



Linda S. Adams
Acting Secretary for
Environmental
Protection

California Regional Water Quality Control Board Central Valley Region

Katherine Hart, Chair

415 Knollcrest Drive, Suite 100, Redding, California 96002
(530) 224-4845 • Fax (530) 224-4857
<http://www.waterboards.ca.gov/centralvalley>



Edmund G. Brown Jr.
Governor

10 February 2011

CERTIFIED MAIL

7009 2250 0002 9885 3934

Mr. Chris Verderber, Manager
Collins Pine Company – Chester Sawmill
P.O. Box 796
Chester, CA 96020

ORDER NO. R5-2011-0520 – NOTICE OF VIOLATION AND OFFER TO PARTICIPATE IN EXPEDITED PAYMENT PROGRAM RELATING TO VIOLATIONS OF NPDES PERMIT, ORDER NO. R5-2009-0015, COLLINS PINE COMPANY CHESTER SAWMILL, PLUMAS COUNTY (NPDES PERMIT NO. CA004391, WDID NO. 5A322000001)

This letter is to notify Collins Pine Company (hereinafter "Permittee" or "you") of alleged violations of the California Water Code identified in the Permittee's self monitoring report and to allow the Permittee to participate in the Water Boards' Expedited Payment Program for Effluent or Reporting Violations (Expedited Payment Program) to address liability which may be assessed pursuant to Water Code sections 13385 and 13385.1.

NOTICE OF VIOLATION:

Based on information in the Permittee's self monitoring reports, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) alleges that the Permittee violated the effluent limitations identified in the Record of Violations attached as Exhibit "A". The Permittee has the opportunity to address the alleged violations as discussed below.

STATUTORY LIABILITY:

Subdivisions (h) and (i) of California Water Code section 13385 require the assessment of a mandatory minimum penalty (MMP) of **\$3,000** for each specified serious and chronic effluent limit violation. The Permittee is subject to discretionary administrative civil liabilities of up to ten thousand dollars (\$10,000) for each day in which the violation occurs, plus ten dollars (\$10) for each gallon discharged but not cleaned up in excess of 1,000 gallons. These mandatory minimum penalties and discretionary administrative civil liabilities may be assessed by a Regional Water Quality Control Board (Regional Water Board) or the State Water Board (collectively "the Water Boards"), beginning with the date that the violations first occurred¹.

¹ Please note that there are no statutes of limitation that apply to administrative proceedings to assess mandatory minimum penalties. See *City of Oakland v. Public Employees' Retirement System*, (2002) 95 Cal.App.4th 29, 48; 3 Witkin, Cal. Procedure (4th ed. 1996) Actions, §405(2), p. 510.) The Permittee has not been substantially prejudiced by the passage of time between the date(s) that Permittee reported the violations identified on Exhibit A and the date of this letter. The Permittee was aware of the violations at the time it reported them to the Regional Board. Regional Board staff's limited enforcement resources and competing enforcement priorities provide a rational explanation for the delay. In fact, the delay has actually benefited the Permittee because it extended the time before payment of the mandatory minimum penalties is due. For these reasons, any delay is not unreasonable.

The formal enforcement action which the Water Boards use to assess such liability is an administrative civil liability complaint although the Water Boards may instead refer such matters to the Attorney General's Office for prosecution. If referred to the Attorney General for prosecution, the Superior Court may assess up to twenty-five thousand dollars (\$25,000) per violation. In addition, the Superior Court may assess up to twenty-five (\$25) per gallon discharged but not cleaned up in excess of 1,000 gallons.

OFFER TO PARTICIPATE IN EXPEDITED PAYMENT PROGRAM:

The Permittee can avoid the issuance of a formal enforcement action and settle the alleged violations identified in the attached Record of Violations by participating in the Water Boards' Expedited Payment Program. Details of the proposed settlement are described below and addressed in the enclosed documents.

