

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

COMPLAINT NO. R5-2008-0573

MANDATORY PENALTY  
IN THE MATTER OF  
SIERRA PACIFIC INDUSTRIES, SHASTA LAKE DIVISION  
SHASTA COUNTY

This complaint is issued to Sierra Pacific Industries, Shasta Lake Division (hereafter Discharger) pursuant to California Water Code (CWC) section 13385, which authorizes the imposition of Administrative Civil Liability (ACL), 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. R5-2003-0154 (NPDES No. CA0081400).

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

1. The Discharger owns and operates a 100 million board foot sawmill in conjunction with a cogeneration in the City of Shasta Lake, in Section 36 T33N, R5W, MDB&M. Surface water drainage from the property is to an unnamed tributary, a water of the United States and a tributary to the Sacramento River via Churn Creek.
2. On 17 October 2003, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) adopted Waste Discharge Requirements Order No. R5-2003-0154 (NPDES No. CA0081400), to regulate discharges of process water and storm water runoff generated from the sawmill operations at the facility.
3. CWC section 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.”*

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. WDRs Order No. R5-2003-0154 include, in part, the following effluent limitations:

**B. Effluent Limitations (Discharge 001 and 002)**

1. The discharge of wastewater to the unnamed tributary in excess of the following limits is prohibited:

Constituent	Unit	Average Monthly Effluent Limit (AMEL)	Maximum Daily Effluent Limit (MDEL)
Total Suspended Solids	mg/L		100
Lead (Total Recoverable)	ug/L	11.0	34.2

6. Table 1 details violations reported in the monitoring reports submitted to the Central Valley Water Board by Sierra Pacific Industries, Shasta Lake Division.

**Table 1.**

<b>Exceedence Date</b>	<b>Discharge Point</b>	<b>Pollutant</b>	<b>Pollutant Group</b>	<b>Effluent Limit</b>	<b>Analytical Results</b>	<b>Percentage Over</b>
2/25/2004	D002	Total Suspended Solids	Group II	100 mg/L MDEL	156 mg/L	56%
2/25/2004	D002	Lead, total recoverable	Group II	2.4 ug/L AMEL	3.5 ug/L	46%

7. According to monitoring reports submitted by the Discharger, the Discharger committed two violations during the period beginning January 2004 and ending June 2008. Of the two violations, both are considered serious violations for total suspended solids and total recoverable lead, group II pollutants, that exceeded 20% or more of the permit limit. The mandatory minimum penalty for both of these serious violations is **three thousand dollars (\$3,000)**.
8. There are no other violations pertinent to CWC section 13385(h) that have been reported through June 2008. Therefore, the total amount of the mandatory penalty is **six thousand dollars (\$6,000)**.
9. 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 § 21000 et seq.), in accordance with California Code of Regulations, title 14, section 15321(a)(2).

**SIERRA PACIFIC INDUSTRIES, SHASTA LAKE DIVISION 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 **six thousand dollars (\$6,000)**.
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 agrees to 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 **six thousand dollars (\$6,000)**; 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.

Signed by \_\_\_\_\_  
JAMES C. PEDRI, Assistant Executive Officer

16 September 2008  
(date)

DLW/GDD: sae

**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 Sierra Pacific Industries, Shasta Lake Division (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint No. R5-2008-0573 (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 California Regional Water Quality Control Board, Central Valley Region (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 **six thousand dollars (\$6,000)** by check, which will contain a reference to "ACL Complaint No. R5 2008-0573" 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 the 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.

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(Print Name and Title)

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(Signature)

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(Date)