



California Regional Water Quality Control Board Central Valley Region



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Protection

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Arnold Schwarzenegger
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22 July 2004

Mr. Jeffery M. Palumbo
Correctional Plant Manager
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Deuel Vocational Institution
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ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2004-0530, MANDATORY MINIMUM PENALTIES, DEUEL VOCATIONAL INSTITUTION, SAN JOAQUIN COUNTY

Enclosed is an Administrative Civil Liability Complaint for Mandatory Minimum Penalties issued pursuant to California Water Code Section 13385 (h) and/or (i) for violations of Waste Discharge Requirements (WDRs) Order Nos. 94-212 and R5-2003-0065 for the Deuel Vocational Institution (NPDES No. CA0078093). The complaint proposes that the California Department of Corrections pay \$114,000 to the State Water Resources Control Board's Cleanup and Abatement Account.

You may agree to pay the civil liability and waive a hearing before the Regional Water Quality Control Board, Central Valley Region (Regional Board) on the matter. If you waive the hearing, a duly authorized person should sign the waiver, and submit it to this office along with a check payable to the State Water Resources Control Board in the full amount of the civil liability. However, any waiver will not be effective until 30 days from the date of this Complaint to allow other interested persons to comment on this action. If the Regional Board does not receive a waiver and a check for the full amount by **23 August 2004**, a hearing will be scheduled at the 14/15 October 2004 Regional Board meeting in Sacramento. Persons wishing to comment on this action should submit written comments within 30 days from the date of this letter to the Regional Board, attention: Patricia Leary.

If you have any questions or comments, please contact Patricia Leary of my staff at (916) 464-4623.

THOMAS R. PINKOS
Executive Officer

Enclosure: Administrative Civil Liability Complaint for Mandatory Minimum Penalties

California Environmental Protection Agency

cc: Ms. Kathi Moore, U.S. Environmental Protection Agency, Region IX, San Francisco
Ms. Lisa Brown, CalEPA, Sacramento
Mr. Mark Bradley, State Water Resources Control Board, Sacramento
Ms. Frances McChesney, State Water Resources Control Board, Sacramento
Mr. Phil Isorena, State Water Resources Control Board, Sacramento
Mr. Joe Spano, Department of Health Services, Office of Drinking Water, Stockton
Department of Health Services, Environmental Management Branch, Sacramento
Ms. Janna Herren, Department of Fish & Game, Region II, Rancho Cordova
Mr. Keith Beland, California Department of Corrections, Sacramento
Delta Protection Commission, Walnut Grove
Department of Environmental Health, San Joaquin County, Stockton
Mr. Steve Macaulay, California Urban Water Agencies, Sacramento
Mr. Richard Denton, Contra Costa Water District, Concord
Mr. Dante Nomellini, Jr., Central Delta Water Agency, Stockton
Mr. John Herrick, South Delta Water Agency, Stockton
Mr. Bill Jennings, Delta Keeper, Stockton

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2004-0530

MANDATORY PENALTY
IN THE MATTER OF
CALIFORNIA DEPARTMENT OF CORRECTIONS
DEUEL VOCATIONAL INSTITUTION
SAN JOAQUIN COUNTY

This Complaint to assess Mandatory Penalties pursuant to California Water Code (CWC) Section 13385 (h) and/or (i) is issued to the California Department of Corrections, Deuel Vocational Institution (hereafter Discharger), based on a finding of violations of Waste Discharge Requirements Order Nos. 94-212 and R5-2003-0065 (NPDES No. CA0078093).

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

1. CWC Section 13385(h) and (i) requires assessment of mandatory penalties and states, in part, the following:

CWC Section 13385(h)(1) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each serious violation.

CWC Section 13385(h)(2) states for 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) requires the Regional Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each violation, not counting the first three violations, if the discharger does any of the following four or more times in any period of six consecutive months (non-serious violation):

- 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.