To promote resolution of these violations, the Central Valley Water Board makes this Conditional Offer. The Permittee may accept this offer, waive the Permittee's right to a hearing, and pay the mandatory minimum penalty of **\$30,000**, for the violation described in the Record of Violations. If the Permittee elects to do so, subject to the conditions below, the Central Valley Water Board will accept that payment in settlement of any enforcement action that would otherwise arise out of the violations identified in the Record of Violations. Accordingly, the Central Valley Water Board will forego issuance of a formal administrative complaint, will not refer the violations to the Attorney General, and will waive its right to seek additional discretionary civil liabilities for the violations identified in the Record of Violations.

The Expedited Payment Program does not address liability for any violation that is not specifically identified in the Record of Violations.

PERMITTEE'S OPTIONS FOR RESPONSE TO OFFER:

If you accept this offer, please complete and return the enclosed "Acceptance of Conditional Resolution and Waiver of Right to Hearing; (proposed) Order" (Acceptance and Waiver) and "Payment Agreement" on or before **1 March 2011**.

If you contest some but not all of the violations identified in the attached Record of Violations, the Permittee may elect to reserve the right to address the contested matters and resolve any uncontested violations through the payment of the mandatory minimum penalty for each uncontested violation. If the Permittee chooses this option, please communicate with the staff contact identified below to discuss the mechanism for memorializing that election on or before the due date.

If the Permittee chooses to contest any of the violations alleged in the Record of Violations, please identify the specific violation and the basis for the challenge (factual error, affirmative defense, etc.) on or before the due date. The Central Valley Water Board staff will evaluate the contested violation and take one of two actions:

- 1) The Central Valley Water Board staff will determine that the violation is not supported, expunge the alleged violation from the self-monitoring report data base once the Central Valley Water Board staff verifies the determination, take no further action against the Permittee for the alleged violation, and notify the Permittee of that determination;
- 2) The Central Valley Water Board staff will determine that the alleged violation is meritorious, and will notify the Permittee of that determination. The Permittee will

be given thirty (30) days from the date of receipt of the Central Valley Water Board staff determination, to submit a supplemental Expedited Payment for each of those violations. If the Permittee chooses not to make a payment in response to the determination, the Permittee should expect to be contacted regarding formal enforcement action that will be initiated with regard to the contested violations. In a formal enforcement action, the liability amount sought and/or imposed may exceed the liability amount set forth in this Conditional Offer. Moreover, the cost of enforcement is a factor which can be considered in assessing the liability amount.

CONDITIONS FOR STATE WATER BOARD ACCEPTANCE OF RESOLUTION:

Federal regulations require the Central Valley Water Board to publish and allow the public thirty (30) days to comment on any settlement of an enforcement action addressing NDPES permit violations (40 C.F.R. section 123.27(d)(2)(iii)). Upon receipt of the Permittee's Acceptance and Waiver, the Central Valley Water Board staff will publish a notice the proposed resolution of the violations.

If no comments are received within the 30-day period, and unless there are new material facts that become available to the Central Valley Water Board, the Executive Officer will execute the Acceptance and Waiver as a stipulated order assessing the uncontested mandatory minimum penalty amount pursuant to Water Code section 13385.

If, however, significant comments are received in opposition to the settlement, this Offer may be withdrawn. In that case, the Permittee's waiver pursuant to the Acceptance and Waiver will also be treated as withdrawn. In that case, the unresolved violations will be addressed in a liability assessment proceeding. At the liability assessment hearing the Permittee will be free to make arguments as to any of the alleged violations, and the Permittee's agreement to accept this conditional offer will not in any way be binding or used as evidence against the Permittee. The Permittee will be provided with further information on the liability assessment proceeding.

In the event the Acceptance and Waiver is executed by the Executive Officer, payment of the assessed amount shall be due within ten (10) calendar days after the Permittee's receipt of the notice of the Executive Officer's execution. **Three** payments of **\$10,000** liability shall be paid by cashiers or certified check to the "State Water Pollution Cleanup and Abatement Account – Order No. R5-2011-0520", in accordance with the attached Payment Agreement. Failure to pay the penalty within the required time period may subject the Permittee to further liability.

Should you have any questions about the Record of Violations or the Conditional Offer, please contact Katie Bowman at (530) 226-3458 regarding this matter.

