

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2008-0512

MANDATORY PENALTY  
IN THE MATTER OF

CITY OF TURLOCK WATER QUALITY CONTROL FACILITY  
STANISLAUS COUNTY

This complaint is issued to the City of Turlock (hereafter Discharger) pursuant to California Water Code (CWC) section 13385, which authorizes the imposition of Administrative Civil Liability, 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 Nos. 95-059 and 5-01-122 (NPDES No. CA0078948).

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

1. The Discharger owns and operates the City of Turlock Water Quality Control Facility (WQCF), which provides sewerage service to the City of Turlock in Stanislaus County. Treated domestic, commercial and industrial wastewater is discharged to Harding Drain downstream of the Turlock Irrigation District Lateral No. 5 Drain, tributary to the San Joaquin River, a water of the United States.
2. On 24 March 1995, the Regional Water Board adopted WDRs Order No. 95-059 to regulate discharges of waste from the WQCF. On 11 May 2001, the Regional Water Board adopted WDRs Order No. 5-01-122, which contained new regulations and rescinded Order No. 95-059. The WDRs include effluent limitations and other requirements regarding the wastewater discharges.
3. On 11 May 2001, the Regional Water Board adopted Cease and Desist Order (CDO) No. 5-01-123 requiring the City to comply with effluent limitations for aluminum and molybdenum by 1 May 2006.
4. On 3 October 2002, the State Water Resources Control Board adopted Order No. WQO 2002-0016 remanding Order Nos. 5-01-122 and 5-01-123 to the Regional Water Board. The Order also stayed the following provisions of Order No. 5-01-122: (a) final Effluent Limitations for aluminum, copper, cyanide, zinc, bromodichloromethane, molybdenum, tributyltin, iron, ammonia, and manganese in Effluent Limitations B.1.; (b) the effective date of final Effluent Limitations for copper, cyanide, zinc, and bromodichloromethane; and (c) the compliance schedule for copper and zinc. The Order also stayed the compliance schedule for aluminum and molybdenum set forth in CDO No. 5-01-123. The constituents of concern listed in this paragraph are not the subject of this Administrative Civil Liability Complaint.

5. 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.”*

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 No. 95-059 Effluent Limitations No. B.1. include, in part, the following effluent limitations:

<u>Constituent</u>	<u>Unit</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Monthly Median</u>	<u>Daily Maximum</u>
Total Suspended Solids	mg/L	30 <sup>2</sup>	45 <sup>2</sup>		90 <sup>2</sup>
Total Coliform Organisms	MPN/100mL			23	500

<sup>2</sup> To be ascertained by 24-hour composite.

8. WDRs Order No. 95-059 Effluent Limitations No. B.3. requires that *“The discharge shall not have a pH less than 6.5 nor greater than 8.5.”*

9. WDRs Order No. 5-01-122 Effluent Limitations No. B.1. include, in part, the following effluent limitations:

<u>Constituent</u>	<u>Unit</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Monthly Median</u>	<u>Daily Maximum</u>
Total Suspended Solids <sup>2</sup>	mg/L	10 <sup>3</sup>	15 <sup>3</sup>		20 <sup>3</sup>
Settleable Solids	mL/L	0.1			0.2
Total Coliform Organisms <sup>2</sup>	MPN/100mL			23	500
Turbidity <sup>2</sup>	NTU	2 <sup>4</sup>			5 <sup>4</sup>
Chlorine	mg/L	0.01			0.02

<sup>2</sup> Limits effective 1 May 2006

<sup>3</sup> To be ascertained by flow proportional 24-hour composite sample

<sup>4</sup> The daily maximum of 5 NTU must not be exceeded 5% of the time or 10 NTU at any time within a 24-hour period. The daily average must not exceed 2 NTU.

10. WDRs Order No. 5-01-122 Effluent Limitations No. B.2. include, in part, the following effluent limitations: *“Interim total coliform organism, BOD, TSS...effluent limits will be in effect through 1 May 2006. The interim effluent limits are as follows:*

<u>Constituent</u>	<u>Unit</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Daily Maximum</u>
Total Suspended Solids	mg/L	30 <sup>2</sup>	45 <sup>2</sup>	90 <sup>2</sup>
Total Coliform Organisms	MPN/100mL	23 <sup>4</sup>		500

<sup>2</sup> To be ascertained by 24-hour composite samples.

