

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2008-0604

MANDATORY PENALTY
IN THE MATTER OF

CITY OF WOODLAND
WATER POLLUTION CONTROL FACILITY
YOLO COUNTY

This Complaint is issued to the City of Woodland (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) Orders 98-021, R5-98-021-R01, R5-2003-0031 and R5-2003-0031-R01 (NPDES No. CA0077950).

The Assistant 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 municipal wastewater collection, treatment, and disposal system, and provides sewerage service within the City. Treated municipal wastewater is discharged to Tule Canal within the Yolo Bypass, a water of the United States.
2. On 23 January 1998, the Central Valley Water Board adopted WDRs Order 98-021 to regulate discharges of waste from the WWTP. On 1 March 2002, the Board adopted WDRs Order R5-1998-021-R01 which amended WDRs Order 98-021. On 13 March 2003, the Board adopted WDRs R5-2003-0031 which contained new requirements and rescinded WDRs Order R5-1998-0021-R01. On 16 September 2005, the Board adopted WDRs R5-2003-0031-R01, which contained new requirements and rescinded WDRs Order R5-2003-0031.
3. On 23 January 1998, the Central Valley Water Board adopted Cease and Desist Order (CDO) 98-022. On 1 March 2002, the Board adopted Order R5-2002-0024 rescinding CDO 98-022. On 13 March 2003, the Board adopted CDO R5-2003-0032 which established a time schedule until 30 March 2008 to comply with final effluent limitations for mercury, organochlorine pesticides, bis(2-ethylhexyl)phthalate, aluminum, iron, fluoride, electrical conductivity, and boron. On 16 September 2005, the Board adopted CDO R5 2003-0032-R01 that required full compliance with effluent limitations for aluminum and mercury by 30 March 2008 and was retroactive to 13 March 2003. This Complaint considers the protection from mandatory minimum penalties provided by the CDOs.
4. On 4 September 2008, Central Valley Water Board staff sent the Discharger a draft Record of Violations (ROV). The Discharger responded on 25 September 2008. In

response, staff prepared a technical memorandum, included as Attachment B to this Complaint, and discussed in Finding No. 11 of this Complaint.

5. CWC sections 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 R5-2003-0031-R01 Effluent Limitations No. B.1., includes the following prohibition:

Effluent shall not exceed the following limits:

<u>Constituents</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Monthly Median</u>	<u>Daily Maximum</u>
Total Coliform	MPN/100 mL	--	--	23	500

8. WDRs Order R5-2003-0031-R01 Effluent Limitations No. B.3., includes the following prohibitions:

Effluent shall not exceed the following limits (after 30 April 2006) when the effluent receives less than 20:1 dilution:

<u>Constituents</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>7-day Median</u>	<u>Daily Average</u>	<u>Daily Maximum</u>	<u>Instantaneous Maximum</u>
Total Coliform	MPN/100 mL	--	--	2.2	--	--	23
<u>Turbidity</u>	NTU	--	--	--	2.0	5.0 ⁴	--

⁴ The turbidity shall not exceed 5 NTU more than 5 percent of the time within a 24-hour period. At no time shall the turbidity exceed 10 NTU.

9. According to the Discharger's self-monitoring reports, the Discharger committed ten (10) non-serious violations of the above effluent limitations contained in Orders 98-021, R5-1998-021-R01, R5-2003-0031 and R5-2003-0031-R01 during the period beginning 1 January 2000 and ending 31 March 2008. Three (3) 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 **nine thousand dollars (\$9,000)**.
10. The total amount of the mandatory penalties assessed for the cited effluent violations is **nine thousand dollars (\$9,000)**. A detailed list of the cited effluent violations is included in Attachment A, a part of this Complaint.
11. As described in the technical memorandum mentioned in Finding No. 4, Central Valley Water Board staff made one adjustment to the draft Record of Violations. For Flow Violation 10 (as numbered in the Record of Violations, which is included in this Complaint as Attachment B), the Discharger presented evidence that the reported flow was for two days, not one day, due to an instrumentation malfunction. The violation was deleted.
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 WOODLAND IS HEREBY GIVEN NOTICE THAT:

1. The Assistant Executive Officer of the Central Valley Water Board proposes that the Discharger be assessed an Administrative Civil Liability in the amount of **nine thousand dollars (\$9,000)**.
2. A hearing on this matter will be held at the Central Valley Water Board meeting scheduled on **5/6 February 2009**, unless the Discharger does either of the following by **10 December 2008**:
 - 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 **nine thousand dollars (\$9,000)**; 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.