2. On 5 August 1994, the Regional Board adopted Waste Discharge Requirements (WDR) Order No. 94-212, for the California Department of Corrections to regulate discharges of treated sanitary wastewater from the Deuel Vocational Institution in San Joaquin County.

3. Effluent Limitation B.1 of Order No. 94-212 states, in part:

“1. *Effluent shall not exceed the following limits:*

<u>Constituent</u>	<u>Unit</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Monthly Median</u>	<u>Daily Maximum</u>
<i>BOD₅¹</i>	<i>mg/l</i>	<i>20²</i>	<i>30²</i>	<i>-----</i>	<i>40²</i>
.
<i>Total Coliform Organisms</i>	<i>MPN/100 ml</i>	<i>-----</i>	<i>-----</i>	<i>2.2</i>	<i>23</i>

¹5-day, 20°C biochemical oxygen demand (BOD)

²To be ascertained by a 24-hour composite

³Based upon a design treatment capacity of 0.62 mgd.”

4. Effluent Limitation B.4 of Order No. 94-212 states:

“4. *The average dry weather (April through November) discharge flow shall not exceed 0.62 mgd.*”

5. Effluent Limitation B.5 of Order No. 94-212 states:

“5. *The peak wet weather discharge flow shall not exceed 0.62 mgd.*”

6. Biochemical Oxygen Demand (BOD) is a Group I pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations.

7. According to monitoring reports submitted between 1 January 2000 and 13 June 2003, the Discharger committed eighteen (18) serious and nineteen (19) non-serious effluent violations. During this period, the Discharger exceeded the maximum daily, weekly average, and/or monthly average effluent limitations for BOD twenty-four (24) times [eighteen (18) of which are serious violations]; exceeded the daily maximum total coliform organisms effluent limitation seven (7) times (all of which are non-serious violations), and exceeded the monthly average dry weather and/or peak wet weather effluent flow limitation six (6) times (all non-serious violations). A detailed list of all violations is included in Attachment A, a part of this complaint. All of the serious violations and fourteen (14) of the nineteen (19) non-serious violations are subject to Mandatory Minimum Penalties authorized pursuant to CWC Section 13385(h) and (i).

8. The total amount of the mandatory penalty for violations of WDR Order No. 94-212 is **\$96,000** [(18 serious violations x \$3,000) + (14 non-serious violations x \$3,000)].

The Executive Officer further finds the following:

9. On 25 April 2003, the Regional Board adopted WDR Order No. R5-2003-0065 (effective 14 June 2003), rescinding WDR Order No. 94-212 and regulating discharges of treated sanitary wastewater (Outfall 001) and industrial wastes (Outfalls 003 and 004) from the Deuel Vocational Institution.

10. Effluent Limitation B.1 of Order No. R5-2003-0065 (Outfall 001) states, in part:

“1. Effluent shall not exceed the following limits:

<u>Constituents</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Daily Average</u>	<u>Daily Maximum</u>
<i>Oil and Grease</i>	<i>mg/l</i>	<i>10</i>	<i>---</i>	<i>---</i>	<i>15”</i>

11. Effluent Limitation B.3 of Order No. R5-2003-0065 (Outfall 001) states, in part:

“3. Effectively immediately and until 1 March 2008, effluent shall not exceed the following limitations:

<u>Constituents</u>	<u>Units</u>	<u>Monthly Median</u>	<u>Daily Maximum</u>
<i>Total Coliform</i>	<i>MPN/100 ml</i>	<i>2.2</i>	<i>23”</i>

12. Effluent Limitation B.4 of Order No. R5-2003-0065 (Outfall 001) states, in part:

“4. The following interim effluent limitations are effective until 1 March 2008:

<u>Constituents</u>	<u>Units</u>	<u>Daily Maximum</u>
<i>Bromodichloromethane</i>	<i>µg/l</i>	<i>50”</i>

13. Effluent Limitation B.8 of Order No. R5-2003-0065 (Outfall 001) states:

“8. The monthly average dry weather discharge flow shall not exceed 0.62 million gallons per day.”

