

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ACL COMPLAINT NO. R5-2008-0501

ADMINISTRATIVE CIVIL LIABILITY  
IN THE MATTER OF

THE CITY OF DIXON  
DIXON WASTEWATER TREATMENT FACILITY  
SOLANO COUNTY

This Administrative Civil Liability Complaint (hereafter Complaint) is issued to the City of Dixon (hereafter "Discharger") based on failure to comply with Waste Discharge Requirements (WDRs) Order No. 94-187 and Cease and Desist Order (CDO) No. R5-2005-0078. This Complaint is issued pursuant to California Water Code (CWC) Section 13350, which authorizes the imposition of administrative civil liability.

The Executive Officer of the Central Valley Regional Water Quality Control Board (Regional Water Board) finds, with respect to the Discharger's acts, or failure to act, the following:

1. Waste Discharge Requirements Order No. 94-187, which was adopted by the Regional Water Board on 24 June 1994, prescribes requirements for the City of Dixon wastewater treatment facility (WWTF).
2. The WWTF serves the City of Dixon, which currently has approximately 7,200 equivalent dwelling units (EDUs). The WWTF comprises a headworks, thirteen unlined wastewater treatment/storage ponds covering approximately 140 acres (two of which are aerated), eight percolation/evaporation ponds on 160 acres, and 120 acres of additional flood irrigation disposal areas. The wastewater receives secondary treatment and the Discharger relies solely on percolation and evaporation to dispose of all wastewater.
3. The WWTF's treatment and disposal capacity is 1.82 million gallons per day (mgd) as an average daily dry weather flow and 880 million gallons as a total annual influent flow.

**BACKGROUND**

4. WDRs Order No. 94-187 limits influent flows to 1.2 mgd as an average daily dry weather flow, prohibits the discharge of waste to surface waters, and imposes limits on the degree of groundwater degradation that the discharge may cause.
5. On 3 May 1996, the Regional Board adopted CDO No. 96-152, which required that the Discharger construct capacity improvements and address a major sewer inflow and infiltration (I/I) problem that caused exceedance of the influent flow limits of the WDR and two major spills of undisinfected wastewater to surface waters in 1995 and 1996. Among other related items, CDO No. 96-152 required that the Discharger address the capacity problem as follows:
  - a. Evaluate infiltration/inflow by 1 October 1996.
  - b. Expand the facility to accommodate 1.35 mgd average daily dry weather flow and I/I flows by 1 December 1996.

- c. Expand to 1.5 mgd average daily dry weather flow by 1 January 1998.
  - d. Provide a plan and schedule for future expansions to provide capacity for build out to 7.5 mgd by 1 January 1998.
6. The Phase 1 expansion was completed on time. However, the 1996 average daily dry weather flow exceeded the new capacity and staff determined that the proposed Phase 2 project would not provide adequate wastewater storage and disposal capacity to comply with CDO No. 96-152. Additionally, the Discharger's groundwater monitoring data indicated that the facility had degraded groundwater quality beyond limits imposed by WDRs Order No. 94-187.
7. On 19 September 1997, the Regional Board rescinded CDO No. 96-152 and adopted CDO No. 97-193, which required that the Discharger:
  - a. Evaluate groundwater degradation and comply with the Groundwater Limitations of the WDRs Order No. 94-187 by 15 July 1998.
  - b. Submit an evaluation of current and projected dry weather influent flows by 15 July 1998.
  - c. Expand the WWTF to accommodate existing flows and at least five years of projected growth by 1 December 2001.
  - d. Eliminate the migration of pollutants to groundwater by 1 December 2001 (if needed based on the groundwater quality evaluation).
8. The Discharger did not fully comply with CDO No. 97-173 as follows:
  - a. The Discharger's evaluation of groundwater quality concluded that the WWTF had degraded groundwater with salinity constituents, but the report did not contain a complete evaluation of the nature and extent of the degradation, as required by the CDO.
  - b. The Discharger did not take any actions that resulted in measurable improvements in effluent or groundwater quality, as required by the CDO.
9. On 24 June 2005, the Regional Water Board rescinded CDO No. 97-193, and adopted CDO No. R5-2005-0078, which requires that the Discharger expand the facility as needed to provide adequate treatment, storage and disposal capacity through 2014 and construct various improvements needed to ensure compliance with the influent flow and groundwater limitations. The CDO included the following specific tasks and compliance dates:

<u>Item</u>	<u>Date Due</u>	<u>Requirement</u>
1	24 June 2005	Comply with new influent flow limit of 1.82 mgd.
2	N/A	Allows the Executive Officer to approve an increase in the flow limit to 2.0 mgd under certain conditions.

