yuba watershed.
2. On 4 June 2015, the Central Valley Water Board issued WDRs Order R5-2015-0068, effective on 1 August 2015, and modified Cease and Desist Order (CDO) R5-2009-0035, effective 24 April 2009. The Central Valley Water Board issued CDO R5-2014-0044 on 28 March 2014, which rescinded and replaced R5-2009-0034. CDO R5-2014-0044 updated interim effluent limitations, extended time schedules, and provided Mandatory Minimum Penalty (MMP) protection for aluminum, ammonia, copper, cyanide, dichlorobromomethane, manganese, nitrate, silver, and zinc. This Complaint considers the exemption from MMPs provided by CDO R5-2014-0044.
3. The Central Valley Water Board adopted Order R5-2017-0114 on 8 December 2017, which amended WDRs Order R5-2015-0068 and rescinded CDO R5-2014-0044. The amended Order R5-2015-0068-01, effective 8 December 2017, removed the previous effluent limits for aluminum.
4. On 7 September 2016, the Central Valley Water Board issued Administrative Civil Liability Complaint (ACLC) R5-2016-0561 for MMPs in the amount of \$9,000 for effluent limitation violations that occurred between 1 May 2015 and 30 June 2016. The penalties were satisfied by the completion of a compliance project. The Board considers those effluent violations specifically listed in Attachment A to ACLC R5-2016-0561 to be resolved.
5. This Complaint addresses administrative civil liability for effluent violations that occurred during the period from 1 July 2016 through 31 December 2017. These violations are specifically

identified in Attachment A to this Complaint, and are subject to mandatory minimum penalties. Attachment A is incorporated herein by reference.

6. On 26 January 2018, Central Valley Water Board staff issued a draft Record of Violations for effluent limitation violations from 1 July 2016 through 31 December 2017. The Discharger responded on 27 February 2018 and did not dispute the violations.
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. Water Code 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 of law authorizing civil liability to be imposed pursuant to this article, and the proposed civil liability.

9. Water Code section 13385, subdivision (j) exempts certain violations from the mandatory minimum penalties, and states, in part:

Subdivisions (h) and (i) do not apply to any of the following:

- 3) A violation of an effluent limitation where the waste discharge is in compliance with either a cease and desist order issued pursuant to Section 13301 or a time schedule order issued pursuant to Section 13300 or 13308 if all of the following requirements are met:
  - C) The regional board establishes a time schedule for bringing the waste discharge into compliance with the effluent limitation that is as short as possible....For the purposes of this subdivision, the time schedule may not exceed five years in length .... The interim requirements shall include both of the following:
    - i) Effluent limitations for the pollutant or pollutants of concern.
    - ii) Actions and milestones leading to compliance with the effluent limitation

10. WDRs Order R5-2015-0068-01, Effluent Limitations and Discharge Specifications IV.A.1.a., include the following final effluent limitations:

<u>Parameter</u>	<u>Units</u>	<u>Average Monthly</u>	<u>Maximum Daily</u>
Lead, Total Recoverable	µg/L	0.33	0.66

11. According to the Discharger's self-monitoring reports, the Discharger committed three (3) Group II serious violations of the above effluent limitations contained in Order R5-2015-0068-01 during the period beginning on 1 July 2016 and ending on 31 December 2017. This violation is defined as serious because the measured concentration of the Group II pollutant exceeded the maximum prescribed levels by 20 percent or more on each occasion. The mandatory minimum penalty for these serious violations is **nine thousand dollars (\$9,000)**.
12. 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 Complaint addresses administrative civil liability for violations that are specifically identified in Attachment A as subject to mandatory minimum penalties.
13. On 21 December 2015, the Executive Officer designated Andrew Altevogt, Assistant Executive Officer, as the Lead Prosecution Officer for all enforcement matters originating in the Central Valley Region. The 21 December 2015 Delegation of Authority also authorizes Andrew Altevogt to issue Administrative Civil Liability Complaints.
14. Issuance of this Administrative Civil Liability Complaint 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 Assistant Executive Officer of the Central Valley Water Board proposes the Discharger be assessed an Administrative Civil Liability in the amount of **nine thousand dollars (\$9,000)**.
2. A hearing on this matter will be held at the Central Valley Water Board meeting scheduled on **31 May/1 June 2018**, unless the Discharger does one of the following by **29 March 2018**:
  - 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. In addition, the Discharger must submit payment for the proposed civil liability of **nine thousand dollars (\$9,000)** to the State Water Board, with a copy of the check sent to the Central Valley Water Board; or
  - b) Requests to engage in settlement discussions by checking the box next to Option 2 on the attached form, and returning it to the Central Valley Water Board along with a letter describing the issues to be discussed. The Central Valley Water Board must agree to the postponement; or
  - c) Requests to delay the hearing by checking off the box next to Option 3 on the attached form, and returning it to the Central Valley Water Board along with a letter describing the length of the proposed delay and the issues to be discussed. The Central Valley Water Board must agree to the postponement.
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 Assistant 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  
\_\_\_\_\_  
ANDREW ALTEVOGT, Assistant Executive Officer

5 March 2018  
\_\_\_\_\_  
DATE

**Attachment A**  
**ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2018-0509**

**Donner Summit Public Utility District**  
**Wastewater Treatment Plant**

RECORD OF VIOLATIONS (1 July 2016 – 31 December 2017) MANDATORY PENALTIES  
(Data reported under Monitoring and Reporting Program R5-2015-0068-01)

	<u>Date</u>	<u>Parameter</u>	<u>Units</u>	<u>WDRs Limit</u>	<u>Measured</u>	<u>Period</u>	<u>Remarks</u>	<u>CIWQS</u>
1	12-Sep-17	Lead, Total	µg/L	0.66	1.8	Maximum Daily	2	1033677
2	30-Sep-17	Lead, Total	µg/L	0.33	1.8	Monthly Average	2	1036080
3	31-Oct-17	Lead, Total	µg/L	0.33	0.54	Monthly Average	2	1036081

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 violation falls within the first three violations in a 180-day period, thus is not subject to mandatory minimum penalties. Penalties that may be assessed for this violation are discretionary. This violation is not addressed or resolved in this ROV.
4. Non-serious violation subject to mandatory minimum penalties.

<u>VIOLATIONS AS OF:</u>	<u>12/31/2017</u>
Group I Serious Violations:	0
Group II Serious Violations:	3
Non-serious Violations Not Subject to MMPS:	0
Non-serious Violations Subject to MMPS:	0
<b>Total Violations Subject to MMPS:</b>	<b>3</b>

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