

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2008-0571

MANDATORY PENALTY
IN THE MATTER OF

MOUNTAIN HOUSE COMMUNITY SERVICES DISTRICT
WASTEWATER TREATMENT PLANT
SAN JOAQUIN COUNTY

This Complaint is issued to the Mountain House Community Services District, Wastewater Treatment Plant (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 R5-2007-0039 (NPDES No. CA0084271).

The Assistant 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 for the community of Mountain House. Treated wastewater is discharged to Old River, a water of the United States and part of the Sacramento-San Joaquin Delta.
2. On 11 September 1998, the Central Valley Water Board adopted WDRs Order 98-192 to regulate discharges of waste from a new wastewater treatment plant (WWTP). On 4 May 2007, the Central Valley Water Board adopted WDRs Order R5-2007-0039, which contained new requirements and rescinded WDRs Order 98-192. The Discharger commenced discharging to Old River on 13 March 2007.
3. On 4 May 2007, the Central Valley Water Board adopted Time Schedule Order (TSO) R5-2007-0040, providing a time schedule until 30 April 2012 to comply with final effluent limitations for bis(2-ethylhexyl)phthalate, cyanide, group A pesticides (aldrin and heptachlor), and iron. The TSO also provides interim effluent limitations for those constituents. This Complaint considered the interim effluent limitations and the protection from Mandatory Minimum Penalties provided by TSO R5-2007-0040.
4. On 3 April 2008, the Central Valley Water Board sent the Discharger a draft Record of Violations (ROV). The Discharger responded on 9 September 2008. After consideration of additional information, Central Valley Water Board staff prepared a technical memorandum, included as Attachment B to this Complaint, and discussed in Finding No. 8.

5. 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.”*

6. 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.”*
7. WDRs Order R5-2007-0039 Effluent Limitations IV.A.1.a., include, in part, the following effluent limitations: *“The Discharger shall maintain compliance with the effluent limitations specified in Table 1.”*

Table 1: Final Effluent Limitations

Parameter	Units	Effluent Limitations				
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
pH	standard units	--	--	--	6.5	8.5

8. As described in the technical memorandum mentioned in Finding No. 4, Central Valley Water Board staff has made the following adjustments to the draft Record of Violations (all violation numbers reference those contained in the draft Notice of Violations):
 - Dibromochloromethane Violations 4 and 6. The draft ROV listed the concentrations as 0.5 µg/L based upon the initial self-monitoring reports. The Discharger submitted amended monitoring reports with results below the effluent limitations, and therefore these are not violations.
 - Total coliform organisms Violation 7. The draft ROV listed a total coliform violation based upon the initial self-monitoring report. The Discharger subsequently submitted documentation that, due to sampling equipment contamination, this was not a violation.
9. According to the Discharger's self-monitoring reports, the Discharger committed four (4) non-serious violations of the above effluent limitations contained in Order R5-2007-0039 during the period beginning 13 March 2007 and ending 31 January 2008. One (1) of the non-serious violations is subject to mandatory penalties under CWC section 13385(i)(1) because this violation was preceded by three or more similar violations within a six-month period. The mandatory minimum penalty for this non-serious violation is **three thousand dollars (\$3,000)**.
10. The total amount of the mandatory penalties assessed for the cited effluent violations is **three thousand dollars (\$3,000)**. A detailed list of the cited effluent violations is included in Attachment A, a part of this Complaint.
11. 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).

THE MOUNTAIN HOUSE COMMUNITY SERVICES DISTRICT WASTEWATER TREATMENT PLANT IS HEREBY GIVEN NOTICE THAT:

1. The Assistant Executive Officer of the Central Valley Water Board proposes that the Discharger be assessed an Administrative Civil Liability in the amount of **three thousand dollars (\$3,000)**.
2. A hearing on this matter will be held at the Central Valley Water Board meeting scheduled on **4/5 December 2008**, unless the Discharger does either of the following by **17 October 2008**:
 - a) Waives the hearing by completing the attached form (checking off the box next to item #4) and returning it to the Central Valley Water Board, along with payment for the proposed civil liability of **three thousand dollars (\$3,000)**; or

- b) Agrees to enter into settlement discussions with the Central Valley Water Board and requests that any hearing on the matter be delayed by signing the enclosed waiver (checking off the box next to item #5) and returning it to the Central Valley Water Board, along with a letter describing the issues to be discussed.
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.