<u>Item</u>	<u>Date Due</u>	<u>Requirement</u>
3	30 October 2009	Full compliance with Groundwater Limitations.
4	1 September 2005	Submit a Hydrogeologic Investigation Workplan for evaluation of new effluent disposal areas.
5	30 December 2005	Submit a Wastewater Facilities and Financing Plan for two phases of WWTF improvements.
6	30 March 2006	Submit a Background Groundwater Quality Report.
7	30 June 2006	Submit a Phase 1 90% Design Report.
8	30 December 2006	Award contract for Phase 1.
9	30 April 2007	Submit the Hydrogeologic Investigation and Disposal Site Evaluation Report.
10	30 June 2007	Purchase or lease sufficient land to accommodate all projected effluent disposal needs for Phase 2.
11	30 October 2007	Complete Phase 1 improvements (new trunk connection, treatment improvements and pond liners).
12	30 October 2007	Complete Phase 1 improvements (storage and disposal capacity).
13	30 December 2007	Submit a Report of Waste Discharge with a 90% Design Report for Phase 2 improvements.
14	30 June 2008	Award contract for Phase 2 improvements project.
15	1 August 2008	Begin Phase 2 construction.
16	30 October 2009	Complete Phase 2 construction.
17	Quarterly	Submit a CDO compliance progress report.

The Discharger has failed to comply with the CDO and continues to discharge waste in violation of the WDRs, as discussed below.

#### **VIOLATIONS OF CEASE AND DESIST ORDER NO. R5-2005-0078**

10. As of 31 December 2007, the Discharger has satisfactorily complied with the requirements of Items 1, 4, 6, and 17 of CDO No. R5-2005-0078. Completion of Items 3, 14, 15, and 16 is not required until later. Item 2 has not yet been triggered. The Discharger has not complied with Items 5, 7, 8, 9, 10, 11, 12, and 13, as discussed below.
11. Item 5 of CDO No. R5-2005-0078 requires that the Discharger submit a Wastewater Facilities and Financing Plan for Phase 1 and 2 improvements by 30 December 2005.

The report was submitted on time, but was inadequate because it did not include a description of specific capital improvements for Phases 1 and 2, a preliminary capital cost estimate, and a financing plan showing how the improvement project(s) will be funded. On 8 February 2006, staff notified the Discharger of the specific deficiencies and informed the Discharger that it had incurred, and would continue to incur, civil liability for this inadequate report unless all future reports submitted to comply with the CDO were submitted complete and on time. A Notice of Violation (NOV) issued on 31 May 2007 also notified the Discharger of this violation. As of 31 December 2007, the Discharger has not submitted a revision or addendum to the *Wastewater Facilities and Financing Plan* that addresses the deficiencies. Therefore, the report has been inadequate for a total of 731 days.

12. Item 7 of CDO No. R5-2005-0078 requires that the Discharger submit a *Phase 1 90% Design Report*, including plans, specifications, and a *Construction Quality Assurance Plan* for all Phase 1 improvements by 30 June 2006. The Discharger has not submitted this report. The 31 May 2007 NOV notified the Discharger of this violation. As of 31 December 2007, the required report is 549 days past due.
13. Item 8 of CDO No. R5-2005-0078 requires that the Discharger certify award of a construction contract for the Phase 1 project by 30 December 2006. As of 31 December 2007, the Discharger has not submitted the required report, and it is therefore 366 days past due.
14. Item 9 of CDO No. R5-2005-0078 requires that the Discharger submit the Hydrogeologic Investigation and Disposal Site Evaluation Report by 30 April 2007. As of 31 December 2007, the Discharger has not submitted the required report, and it is therefore 245 days past due.
15. Item 10 of CDO No. R5-2005-0078 requires that the Discharger shall submit a *Phase 2 Pre-Design Report* certifying that it has purchased or leased sufficient land to accommodate all projected effluent disposal needs through 2014 by 30 June 2007. As of 31 December 2007, the Discharger has not submitted the required report, and it is therefore 184 days past due.
16. Item 11 of CDO No. R5-2005-0078 requires that the Discharger shall submit a *Headworks and Phase 1 Improvements Project Completion Report* certifying completion of the headworks improvements project, which shall include connecting the new 42-inch trunk sewer to the WWTF, and installing additional aerators, and/or other improvements to increase the treatment capacity to at least 2.0 mgd and provide pond liners by 30 October 2007. As of 31 December 2007, the Discharger has neither completed the work nor submitted the required report, and it is therefore 62 days past due.
17. Item 12 of CDO No. R5-2005-0078 requires that the Discharger shall submit a *Phase 1 Completion Report* certifying completion of all improvements required to comply with the flow limitations of the CDO by 30 October 2007. As of 31 December 2007, the

Discharger has neither completed the work nor submitted the required report, and it is therefore 62 days past due.

