

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2008-0537

MANDATORY PENALTY
IN THE MATTER OF

PLACER COUNTY DEPARTMENT OF FACILITY SERVICES
PLACER COUNTY SEWER MAINTENANCE DISTRICT NO. 1
WASTEWATER TREATMENT PLANT

PLACER COUNTY

This Complaint is issued to the Placer County Department of Facility Services, Placer County Sewer Maintenance District No. 1, (hereafter Discharger) pursuant to California Water Code (CWC) section 13385, which authorizes the imposition of Administrative Civil Liability, CWC section 13323, which authorizes the Executive Officer to issue this Complaint, and CWC 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 findings that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Order No. 97-113 and Order No. R5-2005-0074 (NPDES No. CA0077828).

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

1. The Discharger owns and operates a wastewater collection, treatment, and disposal system, and provides sewerage service to the unincorporated area of North Auburn in Placer County. The wastewater treatment plant provides tertiary treatment when influent flows are 3.5 million gallons per day (mgd) or less and a mixture of secondary and tertiary treatment when flows are greater than 3.5 mgd. Treated municipal wastewater is discharged to Rock Creek, a water of the United States.
2. On 20 June 1997, the Regional Water Board adopted WDRs Order No. 97-113 to regulate discharges of waste from the wastewater treatment plant. On 23 June 2005, the Regional Water Board adopted WDRs Order No. R5-2005-0074, which contained new regulations and rescinded Order No. 97-113. The WDRs include effluent limitations and other requirements regarding the wastewater discharges.
3. On 23 June 2005, the Regional Water Board adopted Cease and Desist Order No. R5-2005-0075 requiring the Discharger to cease and desist from discharging wastewater contrary to WDRs Order No. R5-2005-0074.
4. CWC sections 13385(h) and (i) require assessment of mandatory penalties and state, in part, the following:

CWC 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."

CWC 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.”*

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.”*

5. 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.”

6. The Executive Officer previously issued Administrative Civil Liability Complaint (ACLC) No. R5-2001-0514 to the Discharger for mandatory penalties for effluent limitation violations from 1 January 2000 to 31 December 2000 in the amount of \$12,000. The Regional Water Board has accepted payment from the Discharger of the penalty associated with ACLC No. R5-2001-0514, and considers this prior matter resolved.
7. WDRs Order No. 97-113 Effluent Limitations No. B.1. include, in part, the following effluent limitations: *“Effluent shall not exceed the following limits from 1 May through 31 October:”*

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<u>Constituents</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Monthly Median</u>	<u>Daily Maximum</u>
Total Coliform Organisms	MPN/100 mL	--	--	2.2	23
Turbidity	NTU	2			5 ³
Chlorine Residual	mg/L		--	--	0.02

³ May not exceed 5 NTUs more than 5% of the time during any 24-hour period.

8. WDRs Order No. 97-113 Effluent Limitations B.4. states: *“The discharge shall not have a pH less than 6.5 nor greater than 8.5.”*
9. WDRs Order No. R5-2005-0074 Effluent Limitations No. B.1. states, in part, *“Effluent shall not exceed the following limits.”*

<u>Constituents</u>	<u>Units</u>	<u>30-Day Average</u>	<u>4-Day Average¹</u>	<u>1-hour Average²</u>
Total Ammonia ⁴	mg/L	Attach. E ¹	Attach D	Attach. C
	lbs/day ³	Calculate ⁵	Calculate ⁵	Calculate ⁵
Chlorine Residual	mg/L	--	0.01	0.02
	lbs/day ³	--	0.182	0.364

¹ Continuous Concentration (Chronic)

² Maximum concentration (Acute)

³ Based upon the Design Dry Weather Flow Rate of 2.18 mgd ($x \text{ mg/L} \times 8.345 \times 2.18 \text{ mgd} = y \text{ lbs/day}$).

⁴ Temperature and pH must be determined concurrently.

⁵ Based upon the Design Dry Weather Flow Rate of 2.18 mgd ($x \text{ mg/L} \times 8.345 \times 2.18 \text{ mgd} = y \text{ lbs/day}$), where x is the value obtained from Attachment C, D, or E, as specified above.