JACK E. DEL CONTE, Assistant Executive Officer

17 September 2008

Attachment A: Record of Violations
Attachment B: Technical Memorandum
BLH: 09/17/08

**ATTACHMENT A
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2008-0571**

**WAIVER OF 90-DAY HEARING REQUIREMENT FOR
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

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

1. I am duly authorized to represent the Mountain House Community Services District (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint R5-2008-0571 (hereinafter the "Complaint");
2. I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served" with the Complaint;
3. I hereby waive any right the Discharger may have to a hearing before the Central Valley Regional Water Quality Control Board (Central Valley Water Board) within ninety (90) days of service of the Complaint; and
4. **(Check here if the Discharger will waive the hearing requirement and will pay the fine)**
 - a. I certify that the Discharger will remit payment for the proposed civil liability in the amount of **three thousand dollars (\$3,000)** by check, which will contain a reference to "ACL Complaint R5 2008-0571" and will be made payable to the "*State Water Pollution Cleanup and Abatement Account.*" Payment must be received by the Central Valley Water Board by **17 October 2008** or this matter will be placed on the Central Valley Water Board's agenda for adoption at the **4/5 December 2008** Central Valley Water Board meeting.
 - b. 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 Central Valley Water Board receive new information or comments during this comment period, the Central Valley Water Board's Assistant Executive Officer may withdraw the complaint, return payment, and issue a new complaint. New information or comments include those submitted by personnel of the Central Valley Water Board who are not associated with the enforcement team's issuance of the Complaint.
 - c. 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.

-or-

5. **(Check here if the Discharger will waive the 90-day hearing requirement, but will not pay at the current time. The Central Valley Water Board must receive information from the Discharger indicating a controversy regarding the assessed penalty at the time this waiver is submitted, or this waiver may not be accepted.)** I certify that the Discharger will promptly engage the Central Valley Water Board staff in discussions to resolve the outstanding violation(s). By checking this box, the Discharger is *not* waiving its right to a hearing on this matter. By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing so that the Discharger and Central Valley Water Board staff can discuss settlement. It remains within the discretion of the Central Valley Water Board to agree to delay the hearing. A hearing on the matter may be held before the Central Valley Water Board if these discussions do not resolve the liability proposed in the Complaint. The Discharger agrees that this hearing may be held after the 90-day period referenced in California Water Code section 13323 has elapsed.
6. If a hearing on this matter is held, the Central Valley Water Board will consider whether to issue, reject, or modify the proposed Administrative Civil Liability Order, or whether to refer the matter to the Attorney General for recovery of judicial civil liability. Modification of the proposed Administrative Civil Liability Order may include increasing the dollar amount of the assessed civil liability.

(Print Name and Title)

(Signature)

(Date)

ATTACHMENT A
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2008-0571

Mountain House Community Service District
Wastewater Treatment Plant

RECORD OF VIOLATIONS (13 March 2007 – 31 January 2008) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Program R5-2007-0039)

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measured</u>	<u>Period Type</u>	<u>Remarks</u>
1	12-Aug-07	pH	pH units	8.5	8.8	Instantaneous	3
2	14-Aug-07	pH	pH units	8.5	8.7	Instantaneous	3
3	16-Aug-07	pH	pH units	8.5	8.8	Instantaneous	3
4	31-Aug-07	pH	pH units	8.5	8.8	Instantaneous	4