18. Item 13 of CDO No. R5-2005-0078 requires that the Discharger shall submit a *Report of Waste Discharge (RWD)* to allow staff to prepare updated Waste Discharge Requirements for the WWTF, including a *Phase 2 90% Design Report* by 30 December 2007. As of 31 December 2007, the Discharger has not submitted the required report, and it is one day past due.
19. In summary, the Discharger has incurred 2,200 aggregate days in violation of CDO No. R5-2005-0078 as indicated in the following table.

<u>Required Item</u>	<u>Days of Violation</u>	<u>Violation Type</u>
Wastewater Facilities and Financing Plan	731	Report deficient
Phase 1 90% Design Report	549	Report incomplete
Certification of Phase I Contract Award	366	Report not submitted
Hydrogeological Investigation and Disposal Site Evaluation Report	245	Report not submitted
Phase 2 Pre-Design Report	184	Report not submitted
Headworks and Phase I Completion Report	62	Report not submitted
Phase 1 Completion Report	62	Report not submitted
Report of Waste Discharge	1	Report not submitted
<b>Total Violations</b>	<b>2,200</b>	

### REGULATORY CONSIDERATIONS

20. As described in the above Findings, the Discharger has violated Waste Discharge Requirements Order No. 94-187, and Cease and Desist Order No. R5-2005-0078 by not improving the WWTF as required to ensure adequate treatment, storage, and disposal capacity and to protect groundwater from further degradation by the discharge, and by failing to submit reports required by these orders.
21. The Regional Water Board may assess administrative civil liability based on CWC Section 13350 for violations of the CDO.
22. CWC Section 13350(e) states:  
*"The state board or a regional board may impose civil liability administratively pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 either on a daily basis or on a per gallon basis, but not both."*

23. CWC Section 13350(e)(1) states:  
*“The civil liability on a daily basis may not exceed five thousand dollars (\$5,000) for each day the violation occurs.”*
24. CWC Section 13350(e)(1)(B) states:  
*“When there is no discharge, but an order issued by the regional board is violated, except as provided in subdivision (f), the civil liability shall be not less than one hundred dollars (\$100) for each day in which the violation occurs.”*
25. CWC Section 13350(f) states:  
*“A regional board may not administratively impose civil liability in accordance with paragraph (1) of subdivision (e) in an amount less than the minimum amount specified, unless the regional board makes express findings setting forth the reasons for its actions based upon the specific factors required to be considered pursuant to Section 13327.”*
26. CWC Section 13327 states:  
*“In determining the amount of civil liability, the regional board...shall take into consideration the nature, circumstances, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violations, and other matters as justice may require.”*
27. For the violations of the CDO cited above, the maximum administrative civil liability that can be imposed by the Regional Water Board under CWC Section 13350 is \$5,000 per day. The minimum civil liability under CWC Section 13350 is \$100 per day. As stated in the Findings, the Discharger violated the CDO for an aggregate total of 2,200 days. Therefore, the maximum administrative civil liability is \$11,000,000 (2,200 days times \$5,000 per day). The minimum administrative civil liability is \$220,000 (2,200 days times \$100 per day).
28. Issuance of this Complaint is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et. seq.), in accordance with Section 15321 (a)(2), Title 14, of the California Code of Regulations.

**THE CITY OF DIXON IS HEREBY GIVEN NOTICE THAT:**

1. The Executive Officer of the Regional Water Board proposes that the Discharger be assessed an administrative civil liability in the amount of \$220,000 (two hundred and twenty thousand dollars), payable to the *Waste Discharge Permit Fund*. The amount of the liability proposed is based upon a review of the factors set forth in CWC Section 13350, and includes consideration of the economic benefit or savings resulting from the violations.

2. A hearing shall be held on **24/25 April 2008** unless the Discharger agrees to waive the hearing and pay the proposed civil liability in full.
3. If a hearing is held, the Regional 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.
4. In lieu of a hearing, the Discharger may waive the right to a hearing. If you wish to waive the right to a hearing, sign the enclosed waiver and return it with payment as provided in Paragraph 1, above, to the Regional Water Board's office at 11020 Sun Center Drive, Suite #200, Rancho Cordova, CA 95670, by **25 February 2008**.

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PAMELA C. CREEDON, Executive Officer

ALO:1/28/08

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(Date)

**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 City of Dixon (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint No. R5-2008-0501 (hereinafter the "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, within ninety (90) days of the date of issuance of the Complaint; and
4. I certify that the Discharger will remit payment for the civil liability imposed in the amount of two hundred and twenty thousand dollars (\$220,000) by check payable to the *Waste Discharge Permit Fund*. The check will contain a reference to "ACL Complaint No. R5-2008-0501".
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.
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.

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(Name)

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(Title)

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(Date)