

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2019-0503

MANDATORY PENALTY
IN THE MATTER OF

CITY OF MT. SHASTA
MT. SHASTA WASTEWATER TREATMENT PLANT
SISKIYOU COUNTY

WDID NO. 5A470105001

This Administrative Civil Liability Order (Order) is issued to the City of Mt. Shasta (hereafter Discharger), Mt. Shasta Wastewater Treatment Plant (hereafter Facility) pursuant to California Water Code (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 R5-2012-0086 (NPDES No. CA0078051).

The 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 the Mt. Shasta Wastewater Treatment Plant. Treated wastewater is discharged from Discharge Point D-001 to the Sacramento River, a water of the United States.
2. On 4 October 2012, the Central Valley Water Board issued WDRs Order R5-2012-0086, which contained new requirements and rescinded WDRs Order R5-2007-0056, except for enforcement purposes. WDRs Order R5-2012-0086 was effective on 23 November 2012.
3. On 7 April 2017, the Central Valley Water Board issued Time Schedule Order (TSO) R5-2012-0087-01, amending TSO R5-2012-0087, which contained a compliance time schedule to complete a Compliance Project and meet final effluent limitations in the applicable WDRs.
4. On 22 November 2016 Central Valley Water Board staff issued the Discharger a Notice of Violation and draft Record of Violations for effluent limitation violations of settleable solids that occurred between 9 March 2016 and 31 March 2016.
5. Water Code sections 13385(h) and (i) require the assessment of mandatory penalties and state, 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 provisions 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 requirements 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 California Water Code section 13260;
- c) files an incomplete report pursuant to California Water Code section 13260; or
- d) violates a toxicity effluent limitation contained in the applicable waste discharge pollutant-specific effluent limitations for toxic pollutants.

6. Water Code 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. On 5 January 2018, the Assistant Executive Officer of the Central Valley Water Board issued Administrative Civil Liability Complaint No. R5-2017-0558 (Complaint) for mandatory minimum penalties in the amount of \$6,000 for effluent limitation violations of settleable solids that occurred between 9 March 2016 and 31 March 2016. The Discharger waived its right to a hearing within 90 days in order to engage in settlement discussion and submitted the Waiver Form attached to the Complaint.

8. Water Code section 13385 subdivision (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.
9. 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 with a financial hardship within the meaning of Water Code section 13385 subdivision(k)(2).
10. On 16 January 2018, the Discharger submitted a memo that requested a compliance project be completed in lieu of paying the mandatory minimum penalties in the Complaint. The Discharger is in the process of completing the "State-Mandated Wastewater Treatment Plant" project (Project) to upgrade the Facility and specified this will serve as the compliance project to address problems related to the violations in the Complaint. TSO R5-2012-0087-01 includes a compliance time schedule to complete the Project within 5 years of the date of the assessment of the MMP.
11. On 9 January 2019, the Discharger submitted accounting records demonstrating that they had spent \$804,094.77 on engineering consulting fees to complete the final design for the Project, which includes installing new filtration processes to reduce settleable solids in the effluent. The \$804,094.77 is in excess of the mandatory minimum penalty required by water code sections 13385(h) and (i).
12. The Central Valley Water Board finds that the compliance project has been designed to correct the violations that led to the issuance of the Complaint and is in accordance with the State Water Resource Control Board's Water Quality Enforcement Policy (Enforcement Policy).
13. 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 interested parties. The 30-day public notice and comment period mandated by Federal regulations (40 CFR 123.27) has expired.
14. Issuance of this Administrative Civil Liability Order 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).

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

1. The City of Mt. Shasta, Mt. Shasta Wastewater Treatment Plant, its agents, successors and assignees, shall be assessed Administrative Civil Liability in the amount of **six thousand dollars (\$6,000)**.

2. The entire \$6,000 is treated as a permanently suspended administrative civil liability as the Discharger has submitted proof to the Central Valley Water Board that the money spent toward the compliance project was equal to 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.



Patrick Pulupa, Executive Officer

4/23/19

(Date)

Attachment A: Record of Violations

ATTACHMENT A
ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R5-2019-0503

City of Mt. Shasta
Mt. Shasta Wastewater Treatment Plant
CALCULATION OF MANDATORY MINIMUM PENALTIES

RECORD OF VIOLATION (9 March 2016 – 31 March 2016) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Program R5-2012-0086)

Violation Date	Discharge Point	Pollutant/ Parameter	Units	Effluent Limitation	Analytical/ Calculated Result	Percentage Over	Period	Violation Type	CIWQS Violation ID	MMP Amount
03/09/2016	D-001	Settleable Solids	ml/L/hr	0.2	0.8	300%	Final MDEL	Serious Group I	1015491	\$3,000
03/31/2016	D-001	Settleable Solids	ml/L/hr	0.1	0.22	120%	Final AMEL	Serious Group I	1015492	\$3,000
TOTAL:									\$6,000	

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 Violation: A non-serious violation will be subject to MMPs if the discharger does any one of the following four or more times in any period of 180 days:

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

AMEL: Final average monthly effluent limitation

MDEL: Final maximum daily effluent limitation