10. WDRs Order No. R5-2005-0074 Effluent Limitations No. B.2. states, in part: *“When flow is less than or equal to 3.5 mgd:”*

<u>Constituent</u>	<u>Units</u>	<u>7-Day Median</u>	<u>Daily Maximum</u>
Total Suspended Solids	lbs/day ³		455
Total Coliform Organisms	MPN/100 mL	2.2 ⁴	23/240 ⁵

³ Based upon the Design Dry Weather Flow Rate of 2.18 mgd ($x \text{ mg/L} \times 8.345 \times 2.18 \text{ mgd} = y \text{ lbs/day}$).

⁴ 7-Day Median based on previous seven daily sample results.

⁵ In a 30-day period, only a single sample may exceed 23 MPN/100 mL, and no sample shall exceed 240 MPN/100 mL.

11. WDRs Order No. R5-2005-0074 Effluent Limitations No. B.5. states, in part: "...*effluent shall not exceed the following interim limits:*"

<u>Constituents</u>	<u>Units</u>	<u>Daily Maximum</u>
Bis-(2-ethylhexyl)phthalate	µg/L	9.11
Bromodichloromethane	µg/L	5.48

12. WDRs Order No. R5-2005-0074 Effluent Limitations No. B.8. requires: "*The discharge shall not have a pH less than 6.5 nor greater than 8.5.*"
13. 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 Nos. 97-113 and R5-2005-0074 during the period beginning 1 January 2001 and ending 31 December 2007. The 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)**.
14. According to the Discharger's self-monitoring reports, the Discharger committed six (6) serious Group II violations of the above effluent limitations contained in Order Nos. 97-113 and R5-2005-0074 during the period beginning 1 January 2001 and ending 31 December 2007. The violations are defined as serious because measured concentrations of Group II constituents exceeded maximum prescribed levels by more than 20 percent on these occasions. The mandatory minimum penalty for these serious violations is **eighteen thousand dollars (\$18,000)**.
15. According to the Discharger's self-monitoring reports, the Discharger committed fifteen (15) non-serious violations of the above effluent limitations contained in Order Nos. 97-113 and R5-2005-0074 during the period beginning 1 January 2001 and ending 31 December 2007. Three (3) of the non-serious violations are subject to mandatory penalties under CWC section 13385(i)(1) because these violations were preceded by three or more similar violations within a six-month period. The mandatory minimum penalty for these non-serious violations is **nine thousand dollars (\$9,000)**.
16. The total amount of the mandatory penalties assessed for the cited effluent violations is **thirty-six thousand dollars (\$36,000)**. A detailed list of the cited effluent violations is included in Attachment A, a part of this Order.
17. Issuance of this Administrative Civil Liability Complaint 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).

PLACER COUNTY DEPARTMENT OF FACILITY SERVICES, PLACER COUNTY SEWER MAINTENANCE DISTRICT NO. 1, IS HEREBY GIVEN NOTICE THAT:

1. The Assistant Executive Officer of the Regional Water Board proposes that the Discharger be assessed an Administrative Civil Liability in the amount of **thirty-six thousand dollars (\$36,000)**.
2. A hearing on this matter will be held at the Regional Water Board meeting scheduled on **11/12 September 2008**, unless the Discharger agrees to complete the following by **21 July 2008**:
 - a) Waive the hearing by completing the attached form and returning it to the Regional Water Board; and
 - b) Pay the proposed civil liability of **thirty-six thousand dollars (\$36,000)** in full.
3. If a hearing on this matter is held, the Regional 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.

JACK E. DEL CONTE, Assistant Executive Officer

20 June 2008

**WAIVER OF HEARING FOR
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

By signing this waiver, I affirm and acknowledge the following:

1. I am duly authorized to represent the Placer County Department of Facility Services, Placer County Sewer Maintenance District No. 1 (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint No. R5-2008-0537 (hereinafter the "Complaint");
2. I am informed of the right provided by California Water Code section 13323, subdivision (b), to a hearing within ninety (90) days of service of the Complaint;
3. I hereby waive the Discharger's right to a hearing before the California Regional Water Quality Control Board, Central Valley Region, within ninety (90) days of the date of service of the Complaint; and
4. I certify that the Discharger will remit payment for the civil liability imposed in the amount of **thirty-six thousand dollars (\$36,000)** by check, which contains a reference to "ACL Complaint No. R5-2008-0537" and is made payable to the "*State Water Pollution Cleanup and Abatement Account.*"
5. I understand the payment of the above amount constitutes a settlement of the Complaint, and that any settlement will not become final until after the 30-day public notice and comment period mandated by Federal regulations (40 CFR 123.27) expires. Should the Regional Board receive new information during this comment period, the Regional Board may withdraw the complaint, return payment, and issue a new complaint.
6. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

(Print Name and Title)

(Signature)

(Date)

ATTACHMENT A
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2008-0537

Placer County Department of Facility Services
Placer County Sewer Maintenance District No. 1
Wastewater Treatment Plant

RECORD OF VIOLATIONS (1 January 2001 – 31 December 2007) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Program Nos. 97-113 and R5-2005-0074.)