<sup>4</sup> Monthly median value.

11. WDRs Order No. 5-01-122 Effluent Limitations No. B.8. requires that *“The discharge shall not have a pH less than 6.5 nor greater than 8.5.”*
12. According to the Discharger’s self-monitoring reports, the Discharger committed thirty (30) serious Group I violations of the above effluent limitations contained in Order Nos. 95-059 and 5-01-122 during the period beginning 1 January 2000 and ending 31 December 2007. The violations are defined as serious because measured constituents exceeded maximum prescribed levels by more than 40 percent on these occasions. The mandatory minimum penalty for these serious violations is **ninety thousand dollars (\$90,000)**.
13. According to the Discharger’s self-monitoring reports, the Discharger committed four (4) serious violations of the above effluent limitations for Group II constituents contained in Order Nos. 95-059 and 5-01-122 during the period beginning 1 January 2000 and ending 31 December 2007. The violations are defined as serious because measured concentrations of Group II constituents exceeded maximum prescribed levels by more than 20 percent on these occasions. The mandatory minimum penalty for these serious violations is **twelve thousand dollars (\$12,000)**.

14. According to the Discharger's self-monitoring reports, the Discharger committed fifty-two (52) non-serious violations of the above effluent limitations contained in Order Nos. 95-059 and 5-01-122 during the period beginning 1 January 2000 and ending 31 December 2007. Thirty-eight (38) 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 **one hundred fourteen thousand dollars (\$114,000)**.
15. The total amount of the mandatory penalties assessed for the cited effluent violations is **two hundred sixteen thousand dollars (\$216,000)**. A detailed list of the cited effluent violations is included in Attachment A, a part of this Order.
16. 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 CITY OF TURLOCK IS HEREBY GIVEN NOTICE THAT:**

1. The Assistant Executive Officer of the Regional Water Board proposes that the Discharger be assessed an Administrative Civil Liability in the amount of **two hundred sixteen thousand dollars (\$216,000)**.
2. A hearing on this matter will be held at the Regional Water Board meeting scheduled on **12/13 June 2008**, unless the Discharger agrees to complete the following by **17 April 2008**:
  - a) Waive the hearing by completing the attached form and returning it to the Regional Water Board; and
  - b) Pay the proposed civil liability of **two hundred sixteen thousand dollars (\$216,000)** in full.
3. If a hearing on this matter 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.

---

JACK E. DEL CONTE, Assistant Executive Officer

18 March 2008

---

**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 Turlock (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint No. R5-2008-0512 (hereinafter the "Complaint");
2. I am informed of the right provided by California Water Code section 13323, subdivision (b), to a hearing within ninety (90) days of service 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 service of the Complaint; and
4. I certify that the Discharger will remit payment for the civil liability imposed in the amount of **two hundred sixteen thousand dollars (\$216,000)** by check, which contains a reference to "ACL Complaint No. R5-2008-0512" and is made payable to the "*State Water Pollution Cleanup and Abatement Account*."
5. 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 Regional Board receive new information during this comment period, the Regional Board may withdraw the complaint, return payment, and issue a new complaint.
6. 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.

---

(Print Name and Title)

---

(Signature)

---

(Date)

**ATTACHMENT A  
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2008-0512**

**Turlock, City of  
Water Quality Control Facility**

RECORD OF VIOLATIONS (1 January 2000 – 31 December 2007) MANDATORY PENALTIES  
(Data reported under Monitoring and Reporting Program Nos. 95-059 and 5-01-122)

