

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2009-0501

MANDATORY PENALTY
IN THE MATTER OF

GRIZZLY LAKE RESORT IMPROVEMENT DISTRICT
DELLEKER WASTEWATER TREATMENT PLANT
PLUMAS COUNTY

This Order is issued to the Grizzly Lake Resort Improvement District (hereafter Discharger) pursuant to California Water Code (CWC) section 13385, which authorizes the imposition of Administrative Civil Liability (ACL). This Order is based on findings that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Order R5-2007-0019 (NPDES No. CA0081744).

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

1. The Discharger owns and operates a wastewater collection, treatment, and disposal system, and provides sewerage service to the Delleker area. Treated municipal wastewater may be discharged to the Middle Fork of the Feather River, a water of the United States, from 1 November to 15 May. During non-discharger periods, the wastewater is stored and treated in facultative ponds.
2. On 23 April 2004, the Central Valley Water Board issued Waste Discharge Requirements Order R5-2007-0019 (NPDES No. CA0081744), for the Grizzly Lake Resort Improvement District, to regulate the discharge of treated municipal wastewater.
3. CWC section 13385(i) requires the assessment of mandatory penalties and states, 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.

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4. 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.

5. Order R5-2007-0019 includes the following effluent limitations:

A. Effluent Limitations – Discharge Point 001 and Discharge Point 002

1. Final Effluent Limitations

- a. **Effective immediately**, the discharge of treated wastewater shall maintain compliance with the following effluent limitations at Discharge Point 001, with compliance measured at Monitoring Location EFF-001 as described in the attached Monitoring and Reporting Program (Attachment E, Section IV).

Parameter	Units	Effluent Limitations				
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
BOD	mg/L	45	65	90		
	lbs/day ¹	37.5	54.2	75.1		
Total Suspended Solids	mg/L	45	65	90		
	lbs/day ¹	37.5	54.2	75.1		
PH	standard units	--	--	--	6.0	9.0

6. According the Discharger’s self-monitoring reports, the Discharger committed 6 non-serious violations of the above effluent pH limitation (effluent pH was above 9.0) contained in Order R5-2007-0019 from 25 April 2007 to 30 April 2007. Three of the non-serious violations are subject to mandatory penalties under CWC section 13385(i)(1) because these violations were preceded by three similar violations within a six-month period. The mandatory minimum penalty for these three non-serious violations is **nine thousand dollars (\$9,000)**. A detailed list of the cited effluent violations is included in Attachment A, a part of this Order.

7. 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.

8. Staff at the State Water Resources Control Board has determined that the Grizzly Lake Resort Improvement District Wastewater Treatment Plant is a publicly owned treatment works serving a small community within the meaning of CWC section 13385(k)(2). The 19 February 2002 Water Quality Enforcement Policy lists Plumas County as a rural county with financial hardship. Delleker is on the State Water Board's previous list of small communities with a financial hardship.
9. The Discharger is in the process of spending an estimated \$9,000 on a compliance project to the purchase and installation of a new bisulfate analyzer and a new aerator for the Delleker sewer ponds. On 22 December 2008, the Grizzly Lake Resort Improvement District chair submitted a project proposal and a listing of project costs. This project proposal is incorporated into this Order by reference. When the compliance project is completed, the Discharger will have expended in excess of the mandatory minimum penalty that is required by CWC sections 13385(h) and (i).
10. The Central Valley Water Board finds that the Compliance Project has been designed to correct the violations that have led to the issuance of this Administrative Civil Liability Order within five years, that the project is in accordance with the enforcement policy of the State Water Board, and that the Discharger has appropriate financing to complete the project.
11. 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).
12. On 15 March 2007, the Central Valley 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).
13. 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 of this Order, except that if the thirtieth day following the date of this Order 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.

IT IS HEREBY ORDERED, pursuant to CWC section 13385 and Resolution R5-2007-0009, that:

1. The Grizzly Lake Resort Improvement District, its agents, successors and assigns, shall be assessed an Administrative Civil Liability in the amount of **nine thousand dollars (\$9,000)**.
2. The entire \$9,000 penalty shall be suspended if the discharger complies with the following time schedule to complete the compliance project:

<u>Task</u>	<u>Compliance Date</u>
Achieve full compliance with effluent limitations for discharges to surface waters	1 June 2009
Submit documentation of Compliance Project costs	1 June 2009

3. If the Executive Officer may extend the abovementioned deadlines if the Discharger demonstrates that unforeseeable contingencies have created delays, provided that the Discharger continues to undertake all appropriate measures to meet the deadlines. The discharger shall make any deadline extension request in writing. Under no circumstances may the completion of the Compliance Project extend past five (5) years from the issuance of this Order.
4. The Discharger must obtain explicit approval from the Executive Officer for any significant departures from the project proposed by the District Chairman on 22 December 2008. Failure to obtain approval for any significant departures will result in the assessment of the full amount of the suspended mandatory minimum penalty.
5. If, in the judgment of the Executive Officer, the Discharger fails to complete the compliance project in accordance with the specified time schedule or fails to construct the compliance project in accordance with the project proposal without obtaining Central Valley Water Board approval, the suspended mandatory minimum penalty **(\$9,000)** must be paid within 30 days of notification by the Executive Officer of such failure.

6. 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 on 3 February 2009 and the 30-day public notice and comment period mandated by Federal regulations (40 CFR 123.27) has expired. This Order is effective immediately upon issuance.

(original signed by)

PAMELA C. CREEDON, Executive Officer

13 March 2009

(Date)

Attachment A

Grizzly Lake Resort Improvement District
 Delleker Wastewater Treatment Plant

RECORD OF VIOLATIONS (25 April 2007 – 30 April 2007)
MANDATORY PENALTIES (Data reported under Monitoring and
 Reporting Program No. R5-2007-0019)

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measured</u>	<u>Period Type</u>	<u>Remarks</u>
1	25-Apr -07	pH	pH units	9	10	Daily Max	1
2	26-Apr -07	pH	pH units	9	10	Daily Max	1
3	27-Apr -07	pH	pH units	9	10.2	Daily Max	1
4	28-Apr -07	pH	pH units	9	10.3	Daily Max	2
5	29-Apr -07	pH	pH units	9	10.2	Daily Max	2
6	30-Apr -07	pH	pH units	9	9.9	Daily Max	2

Remarks:

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

VIOLATIONS AS OF:

5/15/2008

Non-Serious Exempt from MPs: 3
 Non-serious Violations Subject to MPs: 3

Total Violations Subject to MPs: 3

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