Original signed by

ROBERT A. CRANDALL
Assistant Executive Officer

Encl: – Exhibit "A" – Record of Violations
Acceptance of Conditional Resolution and Waiver of Right to Hearing; (Proposed) Order
Payment Agreement

Exhibit A
Record of Violations
Collins Pine Chester Sawmill
Collins Pine Company

MANDATORY MINIMUM PENALTIES
(Data reported under Monitoring and Reporting Program No. R5-2009-0015)
Violations Under Order No. R5-2010-0552

<u>Date of Violation</u>	<u>Violation Type</u>	<u>Units</u>	<u>Permit Limit</u>	<u>Measured</u>	<u>Period Type</u>	<u>Remarks</u>	<u>Group Pollutants</u>	<u>CIWQS Violation Number</u>
1 6/15/2010	Receiving Water Temperature Difference	°F	$\Delta T < 5$	$\Delta T = 7.1$	Weekly	5	n/a	876666
2 6/8/2010	Receiving Water Temperature Difference	°F	$\Delta T < 5$	$\Delta T = 7.2$	Weekly	5	n/a	876664
3 6/1/2010	Receiving Water Temperature Difference	°F	$\Delta T < 5$	$\Delta T = 7.4$	Weekly	5	n/a	876661
4 5/25/2010	Receiving Water Temperature Difference	°F	$\Delta T < 5$	$\Delta T = 8.5$	Weekly	5	n/a	873679
5 5/25/2010	Receiving Water Turbidity Difference	NTU	$\Delta \text{Turb} < 1$	$\Delta \text{Turb} = 1.6$	Weekly	5	n/a	873668
6 5/18/2010	Effluent Chemical Oxygen Demand	mg/L	40	55	Maximum Daily	3	I	873525
7 5/18/2010	Effluent Total Copper	µg/L	14.92	18.1	Maximum Daily	2	II	873528
8 5/18/2010	Receiving Water Temperature Difference	°F	$\Delta T < 5$	$\Delta T = 7.0$	Weekly	5	n/a	873676
9 5/18/2010	Receiving Water Turbidity Difference	NTU	$\Delta \text{Turb} < 1$	$\Delta \text{Turb} = 1.7$	Weekly	5	n/a	873665
10 5/11/2010	Effluent Chemical Oxygen Demand	mg/L	40	84	Maximum Daily	1	I	873524
11 5/11/2010	Effluent Total Copper	µg/L	14.92	16.6	Maximum Daily	3	II	873526
12 5/11/2010	Receiving Water Temperature Difference	°F	$\Delta T < 5$	$\Delta T = 6$	Weekly	5	n/a	873675
13 5/11/2010	Receiving Water Turbidity Difference	NTU	$\Delta \text{Turb} < 1$	$\Delta \text{Turb} = 1.0$	Weekly	5	n/a	873661
14 5/4/2010	Effluent Chemical Oxygen Demand	mg/L	40	56	Maximum Daily	1	I	873523
15 5/4/2010	Effluent Total Copper	µg/L	14.92	17.3	Maximum Daily	3	II	873527
16 5/4/2010	Receiving Water Temperature Difference	°F	$\Delta T < 5$	$\Delta T = 9.4$	Weekly	5	n/a	873674
17 5/4/2010	Receiving Water Turbidity Difference	NTU	$\Delta \text{Turb} < 1$	$\Delta \text{Turb} = 1.0$	Weekly	5	n/a	873659
18 4/27/2010	Receiving Water Temperature Difference	°F	$\Delta T < 5$	$\Delta T = 7.4$	Weekly	5	n/a	869945
19 4/27/2010	Receiving Water Turbidity Difference	NTU	$\Delta \text{Turb} < 1$	$\Delta \text{Turb} = 1.3$	Weekly	5	n/a	869946
20 4/6/2010	Effluent Chemical Oxygen Demand	mg/L	40	46	Weekly	4	I	868771
21 3/23/2010	Effluent Chemical Oxygen Demand	mg/L	40	51	Weekly	4	I	868754

