

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2015-0538

ADMINISTRATIVE CIVIL LIABILITY
AND MANDATORY PENALTY
IN THE MATTER OF

DONNER SUMMIT PUBLIC UTILITY DISTRICT
WASTEWATER TREATMENT PLANT
NEVADA COUNTY

This Order is issued to the Donner Summit Public Utility District (hereafter Discharger) pursuant to California Water Code (Water Code) section 13385, which authorizes the imposition of Administrative Civil Liability, and Water Code section 13323, which authorizes the Executive Officer to issue this Order. This Administrative Civil Liability Order (Order or Complaint) is based on findings that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Order R5-2009-0034 (NPDES CA0081621).

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

1. The Discharger owns and operates the Donner Summit Public Utility District Wastewater Treatment Plant (Facility), which is a wastewater collection, treatment, and disposal system that provides sewerage service to the Norden and Soda Springs areas, the Sugar Bowl and Soda Springs Ski Resorts, the Serene Lakes Subdivision, and the Sierra Lakes County Water District. During the months of October through July annually, treated wastewater is discharged to the South Yuba River, a water of the United States.
2. On 24 April 2009, the Central Valley Water Board issued WDRs Order R5-2009-0034, effective 13 June 2009, and Cease and Desist Order (CDO) R5-2009-0035, effective 24 April 2009.
3. On 28 March 2014, the Central Valley Water Board issued CDO R5-2014-0044, which rescinded and replaced R5-2009-0034. CDO R5-2014-0044 updated interim effluent limitations, extended time schedules, and provided Mandatory Minimum Penalty (MMP) protection for aluminum, ammonia, copper, cyanide, dichlorobromomethane, manganese, nitrate, silver, and zinc. This Order considers the exemption from MMPs provided by CDO R5-2014-0044.
4. On 6 November 2014, the Assistant Executive Officer issued Administrative Civil Liability Order (ACLO) R5-2014-0577 for MMPs in the amount of \$9,000 for effluent limitation violations that occurred between 1 March 2012 and 30 June 2014. The penalties were satisfied by the completion of a compliance project. The Board considers those effluent violations specifically listed in Attachment A to ACLO R5-2014-0577 to be resolved.

5. This Order addresses administrative civil liability for effluent violations that occurred during the period from 1 July 2014 through 30 April 2015. These violations are specifically identified in Attachment A to this Complaint as subject to mandatory minimum penalties. Attachment A to this Complaint is attached hereto and incorporated herein by this reference.
6. On 12 June 2015, Central Valley Water Board staff issued the Discharger a Notice of Violation and draft Record of Violations for effluent limitation violations from 1 July 2014 through 30 April 2015. On 10 July 2015, the Discharger responded and agreed that the violation occurred. The Discharger requested that the Board allow the penalties be applied towards a compliance project.
7. Water Code section 13385(h) and (i) require 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 subdivision (i)(1) 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.

8. In accordance with the provisions of Water Code section 13385(j)(3), violations of the manganese interim effluent limitations contained in CDO R5-2014-0044 subject the

Discharger to MMPs for violations of the final manganese effluent limitation contained in WDRs Order R5-2009-0034.

9. WDRs Order R5-2009-0034, Effluent Limitations and Discharge Specifications IV.A.1.h., include the following final effluent limitation:
- h. **Manganese.** The annual average manganese concentration in the effluent shall not exceed 50 µg/L on a calendar year basis.

