

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2008-0526

MANDATORY PENALTY
IN THE MATTER OF

CITY OF WEST SACRAMENTO WASTEWATER TREATMENT PLANT
YOLO COUNTY

This Complaint is issued to the City of West Sacramento (hereafter Discharger) pursuant to California Water Code (CWC) section 13385, which authorizes the imposition of Administrative Civil Liability (ACL), 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. 97-110 and R5-2003-0087 (NPDES No. CA0079171).

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

1. The Discharger owns and formerly operated the City of West Sacramento Wastewater Treatment Plant (WWTP), which provided sewerage service to the City of West Sacramento in Yolo County. Treated domestic, commercial and industrial wastewater was discharged to the Sacramento River, a water of the United States. The WWTP is now closed, and as of 30 October 2007, all sewage is transported through the Lower Northwest Interceptor to the Sacramento Regional Wastewater Treatment Facility near Freeport.
2. On 20 June 1997, the Regional Water Board adopted WDRs Order No. 97-110 to regulate discharges of waste from the WWTP. On 6 June 2003, the Regional Water Board adopted WDRs Order No. R5-2003-0087, rescinding Order No. 97-110. Order No. R5-2003-0087 was rescinded on 25 April 2008. The WDRs include effluent limitations and other requirements regarding the wastewater discharges.
3. 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.”*

4. 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.”

5. The Executive Officer previously issued Administrative Civil Liability Complaint No. R5-2001-0511 for MMPs for effluent violations from 1 January 2000 through 31 December 2000. The Regional Water Board considers the matter resolved.

6. WDRs Order No. 97-110 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>
BOD ¹	mg/L	30 ²	45 ²		60 ²
Total Suspended Solids	mg/L	30 ²	45 ²		60 ²
	lbs/day ³	1880	2820		3760
Settleable Solids	mL/L	0.1			0.5
<u>Total Coliform Organisms</u>	<u>MPN/100mL</u>			23	500

¹ 5-day, 20°C biochemical oxygen demand (BOD)

² To be ascertained by 24-hour composite.

³ Based upon a design treatment capacity of 7.5 mgd

7. WDRs Order No. R5-2003-0087 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>7-day Median</u>	<u>Daily Maximum</u>
Total Suspended Solids	mg/L	30 ²	45 ²		60 ²
	lbs/day ³	1878	2816		3756
Total Coliform Organisms	MPN/100mL			23	240
Settleable Solids	mL/L				0.1
Total Oil & Grease	mg/L	10			15

² To be ascertained by a 24-hour composite.

³ Based upon a design treatment capacity of 7.5 mgd.

8. WDRs Order No. R5-2003-0087 Effluent Limitations No. B.8. requires that:

“The discharge shall not have a pH less than 6.5 nor greater than 8.5 as determined by a 1-hour average of continuous monitoring data. The continuous monitoring data shall be divided into 1-minute periods for determining an average.”

9. According to the Discharger’s self-monitoring reports, the Discharger committed thirty-two (32) serious Group I violations of the above effluent limitations contained in Order Nos. 97-110 and R5-2003-0087 during the period beginning 1 January 2001 and ending 31 December 2007. The violations are defined as serious because measured concentrations of Group I constituents exceeded maximum prescribed levels by more than 40 percent on these occasions. The mandatory minimum penalty for these serious violations is **ninety six thousand dollars (\$96,000)**.
10. According to the Discharger’s self-monitoring reports, the Discharger committed fourteen (14) non-serious violations of the above effluent limitations contained in Order Nos. 97-110 and R5-2003-0087 during the period beginning 1 January 2001 and ending 31 December 2007. Fourteen (14) 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 **forty-two thousand dollars (\$42,000)**.
11. The total amount of the mandatory penalties assessed for the cited effluent violations is **one hundred thirty-eight thousand dollars (\$138,000)**. A detailed list of the cited effluent violations is included in Attachment A, a part of this Complaint.
12. 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 WEST SACRAMENTO 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 **one hundred thirty-eight thousand dollars (\$138,000)**.
2. A hearing on this matter will be held at the Regional Water Board meeting scheduled on **31 July/1 August 2008**, unless the Discharger agrees to complete the following by **4 June 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 **one hundred thirty-eight thousand dollars (\$138,000)** 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

5 May 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 West Sacramento (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint No. R5-2008-0526 (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 **one hundred thirty-eight thousand dollars (\$138,000)** by check, which contains a reference to "ACL Complaint No. R5-2008-0526" 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. R5-2008-0526

City of West Sacramento
Waste Water Treatment Plant

RECORD OF VIOLATIONS (1 January 2001-31 December 2007) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Program Nos. 97-110 and R5-2003-0087)