	<u>Date of Violation</u>	<u>Violation Type</u>	<u>Units</u>	<u>Permit Limit</u>	<u>Measured</u>	<u>Period Type</u>	<u>Remarks</u>	<u>Group Pollutants</u>	<u>CIWQS Violation Number</u>
22	3/16/2010	Effluent Chemical Oxygen Demand	mg/L	40	113	Maximum Daily	1	I	868753
23	3/2/2010	Effluent Chemical Oxygen Demand	mg/L	40	108	Maximum Daily	1	I	868749
24	1/26/2010	Effluent Chemical Oxygen Demand	mg/L	40	61	Maximum Daily	1	I	866491
25	1/26/2010	Receiving Water Turbidity Difference	NTU	$\Delta\text{Turb} < 1$	$\Delta\text{Turb} = 2.3$	Weekly	5	n/a	866487
26	1/12/2010	Effluent Chemical Oxygen Demand	mg/L	40	131	Maximum Daily	1	I	866490
27	1/5/2010	Effluent Chemical Oxygen Demand	mg/L	40	213	Maximum Daily	1	I	866489

Remarks:

1. Serious Violation: For Group I Pollutants that exceed the effluent limitation by 40%
2. Serious Violation: Group II Pollutants that exceed the effluent limitation by 20% or more
3. Non-serious violation falls within the first three violations in a six-month period
4. Non-serious violation subject to mandatory minimum penalties
5. Other WDR violation, not subject to mandatory minimum penalties

VIOLATIONS AS OF: 6/15/2010

Group I Serious Violations: 7
Group II Serious Violations: 1
Non-Serious Violations: 2

Total Violations Subject to MMPs: 10

MANDATORY MINIMUM PENALTY = (8 serious violations + 2 non-serious violations) X \$3,000 = \$30,000



**California Regional Water Quality Control Board
Central Valley Region
Katherine Hart, Chair**



Linda S. Adams
Acting Secretary for
Environmental Protection

415 Knollcrest Drive, Suite 100, Redding, California 96002
(530) 224-4845 • FAX (530) 224-4857
<http://www.waterboards.ca.gov/centralvalley>

Edmund G. Brown Jr.
Governor

**ACCEPTANCE OF CONDITIONAL RESOLUTION
AND WAIVER OF RIGHT TO HEARING; ORDER R5-2011-0520**

Mr. Chris Verderber, Manager
Collins Pine Company – Chester Sawmill
WDR Order No. R5-2009-0015
NPDES No. CA004391
WDID No. 5A322000001

By signing below and returning this Acceptance of Conditional Resolution and Waiver of Right to Hearing (Acceptance and Waiver) to the Central Valley Regional Water Quality Control Board (Central Valley Water Board), Collins Pine Company, Chester Sawmill (Permittee) hereby accepts the "Offer to Participate in Expedited Payment Program" and waives the right to a hearing before the Regional Water Board with jurisdiction over the facility to dispute the allegations of violations described in the Record of Violations (ROV), which is attached hereto as Exhibit "A" and incorporated herein by reference.

The Permittee agrees that the ROV shall serve as a complaint pursuant to Article 2.5 of the Water Code and that no separate complaint is required for the State Water Board to assert jurisdiction over the alleged violations through its Executive Officer. The Permittee agrees to pay the penalties authorized by California Water Code section 13385, in the sum of **\$30,000** (Expedited Payment Amount) which shall be deemed payment in full of any civil liability pursuant to the Water Code sections 13385 and 13385.1 that otherwise might be assessed for the violations described in the ROV. The Permittee understands that this Acceptance and Waiver waives the Permittee's right to contest the allegations in the ROV and the amount of civil liability for such violations.

The Permittee understands that this Acceptance and Waiver does not address or resolve liability for any violation that is not specifically identified in the Record of Violations.

Upon execution by the Permittee, the Acceptance and Waiver shall be returned to:

Robert A. Crandall, AEO
Central Valley Regional Water Quality Control Board
415 Knollcrest Drive, Suite 100
Redding, CA 96002

The Permittee understands that federal regulations set forth at title 40, Code of Federal Regulations, section 123.27(d)(2)(iii) require the Central Valley Water Board to publish notice of and provide at least 30 days for public comment on any proposed resolution of an enforcement action. Accordingly, this Acceptance and Waiver, prior to execution by the Executive Officer of the Central Valley Water Board, will be published as required by law for public comment. If no

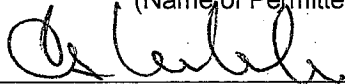
comments are received within the notice period which causes the Executive Officer of the Central Valley Water Board to reconsider the Expedited Payment Amount, the Executive Officer will execute the Acceptance and Waiver.