14. Cease and Desist Order No. R5-2003-0066 was adopted on 25 April 2003, which includes a time schedule to comply with Effluent Limitation B.8 of Order No. R5-2003-0065 by 1 December 2004. CWC Section 13385(j)(3) states that Sections 13385(h) and (i) do not apply to violations of effluent limitations where the waste discharge is in compliance with a cease and desist order

issued pursuant to Section 13301, as long as all of the requirements specified in CWC Sections 13385(j)(3)(A), (B), (C), and (D) are met. The previous permit for this facility, Order No. 94-212, also contained an average flow limitation of 0.62 million gallons per day. Therefore, the requirement specified in Section 13385(j)(3)(B) is not met, and CWC Sections 13385(h) and (i) apply.

15. Bromodichloromethane (BDCM) is a Group II pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations.
16. According to monitoring reports submitted between 14 June 2003 and 31 May 2004, the Discharger committed one (1) serious and seven (7) non-serious violations. During this period, the Discharger exceeded the monthly average oil and grease effluent limitation two (2) times (both non-serious violations), exceeded the daily maximum total coliform organisms effluent limitation one (1) time (a non-serious violation), exceeded the maximum daily effluent limitation for BDCM one (1) time (a serious violation), and exceeded the monthly average effluent flow limitation four (4) times (all non-serious violations). A detailed list of all violations is included in Attachment A, a part of this complaint. Since the period of six consecutive months [as defined in CWC Section 13385(i)(2)] is continued from the previous Order, the serious violation and five (5) of the seven (7) non-serious violations are subject to Mandatory Minimum Penalties authorized pursuant to CWC Section 13385(h) and (i).
17. The total amount of the mandatory penalty for violations of WDR Order No. R5-2003-0065 is **\$18,000** [(1 serious violation x \$3,000) + (5 non-serious violations x \$3,000)].
18. Therefore, the total amount of the mandatory penalties for both WDR Order No. 94-212 and R5-2003-0065 is **\$114,000** (\$96,000 + \$18,000).
19. Issuance of this Complaint is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.), in accordance Title 14, California Code of Regulations Section 15321(a)(2) ("Enforcement Actions by Regulatory Agencies").

THE CALIFORNIA DEPARTMENT OF CORRECTIONS IS HEREBY GIVEN NOTICE THAT:

1. The Executive Officer of the Regional Board proposes that the Discharger be assessed a Mandatory Penalty in the amount of \$114,000.
2. A hearing shall be held by the Regional Board, unless the Discharger agrees to waive the hearing and pay the Mandatory Penalty of \$114,000 in full.
3. The Discharger may waive the right to a hearing. If the Discharger chooses to waive the hearing, the Discharger must complete and sign the attached waiver and return it and a check made

payable to the *State Water Resources Control Board* for the full amount of the mandatory penalty to the Regional Board's office at the letterhead address by **23 August 2004**.

THOMAS R. PINKOS, Executive Officer

22 July 2004

**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 California Department of Corrections, Deuel Vocational Institution (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint No. R5-2004-0530 (hereinafter "Complaint");
2. I am informed of the right provided by Water Code Section 13323, subdivision (b), to a hearing within ninety (90) days of issuance 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; and
4. Without admitting liability for the matters alleged in the Complaint, I otherwise agree to remit payment for the civil liability imposed in the amount of \$114,000 by check, which contains a reference to "ACL Complaint No. R5-2004-0530" and is made payable to the "*State Water Resources Control Board Cleanup and Abatement Account.*"
5. I understand the payment of the above amount constitutes a settlement of the Complaint that will not become final until after a public comment period.
6. I understand that the Executive Officer has complete discretion to modify or terminate this settlement during the 30-day public comment period, which began on the date of the Complaint.
7. 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.

(Signature)

(Title)

(Date)