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measure</u> <u>d</u>	<u>Period</u> <u>Type</u>	<u>Flow</u>	<u>Remarks</u>
1	22-Jun-02	Coliform	MPN/100 mL	500	900	Daily		4
2	7-Nov-02	BOD	mg/l	60	82	Daily		4
3	7-Nov-02	TSS	mg/L	60	176	Daily		1
4	7-Nov-02	TSS	lbs/day	3760	7711	Daily	5.25	1
5	8-Nov-02	Sett. Solids	mL/L	0.5	0.9	Daily		1
6	10-Apr-03	Sett. Solids	mL/L	0.5	0.8	Daily		1
7	7-May-03	Sett. Solids	mL/L	0.5	3	Daily		1
8	13-Apr-04	Coliform	MPN/100 mL	240	1600	Daily		4
9	6-Oct-04	Sett. Solids	mL/L	0.1	15	Daily		1
10	6-Oct-04	TSS	mg/L	60	206	Daily		1
11	6-Oct-04	TSS	lbs/day	3756	9627	Daily	5.6	1
12	9-Oct-04	TSS	mg/L	45	60	Weekly		4
13	11-Oct-04	Sett. Solids	mL/L	0.1	5	Daily		1
14	11-Oct-04	TSS	mg/L	60	93	Daily		1
15	11-Oct-04	TSS	lbs/day	3756	4191	Daily	5.4	1
16	13-Oct-04	Sett. Solids	mL/L	0.1	0.5	Daily		1
17	13-Oct-04	TSS	mg/L	60	81	Daily		1
18	14-Oct-04	Sett. Solids	mL/L	0.1	8	Daily		1
19	14-Oct-04	TSS	mg/L	60	133	Daily		1
20	14-Oct-04	TSS	lbs/day	3756	5316	Daily	4.79	1
21	16-Oct-04	TSS	mg/L	45	68	Weekly		1
22	17-Oct-04	Sett. Solids	mL/L	0.1	1.1	Daily		1
23	31-Oct-04	TSS	mg/L	30	38	Monthly		4
24	6-Dec-04	Sett. Solids	mL/L	0.1	2.5	Daily		1
25	7-Dec-04	Sett. Solids	mL/L	0.1	0.7	Daily		1
26	7-Dec-04	TSS	mg/L	60	78	Daily		1
27	8-Dec-04	Coliform	MPN/100 mL	240	1600	Daily		4
28	8-Dec-04	Sett. Solids	mL/L	0.1	13	Daily		1
29	8-Dec-04	TSS	mg/L	60	115	Daily		1
30	8-Dec-04	TSS	lbs/day	3756	5422	Daily	5.65	1
31	11-Dec-04	TSS	mg/L	45	52	Weekly		4
32	14-Mar-05	pH	pH Units	6.5	6.3	Instant.		4
33	23-Nov-05	Sett. Solids	mL/L	0.1	4	Daily		1
34	28-Nov-05	Sett. Solids	mL/L	0.1	5.3	Daily		1
35	29-Nov-05	Sett. Solids	mL/L	0.1	0.7	Daily		1
36	31-Dec-05	Oil & Grease	mg/L	10	14	Monthly		1
37	2-Jan-06	Sett. Solids	mL/L	0.1	4.2	Daily		1

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measure</u> <u>d</u>	<u>Period</u> <u>Type</u>	<u>Flow</u>	<u>Remarks</u>
38	1-Feb-06	Oil & Grease	mg/L	15	17	Daily		4
39	1-Feb-06	Oil & Grease	mg/L	10	11	Monthly		4
40	6-Mar-06	TSS	mg/L	60	70	Daily		4
41	6-Mar-06	TSS	lbs/day	3756	5047	Daily	8.64	5
42	9-Mar-06	TSS	mg/L	60	65	Daily		4
43	9-Mar-06	TSS	lbs/day	3756	4025	Daily	7.42	4
44	10-Mar-06	Sett. Solids	mL/L	0.1	1.5	Daily		1
45	11-Mar-06	Sett. Solids	mL/L	0.1	2.5	Daily		1
46	4-Apr-06	Sett. Solids	mL/L	0.1	10	Daily		1
47	4-Apr-06	TSS	mg/L	60	99	Daily		4
48	4-Apr-06	TSS	lbs/day	3756	10030	Daily	12.14	5

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.

<u>VIOLATIONS AS OF:</u>	<u>12/31/2007</u>
Group I Serious Violations:	32
Group II Serious Violations:	0
Non-Serious Exempt from MPs:	0
Non-serious Violations Subject to MPs:	14
Mass Limit Violations Not Subject to MPs:	2
<u>Total Violations Subject to MPs:</u>	46

Mandatory Minimum Penalty = (32 Serious Violations + 14 Non-Serious Violations) x \$3,000 = \$138,000

* 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 (7.5 MGD) are considered wet weather for purposes of applying SWRCB Order WQO 2004-0013.