

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2012-0555

MANDATORY PENALTY
IN THE MATTER OF

CITY OF DUNSMUIR
WASTEWATER TREATMENT PLANT
SISKIYOU AND SHASTA COUNTIES

This Order is issued to the City of Dunsmuir (hereafter Discharger) pursuant to California Water Code 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 R5-2006-0129 (NPDES No. CA0078441).

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 City of Dunsmuir. Treated municipal wastewater is discharged seasonally to the Sacramento River, a water of the United States.
2. On 8 December 2006, the Central Valley Water Board adopted Waste Discharge Requirements Order R5-2006-0129 (NPDES No. CA0078441), for the City of Dunsmuir Wastewater Treatment Plant, to regulate the discharge of treated municipal wastewater. The Order contains effluent limits for total residual chlorine, copper, dichlorobromomethane, and zinc. The Order also requires the Discharger to install an electronic, real-time residual chlorine analyzer on the treatment plant effluent following the dechlorination process within 24 months from the adoption of the Order.
3. WDRs Order No. R5-2006-0129 Final Effluent Limitations IV.A.1.a. states, in part:
 1. Final Effluent Limitations – (16 November through 30 April)
 - 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 Point EFF-001, as described in the attached MRP (Attachment E, Section IV):

Table 6. Effluent Limitations

Parameter	Units	Effluent Limitation (16 November through 30 April)	
		Average Monthly	Maximum Daily
Copper, total recoverable	ug/L	3.69	7.4
Dichlorobromomethane DCBM	ug/L	0.56	1.13
Zinc, total recoverable	ug/L	9.96	20.0

4. WDRs Order No. R5-2006-0129 Final Effluent Limitations IV.A.1.d. and IV.A.2.d state, in part:

d. **Total Residual Chlorine:** Effluent total residual chlorine shall not exceed the following:

- i. 0.01 mg/L as a four-day average;
- ii. 0.02 mg/L as a one-hour average.

5. On 12 January 2010, the Discharger accepted a bid for construction of a Disinfection System Improvement Project, which upgraded the wastewater treatment plant's chlorination/dechlorination system, including installation of three real-time residual chlorine analyzers. Work began in the winter 2010 and upgrades to the chlorination/dechlorination system were completed on 19 August 2010. However, some process errors existed after the completion of the Project which have resulted in effluent limit violations of R5-2006-0129.

6. Water Code section 13385(h) and (i) requires the assessment of mandatory penalties and states, in part, the following:

Water Code 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.

Water Code 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.

Water Code 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.

7. Water Code section 13323(a) 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.
8. On 18 May 2011, Central Valley Water Board staff issued a Notice of Violation letter to the Discharger for effluent limitation violations for the period of 1 April 2011 through 30 April 2011.
9. On 10 June 2011, the Discharger replied, arguing that they were a publicly owned treatment works serving a small community within the definition of California Water Code 13385(k)(2). The Discharger proposed that plant upgrades to the disinfection pumping and piping system be considered as a compliance project under Water Code 13385(k)(1) and credited towards the mandatory minimum penalties.
10. On 3 August 2011, the Central Valley Water Board issued Administrative Civil Liability Complaint (ALCLC) R5-2011-0588 to the City of Dunsmuir. The Complaint alleged the Discharger incurred three effluent limit violations between 1 April 2011 through 30 April 2011 resulting in mandatory minimum penalties totaling \$9,000. On 5 September 2011 the Central Valley Water Board received a signed waiver of public hearing and a request from the Discharger to apply the civil liability towards the compliance project outlined in Finding 21 below. The complaint was publicly noticed from 3 August 2011 through 2 September 2011, with no comments received.
11. On 21 February 2012, Central Valley Water Board staff issued a Notice of Violation letter to the Discharger for effluent limitations for the period of 1 December 2011 through 31 December 2011.
12. On 6 March 2012, Central Valley Water Board staff issued a Notice of Violation letter to the Discharger for effluent limit violations for the period of 1 January 2012 through 31 January 2012.
13. On 27 April 2012, the Discharger entered into a Project Financial Agreement with the Clean Water State Revolving Fund (CWSRF) for wastewater collection and treatment improvements.
14. On 8 May 2012 the Central Valley Water Board issued ALCLC R5-2012-0535 to the City of Dunsmuir. The Complaint alleged the Discharger incurred nine effluent limit violations between 1 December 2011 and 31 January 2012 resulting in mandatory minimum penalties totaling \$27,000. On 21 May 2012 the Central Valley Water Board received a signed waiver of public hearing within 90 days and a request from the Discharger to apply the civil liability towards the compliance project outlined in Finding 21 below. The complaint was publicly noticed from 8 May 2012 through 7 June 2012, with no comments received.