JACK E. DEL CONTE, Assistant Executive Officer

10 November 2008

Attachment A: Record of Violations
Attachment B: Technical Memorandum
BLH: 11/04/08

**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 the City of Woodland (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint R5-2008-0604 (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 proposed civil liability in the amount of **nine thousand dollars (\$9,000)** by check, which will contain a reference to "ACL Complaint R5 2008-0604" and will be made payable to the "State Water Pollution Cleanup and Abatement Account." Payment must be received by the Central Valley Water Board by **10 December 2008** or this matter will be placed on the Central Valley Water Board's agenda for adoption at the **5/6 February 2009** Central Valley Water Board meeting.
 - 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 Assistant 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 NO. R5-2008-0604**

**City of Woodland
Water Pollution Control Facility**

RECORD OF VIOLATIONS (1 January 2000 – 31 March 2008) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Programs 98-021, R5-1998-0021-R01, R5-2003-031
and R5-2003-0031-R01)

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measure</u> <u>d</u>	<u>Period Type</u>	<u>Remarks</u>
1	5-Jul-04	Total Coliform	MPN/100ml	500	1600	Daily Max	3
2	25-May-06	Flow	MGD	7.8	7.9	Daily Avg	3
3	12-Jul-06	Flow	MGD	7.8	8.7	Daily Avg	3
4	21-Aug-06	Total Coliform	MPN/100ml	23	30	Instantaneous	3
5	26-Dec-06	Total Coliform	MPN/100ml	2.2	4	7-day Median	3
6	7-Feb-07	Turbidity	NTU	2.0	2.2	Daily Avg	3
7	23-Feb-07	Turbidity	NTU	2.0	2.4	Daily Avg	3
8	25-Feb-07	Turbidity	NTU	2.0	2.1	Daily Avg	4
9	26-Mar-07	Total Coliform	MPN/100ml	2.2	4.0	7-day Median	4
10	21-Jun-07	Total Coliform	MPN/100ml	2.2	3.5	7-day Median	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>3/31/2008</u>
Group I Serious Violations:	0
Group II Serious Violations:	0
Non-Serious Exempt from MPs:	7
Non-serious Violations Subject to MPs:	3
<u>Total Violations Subject to MPs:</u>	<u>3</u>

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



Linda S. Adams
Secretary for
Environmental Protection

ATTACHMENT B

California Regional Water Quality Control Board Central Valley Region

Karl E. Longley, ScD, P.E., Chair



Arnold
Schwarzenegger
Governor

11020 Sun Center Drive #200, Rancho Cordova, California 95670-6114
Phone (916) 464-3291 • FAX (916) 464-4645
<http://www.waterboards.ca.gov/centralvalley>

TO: Patricia Leary, Senior Engineer
NPDES Compliance and Enforcement

FROM: Barry Hilton, WRCE
NPDES Compliance and Enforcement

DATE: 23 October 2008

SIGNATURE: _____

SUBJECT: CITY OF WOODLAND WATER POLLUTION CONTROL FACILITY, RESPONSE TO NOV AND ASSESSMENT OF MMPS

On 4 September 2008, Central Valley Water Board staff sent the City of Woodland (Discharger) a draft Record of Violations (ROV) for the period of 1 January 2000 through 31 March 2008. The Discharger responded by letter dated 25 September 2008. The following discusses the comments and any changes I made to the Record of Violations based on the Discharger's comments.

Flow

Violation 10. The Discharger provided evidence that the reported flow value was for two days, the flow for each day was within effluent limitations, and that flow was diverted to ponds for 6 hours on 21 June 2007. I deleted the violation.

Summary

The total number of non-serious violations is 10; 3 are subject to MMPs.

The ACL is reduced to \$9,000.

**City of Woodland
Water Pollution Control Facility**

RECORD OF VIOLATIONS (1 January 2000 – 31 March 2008) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Program No. R5-1998-0021-R01 and R5-2003-0031-R1)

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measure</u> <u>d</u>	<u>Period Type</u>	<u>Remarks</u>
1	5-Jul-04	Total Coliform	MPN/100ml	500	1600	Daily Max	3
2	25-May-06	Flow	MGD	7.8	7.9	Daily Avg	3
3	12-Jul-06	Flow	MGD	7.8	8.7	Daily Avg	3
4	21-Aug-06	Total Coliform	MPN/100ml	23	30	Instantaneous	3
5	26-Dec-06	Total Coliform	MPN/100ml	2.2	4	7-day Median	3
6	7-Feb-07	Turbidity	NTU	2.0	2.2	Daily Avg	3
7	23-Feb-07	Turbidity	NTU	2.0	2.4	Daily Avg	3
8	25-Feb-07	Turbidity	NTU	2.0	2.1	Daily Avg	4
9	26-Mar-07	Total Coliform	MPN/100ml	2.2	4.0	7-day Median	4
10	21-Jun-07	Flow	MGD	7.8	11.7	Daily Avg	4
11	21-Jun-07	Total Coliform	MPN/100ml	2.2	3.5	7-day Median	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>3/31/2008</u>
Group I Serious Violations:	0
Group II Serious Violations:	0
Non-Serious Exempt from MPs:	7
Non-serious Violations Subject to MPs:	<u>34</u>
<u>Total Violations Subject to MPs:</u>	<u>34</u>

Mandatory Minimum Penalty = (0 Serious Violations + 34 Non-Serious Violations) x \$3,000 = ~~\$129,000~~