

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2010-0551

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), 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 R5-2003-0087 (NPDES No. CA0079171).

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 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 6 June 2003, the Central Valley Water Board issued WDRs Order R5-2003-0087, rescinding Order 97-110. Order R5-2003-0087 was rescinded on 25 April 2008. The WDRs include effluent limitations and other requirements regarding the wastewater discharges.
3. On 5 May 2008, the Assistant Executive Officer of the Central Valley Water Board issued Administrative Civil Liability Complaint R5-2008-0526 for mandatory minimum penalties for effluent violations from 1 January 2001 through 31 December 2007. The Discharger paid the administrative civil liability charged in Complaint R5-2008-0526 and the Board considers those effluent violations specifically listed in Attachment A to Complaint R5-2008-0526 resolved.
4. This Complaint is for two violations not addressed in Complaint R5-2008-0526. On 6 October 2010, Central Valley Water Board staff issued the Discharger a Notice of Violation and draft Record of Violations (ROV) for the two effluent limitation violations. The Discharger has not responded.

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 R5-2003-0087 Limitations No. A.4. include, in part, the following effluent limitations:

4. Effluent shall not exceed the following limits for outfalls 001 and 002:

<u>Constituent</u>	<u>Unit</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>7-day Median</u>	<u>Daily Maximum</u>
<u>Total Suspended Solids</u>	lbs/day <sup>3</sup>	1878	2816	--	3756

<sup>3</sup> Based upon a design treatment capacity of 7.5 mgd.

8. WDRs Order R5-2003-0087 Effluent Limitations No. A.6., interim limitations, states in part:

6. Interim Limitations (from adoption of the permit to 30 June 2008):

<u>Constituents</u>	<u>Units</u>	<u>Average Monthly</u>
Copper	µg/L	13.0

9. According to the Discharger's self-monitoring reports, the Discharger committed one (1) serious Group II violation of the above effluent limitations contained in Order R5-2003-0087 which was not addressed in Complaint R5-2008-0526. The violation is defined as serious because the measured concentration of a Group II constituent exceeded the maximum prescribed level by more than 20 percent on this occasion. The mandatory minimum penalty for this serious Group II violation is **three thousand dollars (\$3,000)**.
10. According to the Discharger's self-monitoring reports, the Discharger committed one (1) non-serious violation of the above effluent limitations contained in Order R5-2003-0087 which was not addressed in Complaint R5-2008-0526. The non-serious violation is subject to mandatory penalties under CWC section 13385(i)(1) because this violation was preceded by three or more similar violations within a six-month period. The mandatory minimum penalty for this non-serious violation is **three thousand dollars (\$3,000)**.
11. The total amount of the mandatory penalties assessed for the cited effluent violations is **six thousand dollars (\$6,000)**. A detailed list of the cited effluent violations is included in Attachment A, a part of this Complaint. This Complaint addresses administrative civil liability for violations that are specifically identified in Attachment A.
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 Executive Officer of the Central Valley Water Board proposes that the Discharger be assessed an Administrative Civil Liability in the amount of **six thousand dollars (\$6,000)**.
2. A hearing on this matter will be conducted at the Central Valley Water Board meeting scheduled on **2/3/4 February 2011**, unless one of the following occurs by **6 December 2010**:
  - a) The Discharger waives the hearing by completing the attached form (checking off the box next to Option #1) and returning it to the Central Valley Water Board, along with payment for the proposed civil liability of **six thousand dollars (\$6,000)**; or

- b) The Central Valley Water Board agrees to postpone any necessary hearing after the Discharger requests to engage in settlement discussions by checking off the box next to Option #2 on the attached form, and returns it to the Board along with a letter describing the issues to be discussed; or
  - c) The Central Valley Water Board agrees to postpone any necessary hearing after the Discharger requests a delay by checking off the box next to Option #3 on the attached form, and returns it to the Board along with a letter describing the issues to be discussed.
3. If a hearing on this matter is conducted, 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.

If this matter proceeds to hearing, the Executive Officer reserves the right to amend the proposed amount of civil liability to conform to the evidence presented, including but not limited to, increasing the proposed amount to account for the costs of enforcement (including staff, legal and expert witness costs) incurred after the date of the issuance of this Complaint through completion of the hearing.

Original signed by Frederick Moss for  
PAMELA C. CREEDON, Executive Officer

4 November 2010

DATE

Attachment A: Record of Violations

**WAIVER FORM  
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

By signing this waiver, I affirm and acknowledge the following:

I am duly authorized to represent the City of West Sacramento (hereafter Discharger) in connection with Administrative Civil Liability Complaint R5-2010-0551 (hereafter Complaint). 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. The person who has been issued a complaint may waive the right to a hearing."