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measured</u>	<u>Period Type</u>	<u>Flow Rate*</u>	<u>Remarks</u>
1	1-Feb-00	TSS	mg/L	90	120	Daily		3
2	2-Feb-00	Coliform	MPN/100mL	500	1600	Daily		3
3	17-May-01	Coliform	MPN/100mL	500	1600	Daily		3
4	19-Sep-01	Coliform	MPN/100mL	500	900	Daily		3
5	19-Apr-02	Coliform	MPN/100mL	500	1600	Daily		3
6	3-May-02	pH	pH units	6.5	6.4	Instant.		3
7	5-Jul-02	pH	pH units	6.5	6.4	Instant.		3
8	1-Oct-02	Settleable Solids	mL/L	0.2	1	Daily		1
9	6-Oct-02	Settleable Solids	mL/L	0.2	0.3	Daily		1
10	6-Oct-02	TSS	mg/L	90	106	Daily		4
11	7-Oct-02	Settleable Solids	mL/L	0.2	4	Daily		1
12	7-Oct-02	TSS	mg/L	90	100	Daily		4
13	16-Oct-02	Chlorine Residual	lbs/day	3.34	86.7	Daily	10.4	2
14	16-Oct-02	Chlorine Residual	mg/L	0.02	1	Daily		2
15	21-Oct-02	Settleable Solids	mL/L	0.2	0.5	Daily		1
16	8-Nov-02	Settleable Solids	mL/L	0.2	0.5	Daily		1
17	9-Nov-02	Settleable Solids	mL/L	0.2	0.3	Daily		1
18	10-Nov-02	Settleable Solids	mL/L	0.2	0.4	Daily		1
19	16-Nov-02	Settleable Solids	mL/L	0.2	0.3	Daily		1
20	18-Nov-02	Settleable Solids	mL/L	0.2	0.5	Daily		1
21	19-Nov-02	Settleable Solids	mL/L	0.2	0.5	Daily		1
22	29-Nov-02	Settleable Solids	mL/L	0.2	0.4	Daily		1
23	30-Nov-02	Settleable Solids	mL/L	0.1	0.2	Monthly		1
24	30-Nov-02	Settleable Solids	mL/L	0.2	0.5	Daily		1
25	24-Jun-03	Coliform	MPN/100mL	500	1600	Daily		3
26	21-Jul-03	Coliform	MPN/100mL	500	900	Daily		3
27	7-Feb-04	Settleable Solids	mg/L	0.2	1	Daily		1
28	26-Mar-04	pH	pH units	8.5	8.7	Instant.		3
29	4-Jun-04	Settleable Solids	mL/L	0.2	0.5	Daily		1
30	5-Jun-04	Settleable Solids	mL/L	0.2	0.4	Daily		1
31	15-Jun-04	Coliform	MPN/100mL	500	1600	Daily		4
32	27-Jun-04	Coliform	MPN/100mL	500	1600	Daily		4
33	1-Jul-04	Coliform	MPN/100mL	500	1600	Daily		4
34	24-Jul-04	Settleable Solids	mL/L	0.2	0.3	Daily		1
35	29-Aug-04	Coliform	MPN/100mL	500	1600	Daily		4
36	13-Sep-04	Coliform	MPN/100mL	500	900	Daily		4
37	5-Oct-04	Settleable Solids	mL/L	0.2	0.3	Daily		1
38	6-Oct-04	Settleable Solids	mL/L	0.2	0.4	Daily		1

ATTACHMENT A  
 ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2008-0512  
 CITY OF TURLOCK WATER QUALITY CONTROL FACILITY