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Result</u>	<u>Period Type</u>	<u>Flow Rate</u>	<u>Remarks</u>
1	4-Jan-01	pH	pH units	8.5	8.8	Instantaneous		3
2	14-May-01	Chlorine Residual	mg/l	0.02	0.6	Daily Maximum		2
3	3-Jul-01	Coliform	MPN/100ml	23	300	Daily Maximum		3
4	6-Aug-01	Coliform	MPN/100ml	23	240	Daily Maximum		3
5	13-Oct-01	Turbidity	NTU	5	12	Instantaneous		1
6	24-Mar-02	pH	pH units	6.5	3.6	Instantaneous		3
7	12-Feb-03	pH	pH units	6.5	6.2	Instantaneous		3
8	12-Sep-03	Coliform	MPN/100ml	23	50	Daily Maximum		3
9	13-Jun-04	pH	pH units	6.5	5.8	Instantaneous		3
10	10-Sep-05	Coliform	MPN/100ml	2.2	4	7-Day Median		3
11	11-Sep-05	Coliform	MPN/100ml	2.2	4	7-Day Median		3
12	12-Sep-05	Coliform	MPN/100ml	2.2	4	7-Day Median		3
13	27-Sep-05	Bis-(2-ethylhexyl)- phthalate	µg/l	9.11	10	Daily Maximum		4
14	27-Sep-05	Bromodichloromethane	µg/l	5.48	13	Daily Maximum		2
15	29-Dec-05	TSS	lbs/day	455	505	Daily Maximum	3.31	5
16	27-Jan-06	Ammonia	mg/l	4.64	9.90	1-Hour Avg.		1
17	27-Jan-06	Ammonia	lbs/day	84	154	1-Hour Avg.	1.86	1
18	31-Jan-06	Ammonia	mg/l	4.73	6.3	1-Month Average		4
19	31-Jan-06	Ammonia	lbs/day	98.2	127	1-Month Average	2.59	5
20	9-Feb-06	Coliform	MPN/100ml	2.2	4	7-Day Median		4
21	8-Aug-06	Coliform	MPN/100ml	240	1600	Daily Maximum		3
22	25-Oct-06	Bromodichloromethane	µg/L	5.48	9.3	30-Day Average		2
23	23-May-07	Chlorine Residual	mg/l	0.02	1.07	Daily Maximum		2
24	23-May-07	Chlorine Residual	lbs/day	0.364	12.3	Daily Maximum	1.38	2
25	25-Jun-07	pH	pH units	6.5	6.0	Instantaneous		3
26	5-Jul-07	Bromodichloromethane	µg/L	5.48	10	Daily Maximum		2

ATTACHMENT A
PLACER COUNTY DEPARTMENT OF FACILITY SERVICES
PLACER COUNTY SEWER MAINTENANCE DISTRICT NO. 1
WASTEWATER TREATMENT PLANT
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2008-0537

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.
5. Mass rate limitation exceedances due only to wet weather not assessed MMPs pursuant to State Water Board Order WQO 2004-0013.

<u>VIOLATIONS AS OF:</u>	<u>12/31/2007</u>
Group 1 Serious Violations:	3
Group 2 Serious Violations:	6
Non-Serious Exempt from MMPs:	12
Non-serious Violations Subject to MMPs:	3
Mass Rate Limitation, Wet Weather, Exempt from MMPs:	2
<u>Total Violations Subject to MMPs:</u>	<u>12</u>

Mandatory Minimum Penalty = (9 Serious Violations + 3 Non-Serious Violations) × \$3,000 = \$36,000

* Arithmetic mean of all 1-day flow rates ("EFF FLOW" on Discharger Self Monitoring Reports, in mgd) while discharging to surface waters during period. Values greater than the design dry weather flow rate (2.18 mgd) are considered wet weather for purposes of applying SWRCB Order WQO 2004-0013.