15. On 17 May 2012, the Discharger accepted a bid for construction of the facility upgrades and work began in May 2012. Upgrades will include construction of a new 65-foot secondary clarifier, a second 1 MGD traveling bridge sand filter, a biological selector, a standby generator, and aerated grit tank/scum baffle. These facility upgrades are intended to correct capacity issues, as well as address copper and zinc effluent violations.
16. On 24 May 2012 work was completed on an automated butterfly valve that would redirect WWTP effluent to the settling ponds if low sulfur dioxide residual and/or high total residual chlorine are detected.
17. According to the Discharger's self-monitoring reports, the Discharger committed twelve serious violations [as defined in Water Code Section 13385(h)(2)] of the above effluent limitations contained in Order R5-2006-0129 during the period beginning April 2011 and ending June 2011 and the period beginning December 2011 and ending April 2012. All twelve of the violations are subject to mandatory penalties under Water Code Section 13385(h)(1). These violations were alleged in ACLC R5-2011-0588 and ACLC R5-2012-0535. The mandatory minimum penalty for the twelve serious violations is **thirty-six thousand dollars (\$36,000)**.
18. The total amount of the mandatory minimum penalties assessed for the cited violations is **thirty-six thousand dollars (\$36,000)**. A detailed list of the cited effluent violations is included in Attachment A, a part of this Order.
19. Water Code 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.

20. The State Water Resources Control Board has determined that the Discharger's wastewater treatment plant is a publicly owned treatment works serving a small community within the meaning of Water Code section 13385(k)(2).
21. In response to the ongoing violations at the WWTP, the Discharger proposed a Compliance Project in form of installing an automatic butterfly valve to redirect effluent to the pond system if residual chlorine is detected by the chlorine analyzer. The installation of the butterfly valve will greatly reduce the possibility of residual chlorine going to the Sacramento River. This project was completed without the use of Clean Water State Revolving Fund grants and came out of the Discharger's utility budget.
22. In addition to the Compliance Project outlined above, the Discharger is in the process of upgrading the wastewater collection system and wastewater treatment plant. The City of Dunsmuir has received funding from the Clean Water State Revolving Fund to complete these wastewater collection and treatment improvements.
23. On 21 May 2012, the Interim City Manager for the City of Dunsmuir submitted accounting records showing that the Discharger expended \$39,865.00 on the WWTP Disinfection System Improvement Project which is in excess of the mandatory minimum penalty required by Water Code sections 13385(h) and (i).
24. The Central Valley Water Board finds that the Compliance Project has been designed to correct the violations that led to the issuance of these Administrative Civil Liabilities and that the project is in accordance with the enforcement policy of the State Water Board. The Central Valley Water Board finds that the Compliance Project will correct the violations that led to the issuance of this Administrative Civil Liability Order. The Compliance Project was completed in accordance with the Enforcement Policy of the State Water Board and that the Discharger had appropriate financing to complete the project.
25. On 23 April 2009, the Central Valley Water Board delegated the authority to issue Administrative Civil Liability Orders, where the matter is not contested by the Discharger, to the Executive Officer, or to an Assistant Executive Officer when the Executive Officer is serving as head of the Board's prosecution Team (Resolution R5-2009-0027). Pamela Creedon is serving as the head of the Board's prosecution Team for this matter, and therefore Assistant Executive Officer Kenneth Landau has the authority to issue this Order.