10. CDO R5-2014-0044 interim effluent limitations include, in part, the following limitation:

<u>Constituents</u>	<u>Units</u>	<u>Average Monthly</u>	<u>Maximum Daily</u>
Manganese	µg/L	275	553

11. According to the Discharger's self-monitoring reports, the Discharger committed one (1) serious Group I violation of the above effluent limitations contained in Order R5-2009-0034 during the period beginning 1 July 2014 and ending 30 April 2015. This violation is defined as serious because the measured concentration of the Group I constituent exceeded maximum prescribed levels by more than 40 percent on this occasion. The mandatory minimum penalty for this serious violation is **three thousand dollars (\$3,000)**.
12. The total amount of the mandatory penalties assessed for the alleged effluent violation is **three thousand dollars (\$3,000)**. As stated herein, a detailed list of the alleged effluent violations is included in Attachment A. This Order addresses administrative civil liability for violations that are specifically identified in Attachment A as subject to mandatory minimum penalties.
13. On 9 June 2015, Central Valley Water Board staff verified 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).
14. 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.

15. The Discharger began construction on major Facility upgrades in August 2012 in order to comply with final effluent limitations contained in WDR Order R5-2009-0034. The major Facility upgrades includes new influent flow equalization storage to control seasonal flow surges, new headworks and screening, lime addition equipment to control pH and reduce salinity, conversion of the existing activated sludge process to a membrane bioreactor process, improved filtration, and conversion from chlorine to ultraviolet light disinfection. The capitol costs of these upgrades are estimated at approximately \$23 million dollars. The project will allow full compliance with final effluent limitations contained in WDRs Order R5-2009-0034.
16. On 13 July 2015, the Discharger submitted documentation showing that it spent in excess of \$3,000 on the compliance project described in Finding 15 after the violations occurred.
17. The Central Valley Water Board finds that the Compliance Project has been designed to correct the violations that led to the issuance of this Administrative Civil Liability Order within five years, and that the Compliance Project is in accordance with the enforcement policy of the State Water Resources Control Board. The Discharger has expended an amount in excess of the MMP that is required by Water Code sections 13385(h) and (i), excluding grants.
18. 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. No comments were received.
19. 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).

DONNER SUMMIT PUBLIC UTILITY DISTRICT IS HEREBY GIVEN NOTICE THAT:

1. The Discharger shall be assessed an Administrative Civil Liability in the amount of **three thousand dollars (\$3,000)**.
2. In accordance with Water Code section 13385(k), the \$3,000 penalty for the violations specifically listed in Attachment A to this Order has been satisfied through the completion of the compliance project described in Finding 15.

3. This Order is final upon signature.

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 CWC 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 that this Order becomes final, except that if the thirtieth day following the date that this Order becomes final 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.

Original signed by Andrew Altevogt

PAMELA C. CREEDON, Executive Officer

26 August 2015

DATE

Attachment A: Record of Violations

Attachment A
ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2015-0538

Donner Summit PUD
Wastewater Treatment Plant

RECORD OF VIOLATIONS (1 July 2014 – 30 April 2015) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Program R5-2009-0034)

<u>Date</u>	<u>Parameter</u>	<u>Units</u>	<u>Limit</u>	<u>Measured</u>	<u>Period</u>	<u>Remarks</u>	<u>CIWQS</u>
12/31/2014	Manganese	µg/L	50	117 ^a	Annual Average	1	985884

Remarks:

1. Serious Violation: For Group 1 pollutants that exceed the effluent limitation by 40 percent or more.
2. Serious Violation: For Group 2 pollutants that exceed the effluent limitation by 20 percent or more.
3. Non-serious violation falls within the first three violations in a six-month period, thus is exempt.
4. Non-serious violation subject to mandatory penalties.

VIOLATIONS through 4/30/2015

Group I Serious Violations:	1
Group II Serious Violations:	0
Non-Serious Exempt from MPs:	0
Non-serious Violations Subject to MPs:	0
Total Violations Subject to MPs:	<u>1</u>

Mandatory Minimum Penalty = (1 Serious Violations) x \$3,000 = \$3,000

Notes: ^a The 2014 CDO's Maximum Daily limitation of 275 µg/L was exceeded with an effluent concentration of 330 µg/L on 16 June 2014 as reported in the 2014 annual report; therefore, MMP protection for the WDRs effluent limitation was lost per Water Code section 13385(j)(3).