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

VIOLATIONS AS OF: 31 January 2008

Group I Serious Violations:	0
Group II Serious Violations:	0
Non-Serious Exempt from MPs:	3
Non-serious Violations Subject to MPs:	1
<u>Total Violations Subject to MPs:</u>	<u>1</u>

Mandatory Minimum Penalty = (0 Serious Violations + 1 Non-Serious Violations) x \$3,000 = \$3,000



Linda S. Adams
Secretary for
Environmental Protection

ATTACHMENT B

California Regional Water Quality Control Board Central Valley Region

Karl E. Longley, ScD, P.E., Chair



Arnold
Schwarzenegger
Governor

11020 Sun Center Drive #200, Rancho Cordova, California 95670-6114
Phone (916) 464-3291 • FAX (916) 464-4645
<http://www.waterboards.ca.gov/centralvalley>

TO: Patricia Leary, Senior Engineer
NPDES Compliance and Enforcement

FROM: Barry Hilton, WRCE
NPDES Compliance and Enforcement

DATE: 10 September 2008

SIGNATURE: _____

SUBJECT: MOUNTAIN HOUSE COMMUNITY SERVICES DISTRICT WASTEWATER
TREATMENT PLANT ASSESSMENT OF MMPS

On 3 April 2008, the Central Valley Water Board staff sent the Mountain House Community Services District a draft Record of Violations (ROV) for the period of 13 March 2007 through 31 January 2008. On 9 September 2008, the Discharger responded. This memorandum references the City's comments on the Draft Record of Violations and the supplemental information. I have included a copy of the original Attachment A and have used an underline/strikeout font to show the violations I added and deleted from the Draft ROV and the ACLC.

The following discusses the changes I made to the ROV during my preparation of the Administrative Civil Liability Complaint:

Dibromochloromethane

Violations 4 and 6. The 12 December 2007 amended self-monitoring reports showed that the effluent complied with effluent limitations for dibromochloromethane. I deleted the violations.

pH

Violations 1-3, and 5. The Discharger states that it believes that the instrumentation was not properly calibrated because there were no violations during previous or succeeding months. The discharger provided no supporting evidence. I retained the violations.

Total Coliform Organisms

Violation 7. On 30 January 2008, the Discharger submitted a letter demonstrating that the results were incorrect because of sampling equipment contamination. I deleted the violation.

California Environmental Protection Agency



**Mountain House Community Service District
Wastewater Treatment Plant**

RECORD OF VIOLATIONS (13 March 2007 – 31 January 2008) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Program No. R5-2007-0039)

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measured</u>	<u>Period Type</u>	<u>Remarks</u>
1	12-Aug-07	pH	pH units	8.5	8.8	Instantaneous	3
2	14-Aug-07	pH	pH units	8.5	8.7	Instantaneous	3
3	16-Aug-07	pH	pH units	8.5	8.8	Instantaneous	3
4	21-Aug-07	Dibromochloromethane	µg/L	0.44	0.5	Monthly Avg.	2
4	31-Aug-07	pH	pH units	8.5	8.8	Instantaneous	4
6	30-Sep-07	Dibromochloromethane	µg/L	0.44	0.5	Monthly Avg.	2
6	30-Sep-07	Dibromochloromethane	µg/L	0.44	0.5	Monthly*Daily	2
5	19-Jan-08	Coliform	MPN/100mL	23	70	Max	4

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

VIOLATIONS AS OF: 31 January 2008

Group I Serious Violations:	0
Group II Serious Violations:	<u>0</u>
Non-Serious Exempt from MPs:	3
Non-serious Violations Subject to MPs:	<u>1</u>
<u>Total Violations Subject to MPs:</u>	<u>14</u>

Mandatory Minimum Penalty = (0 Serious Violations + 1 Non-Serious Violations) x \$3,000 = \$3,000

~~* Not to exceed 23 MPN/100 mL more than once in any 30-day period. This is the second exceedance in a 30-day period.~~