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measured</u>	<u>Period Type</u>	<u>Flow Rate*</u>	<u>Remarks</u>
39	7-Oct-04	Settleable Solids	mL/L	0.2	0.3	Daily		1
40	7-Jan-05	Coliform	MPN/100mL	500	900	Daily		4
41	10-Aug-05	Coliform	MPN/100mL	500	1600	Daily		3
42	6-Feb-06	pH	pH units	6.5	6.4	Instant.		3
43	7-Feb-06	pH	pH units	6.5	6.4	Instant.		3
44	11-Mar-06	pH	pH units	6.5	6.4	Instant.		3
45	12-Mar-06	pH	pH units	6.5	6.4	Instant.		4
46	4-May-06	DO	mg/L	7.5	6.9	Daily		4
47	15-May-06	DO	mg/L	7.5	6.6	Daily		4
48	17-May-06	DO	mg/L	7.5	6.9	Daily		4
49	1-Jul-06	Turbidity	NTU	2	3.6	Monthly Avg		1
50	29-Jul-06	Turbidity	NTU	5	10	Daily Avg		1
51	30-Jul-06	Turbidity	NTU	5	9.1	Daily Avg		1
52	31-Jul-06	Turbidity	NTU	5	7.1	Daily Avg		1
53	1-Aug-06	Turbidity	NTU	2	2.7	Monthly Avg		4
54	1-Sep-06	Turbidity	NTU	2	2.9	Monthly Avg		1
55	25-Sep-06	Turbidity	NTU	5	5.9	Daily Avg		4
56	12-Dec-06	Turbidity	NTU	2	2.5	Daily Avg		4
57	27-Dec-06	Turbidity	NTU	2	2.6	Daily Avg		4
58	28-Dec-06	Turbidity	NTU	2	3.7	Daily Avg		1
59	29-Dec-06	Turbidity	NTU	2	3.2	Daily Avg		1
60	30-Dec-06	Turbidity	NTU	2	2.6	Daily Avg		4
61	31-Dec-06	Turbidity	NTU	2	2.9	Daily Avg		1
62	23-Feb-07	Turbidity	NTU	2	2.7	Daily Avg		4
63	6-Mar-07	Turbidity	NTU	2	2.4	Daily Avg		4
64	7-Mar-07	Turbidity	NTU	2	2.9	Daily Avg		4
65	8-Mar-07	Turbidity	NTU	2	2.8	Daily Avg		4
66	9-Mar-07	Turbidity	NTU	2	2.3	Daily Avg		4
67	10-Mar-07	Turbidity	NTU	2	2.2	Daily Avg		4
68	13-Mar-07	Turbidity	NTU	2	3.2	Daily Avg		1
69	14-Mar-07	Turbidity	NTU	2	2.6	Daily Avg		4
70	15-Mar-07	Turbidity	NTU	2	2.5	Daily Avg		4
71	16-Mar-07	Turbidity	NTU	2	2.3	Daily Avg		4
72	18-Mar-07	Turbidity	NTU	2	2.1	Daily Avg		4
73	19-Mar-07	Turbidity	NTU	2	2.1	Daily Avg		4
74	20-Mar-07	Turbidity	NTU	2	2.4	Daily Avg		4
75	21-Mar-07	Turbidity	NTU	2	2.5	Daily Avg		4
76	22-Mar-07	Turbidity	NTU	2	3.2	Daily Avg		1
77	23-Mar-07	Turbidity	NTU	2	2.3	Daily Avg		4
78	24-Mar-07	Turbidity	NTU	2	2.5	Daily Avg		4

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measured</u>	<u>Period Type</u>	<u>Flow Rate*</u>	<u>Remarks</u>
79	27-Mar-07	Turbidity	NTU	2	2.6	Daily Avg		4
80	28-Mar-07	Turbidity	NTU	2	2.8	Daily Avg		4
81	29-Mar-07	Turbidity	NTU	2	2.2	Daily Avg		4
82	30-Mar-07	Turbidity	NTU	2	2.3	Daily Avg		4
83	31-Mar-07	Turbidity	NTU	2	2.1	Daily Avg		4
84	31-Mar-07	Turbidity	NTU	2	2.7	Monthly Avg		4
85	6-Aug-07	Chlorine Residual	mg/L	0.02	0.32	Daily Max		2
86	12-Oct-07	Chlorine Residual	mg/L	0.02	0.42	Daily Max		2

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.
5. Mass rate limitation exceedances due only to wet weather not assessed MMPs pursuant to State Water Board Order WQO 2004-0013.

<b><u>VIOLATIONS AS OF:</u></b>	<b><u>12/31/2007</u></b>
Group I Serious Violations:	30
Group II Serious Violations:	4
Non-Serious Exempt from MPs:	14
Non-serious Violations Subject to MPs:	38
<b><u>Total Violations Subject to MPs:</u></b>	<b><u>72</u></b>

**Mandatory Minimum Penalty = (34 Serious Violations + 38 Non-Serious Violations) x \$3,000 = \$216,000**

\* Arithmetic mean of all 1-day flow rates (in MGD) while discharging to surface waters during limitation period. Values greater than the design dry weather flow rate (20 MGD) are considered wet weather for purposes of applying SWRCB Order WQO 2004-0013.