The Permittee understands that if significant comments are received in opposition to the Expedited Payment Amount, the offer on behalf of the Water Board to resolve the violations set forth in the ROV may be withdrawn. In that circumstance, the Permittee will be advised of the withdrawal and an administrative civil liability complaint may be issued and the matter may be set for a hearing before the Regional Water Quality Control Board with jurisdiction over the violations. For such a liability hearing, the Permittee understands that this Acceptance and Waiver executed by the Permittee will be treated as a settlement communication and will not be used as evidence in that hearing.

The Permittee understands that once the Acceptance and Waiver is executed by the Executive Officer of the Central Valley Water Board, the full payment required by the deadline set forth below is a condition of this Acceptance and Waiver. The Permittee shall pay the Expedited Payment Amount of **\$30,000** by a certified check or cashier's check for the full amount payable to "State Water Resources Control Board Cleanup and Abatement Account, - Order No. R5-2011-0520" in accordance with the attached payment agreement.

I hereby affirm that I am duly authorized to act on behalf of and to bind the Permittee in the making and giving of this Acceptance and Waiver.

COLLINS PINE CO - CHESTER SWANILL
(Name of Permittee)

By: 
(Signed Name)

2/14/2011
(Date)

CHRIS VERDERBER
(Printed or Typed Name)

MANAGER
(Title)

IT IS SO ORDERED PURSUANT TO WATER CODE SECTION 13385

By: 

April 1, 2011
(Date)

PAMELA C. CREEDON
Executive Officer
Central Valley Water Quality Control Board

**ORDER NO. R5-2011-0520
PAYMENT AGREEMENT BETWEEN
COLLINS PINE COMPANY
AND
THE CENTRAL VALLEY WATER BOARD**

Water Code section 13323, which governs the imposition of civil liability by the Central Valley Water Board, states, in relevant part, "[p]ayment shall be made not later than 30 days from the date on which the [Administrative Civil Liability] order is issued."

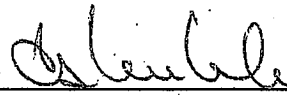
Collins Pine Company (hereafter "Permittee") has elected to participate in the Board's Expedited Payment Program by submitting an Acceptance and Waiver to the Central Valley Water Board. When the Executive Officer executes the Conditional Offer, this action is functionally the same as the issuance of an Administrative Civil Liability Order. Therefore, the Board has the right to demand full payment of the outstanding liability within 30 days of execution. However, in order to facilitate settlement, the Central Valley Water Board will not take any action to collect the full amount before the expiration of the payment schedule prescribed below, provided that the Permittee adheres to the following provisions:

1. The Permittee agrees to pay the outstanding liability in the amount of **thirty thousand dollars** (\$30,000.00). Payments shall be made in three (3) monthly installments of ten thousand dollars (\$10,000). The first payment shall be made by **11 April 2011**. Subsequent payments shall be due on **11 May 2011**, and **11 June 2011**.
2. The Permittee shall submit payment by cashiers or certified check made payable to the "State Water Pollution Cleanup and Abatement Account – Order No. R5-2011-0520."
3. Checks shall be submitted so that they are received by the Central Valley Water Board on or before 5 p.m. on the dates listed above, and the checks shall be submitted to:

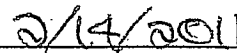
California Regional Water Quality Control Board, Central Valley Region
Attn: Mr. Robert Crandall
415 Knollcrest Drive, Suite 100
Redding, CA 96002

Should the Permittee fail to make any payment according to the agreed upon schedule above, the remaining balance will be immediately due. Should the Permittee fail to adhere to the payment schedule outlined above or fail to pay the remaining balance if a payment is missed, the Central Valley Water Board reserves the right to take any action permitted by law to collect the amount that remains outstanding.

Please sign the payment agreement and fax to this office at (530) 224-4857.



Authorized Permittee Representative



Date