

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2009-0513

MANDATORY PENALTY
IN THE MATTER OF

UNIVERSITY OF CALIFORNIA
DAVIS CAMPUS WASTEWATER TREATMENT PLANT
SOLANO AND YOLO COUNTIES

This Complaint is issued to the University of California, Davis (hereafter Discharger) pursuant to California Water Code (CWC) section 13385, which authorizes the imposition of Administrative Civil Liability, and CWC section 13323, which authorizes the Executive Officer to issue this Complaint. This Complaint is based on findings that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Order R5-2003-0003 (NPDES No. CA0077895).

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 University of California's Davis Campus. Treated municipal wastewater is discharged to South Fork Putah Creek, a water of the United States.
2. On 30 January 2003, the Central Valley Water Board issued WDRs Order R5-2003-0003 to regulate discharges of waste from the wastewater treatment plant (WWTP).
3. On 22 September 2008, the Assistant Executive Officer of the Central Valley Water Board issued Administrative Civil Liability Complaint R5-2008-0577 for mandatory minimum penalties for effluent violations from 1 January 2001 through 31 March 2008. The Discharger has paid the penalty and the Central Valley Water Board considers this matter settled.
4. On 19 February 2009, the Central Valley Water Board sent the Discharger a draft Record of Violations (ROV). The Discharger responded by telephone on 24 February 2009. The Discharger found no errors in the ROV.
5. CWC section 13385(i) requires assessment of mandatory penalties and states, in part:

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 R5-2003-0003 Effluent Limitations No. B.1, include, in part, the following effluent limitations: *“Effluent discharge to South Fork Putah Creek...and North Fork Putah Creek...shall not exceed the following limits:”*

<u>Constituents</u>	<u>Units</u>	<u>Monthly Average</u>	<u>4-day Average</u>	<u>Daily Maximum</u>	<u>1-hour Average</u>
Electrical Conductivity	µmhos/cm	900	--	2200	--

- 8. According to the Discharger’s self-monitoring reports, the Discharger committed nine (9) non-serious violations of the above effluent limitations contained in Order R5-2003-0003 during the period beginning 1 April 2008 and ending 31 December 2008. All nine (9) of the non-serious violations are subject to mandatory penalties under CWC section 13385(i)(1) because these violations were preceded by three or more similar violations within a six-month period. The mandatory minimum penalty for these non-serious violations is **twenty-seven thousand dollars (\$27,000)**.
- 9. The total amount of the mandatory penalties assessed for the cited effluent violations is **twenty-seven thousand dollars (\$27,000)**. A detailed list of the cited effluent violations is included in Attachment A, a part of this Complaint.
- 10. 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 UNIVERSITY OF CALIFORNIA DAVIS CAMPUS WASTEWATER TREATMENT PLANT IS HEREBY GIVEN NOTICE THAT:

- 1. The Executive Officer of the Central Valley Water Board proposes that the Discharger be assessed an Administrative Civil Liability in the amount of **twenty-seven thousand dollars (\$27,000)**.

2. A hearing on this matter will be held at the Central Valley Water Board meeting scheduled on **11/12 June 2009**, unless the Discharger does either of the following by **15 April 2009**:
 - 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 **twenty-seven thousand dollars (\$27,000)**; 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.

PAMELA C. CREEDON, Executive Officer

16 March 2009

**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 University of California, Davis Campus Wastewater Treatment Plant (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint R5-2009-0513 (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 civil liability imposed in the amount of **twenty-seven thousand dollars (\$27,000)** by check, which contains a reference to "ACL Complaint R5-2009-0513" and is made payable to the "*State Water Pollution Cleanup and Abatement Account.*" Payment must be received by the Central Valley Water Board by **15 April 2009** or this matter will be placed on the Central Valley Water Board's agenda for adoption as initially proposed in the Complaint.
 - 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 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.

(Print Name and Title)

(Signature)

(Date)

**ATTACHMENT A
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2009-0513**

**University of California—Davis
Campus Main Wastewater Treatment Plant**

RECORD OF VIOLATIONS (1 April 2008 – 31 December 2008) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Program R5-2003-0003)

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measure</u> <u>d</u>	<u>Period Type</u>	<u>CIWQS</u>	<u>Remarks</u>
1	30-Apr-08	EC	µmhos/cm	900	1140	Monthly Avg	799433	4
2	31-May-08	EC	µmhos/cm	900	1117	Monthly Avg	799219	4
3	30-Jun-08	EC	µmhos/cm	900	1142	Monthly Avg	806086	4
4	31-Jul-08	EC	µmhos/cm	900	1074	Monthly Avg	806087	4
5	31-Aug-08	EC	µmhos/cm	900	1013	Monthly Avg	806088	4
6	30-Sep-08	EC	µmhos/cm	900	1029	Monthly Avg	806089	4
7	31-Oct-08	EC	µmhos/cm	900	1063	Monthly Avg	806090	4
8	30-Nov-08	EC	µmhos/cm	900	1051	Monthly Avg	806091	4
9	31-Dec-08	EC	µmhos/cm	900	1119	Monthly Avg	806092	4

Remarks:

1. Serious Violation: For Group I pollutants that exceed the effluent limitation by 40 percent or more.
2. Serious Violation: For Group II 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.

<u>VIOLATIONS AS OF:</u>	<u>12/31/2008</u>
Group I Serious Violations:	0
Group II Serious Violations:	0
Non-Serious Exempt from MPs:	0
Non-serious Violations Subject to MPs:	9
<u>Total Violations Subject to MPs:</u>	<u>9</u>

Mandatory Minimum Penalty = (0 Serious Violations + 9 Non-Serious Violations) x \$3,000 = \$27,000