**(OPTION 1: Check here if the Discharger waives the hearing requirement and will pay in full.)**

- a. I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board.
- b. I certify that the Discharger will remit payment for the proposed civil liability in the full amount of **six thousand dollars (\$6,000)** by check that references "ACL Complaint R5-2010-0551" made payable to the *State Water Pollution Cleanup and Abatement Account*. Payment must be received by the Central Valley Water Board by **6 December 2010**.
- c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after a 30-day public notice and comment period. Should the Central Valley Water Board receive significant 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. I also understand that approval of the settlement will result in the Discharger having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
- d. 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.

**(OPTION 2: Check here if the Discharger waives the 90-day hearing requirement in order to engage in settlement discussions.)** I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board within 90 days after service of the complaint, but I reserve the ability to request a hearing in the future. I certify that the Discharger will promptly engage the Central Valley Water Board Prosecution Team in settlement discussions to attempt to resolve the outstanding violation(s). By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing so that the Discharger and the Prosecution Team can discuss settlement. It remains within the discretion of the Central Valley Water Board to agree to delay the hearing. Any proposed settlement is subject to the conditions described above under "Option 1."

**(OPTION 3: Check here if the Discharger waives the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines. Attach a separate sheet with the amount of additional time requested and the rationale.)** I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board within 90 days after service of the complaint. By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing and/or hearing deadlines so that the Discharger may have additional time to prepare for the hearing. It remains within the discretion of the Central Valley Water Board to approve the extension.

\_\_\_\_\_  
(Print Name and Title)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

**ATTACHMENT A  
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2010-0551**

**City of West Sacramento  
Wastewater Treatment Plant**

**RECORD OF VIOLATIONS MANDATORY PENALTIES**

(Data reported under Monitoring and Reporting Program R5-2003-0087)

**NOTE: Violations in boldface were not addressed in ACLC R5-2008-0526.**

The remaining violations between 1 January 2001 and 31 December 2007 (not shown in this table) were previously addressed in ACLC R5-2008-0526.

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measured</u>	<u>Period Type</u>	<u>Flow</u>	<u>Remarks</u>	<u>CIWQS</u>
1	13-Apr-04	Coliform	MPN/100 mL	240	1600	Daily		4*	366635
2	6-Oct-04	Sett. Solids	mL/L	0.1	15	Daily		1*	262608
3	6-Oct-04	TSS	mg/L	60	206	Daily		1*	262609
4	6-Oct-04	TSS	lbs/day	3756	9627	Daily	5.6	1*	262613
5	9-Oct-04	TSS	mg/L	45	60	Weekly		4*	366662
6	11-Oct-04	Sett. Solids	mL/L	0.1	5	Daily		1*	366661
7	11-Oct-04	TSS	mg/L	60	93	Daily		1*	262620
8	11-Oct-04	TSS	lbs/day	3756	4191	Daily	5.4	1*	262622
9	13-Oct-04	Sett. Solids	mL/L	0.1	0.5	Daily		1*	366653
10	13-Oct-04	TSS	mg/L	60	81	Daily		1*	262625
11	14-Oct-04	Sett. Solids	mL/L	0.1	8	Daily		1*	366647
12	14-Oct-04	TSS	mg/L	60	133	Daily		1*	262687
13	14-Oct-04	TSS	lbs/day	3756	5316	Daily	4.79	1*	262688
14	16-Oct-04	TSS	mg/L	45	68	Weekly		1*	366634
15	<b>16-Oct-04</b>	<b>TSS</b>	<b>lbs/day</b>	<b>2816</b>	<b>2991</b>	<b>Weekly</b>		<b>4</b>	<b>262730</b>
16	17-Oct-04	Sett. Solids	mL/L	0.1	1.1	Daily		1*	262732
17	31-Oct-04	TSS	mg/L	30	38	Monthly		4*	262734
18	<b>30-Nov-04</b>	<b>Copper</b>	<b>µg/L</b>	<b>13</b>	<b>44</b>	<b>Monthly</b>		<b>2</b>	<b>262743</b>
19	6-Dec-04	Sett. Solids	mL/L	0.1	2.5	Daily		1*	268467
20	7-Dec-04	Sett. Solids	mL/L	0.1	0.7	Daily		1*	268468

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 violation falls within the first three violations in a six-month period, thus is exempt.
4. Non-serious violation subject to mandatory minimum penalties.
5. Mass rate limitation exceedances due only to wet weather not assessed MMPs.

<u>VIOLATIONS:</u>	<u>12/31/07</u>
Group I Serious Violations:	0
Group II Serious Violations:	1
Non-Serious Exempt from MMPs:	0
Non-serious Violations Subject to MMPs:	1
<b><u>Total Violations Subject to MMPs:</u></b>	<b><u>2</u></b>

**Mandatory Minimum Penalty = (1 serious Violation + 1 Non-Serious Violation) x \$3,000 = \$6,000**

\* Violations previously addressed in ACL Complaint R5-2008-0526.