26. 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. The 30-day public notice and comment period mandated by Federal regulations (40 CFR 123.27) has expired.
27. Issuance of this Administrative Civil Liability Order to enforce Water Code 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).

IT IS HEREBY ORDERED, pursuant to Water Code section 13385, that:

1. City of Dunsmuir, Dunsmuir Wastewater Treatment Plant, its agents, successors and assigns, shall be assessed an Administrative Civil Liability in the amount of **thirty-six thousand dollars (\$36,000)**.
2. The entire \$36,000 is treated as a Suspended Administrative Liability as the discharger has submitted proof to the Regional Board that the money spent toward the Compliance Project detailed in Findings 21, 22, & 23 was equal or greater than the Suspended Administrative Liability.

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 Water Code 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.

This Order is effective immediately upon issuance.

KENNETH D. LANDAU, Assistant Executive Officer

24 September 2012

(Date)

Attachment A: Record of Violations
DLW: lm

ATTACHMENT A
ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R5-2012-0555

DUNSMUIR WASTEWATER TREATMENT PLANT
Record of Violations (6 April 2009 to 31 January 2012)
MANDATORY MINIMUM PENALTIES
(Data reported under Monitoring and Reporting Program No. R5-2006-0129)

Violation Date	Pollutant/ Parameter	Effluent Limit	Analytical Results	Percentage Over	Violation Type	MMP Amount
4/6/2011	Total Residual Chlorine	0.02 mg/L, one-hour average	0.187 mg/L	835	Serious – Group II	\$3,000.00
4/28/2011	Total Residual Chlorine	0.02 mg/L, one-hour average	0.107 mg/L	435	Serious – Group II	\$3,000.00
6/1/2001	Total Residual Chlorine	0.02 mg/L, one-hour average	0.061 mg/L	204	Serious – Group II	\$3,000.00
12/2/2011	Dichlorobromomethane	1.13 ug/L MDEL	1.5 ug/L	32.7	Serious – Group II	\$3,000.00
12/2/2011	Zinc, total recoverable	20.0 ug/L MDEL	41.6 ug/L	108	Serious – Group II	\$3,000.00
12/31/2011	Copper, total recoverable	3.69 AMEL	5.3	43.6	Serious – Group II	\$3,000.00
12/31/2011	Dichlorobromomethane	0.56 AMEL	1.5	168	Serious – Group II	\$3,000.00
12/31/2011	Zinc, total recoverable	9.96 AMEL	41.6	317	Serious – Group II	\$3,000.00
1/12/2012	Copper, total recoverable	7.4 ug/L MDEL	12.6 ug/L	70	Serious – Group II	\$3,000.00
1/12/2012	Zinc, total recoverable	20.0 ug/L MDEL	46.0 ug/L	130	Serious – Group II	\$3,000.00
1/31/2012	Copper, total recoverable	3.69 ug/L AMEL	12.6 ug/L	241	Serious – Group II	\$3,000.00
1/31/2012	Zinc, total recoverable	9.96 ug/L AMEL	46.0 ug/L	362	Serious – Group II	\$3,000.00
Total						\$36,000

Notes:

Serious Group I: Any waste discharge that exceeds the effluent limitations for a Group I pollutant by 40% or more.

Serious Group II: Any waste discharge that exceeds the effluent limitations for a Group II pollutant by 20% or more.

Non-Serious Violations: A non-serious violation occurs if the Discharger does any one of the following four or more times in any period of 180 days:

- (a) violates a WDR effluent limitations;
- (b) fails to file a report of waste discharge pursuant to California Water Code section 13260;
- (c) files an incomplete waste discharge pursuant to California Water Code 13260; or
- (d) violates a whole effluent toxicity limitation where the WDRs do not contain pollutant-specific effluent limitations for and toxic pollutants.

AMEL: Average monthly Limitation

MDEL: Daily Maximum Effluent Limitation

N/A: Not Applicable

