

**MEMORANDUM
DEPARTMENT OF FACILITY SERVICES
COUNTY OF PLACER**

To: **BOARD OF SUPERVISORS** Date: **SEPTEMBER 9, 2008**
From: **JAMES DURFEE / WILL DICKINSON**
Subject: **PAYMENT OF AN ADMINISTRATIVE CIVIL LIABILITY FOR SEWER
MAINTENANCE DISTRICT 1**

ACTION REQUESTED / RECOMMENDATION: Informational Item. Payment of a \$36,000 Administrative Civil Liability for Sewer Maintenance District One.

BACKGROUND: Sewer Maintenance District 1 (SMD 1) provides sewer service to approximately 7,800 Equivalent Dwelling Units in the Auburn-Bowman area. Plant 1, constructed in 1961, uses biological and filtration processes that cannot consistently meet all current regulatory standards defined in the permit for Plant 1 approved by the Central Valley Regional Water Quality Control Board (CVRWQCB) in June 2005.

On November 27, 2007, the County received a Draft Record of Violations for the Assessment of Mandatory Minimum Penalties (Draft Record) for alleged discharge violations from January 2001 to December 2007 totaling \$72,000. The Draft Record identified 40 violations, 24 of which were subject to a mandatory minimum penalty (MMP). The majority of the violations were exceedances of the permitted discharge limitations for coliform bacteria, chlorine, suspended solids, and turbidity.

Staff reviewed the Draft Record, and through negotiations with the CVRWQCB reduced the number of violations to 26 (12 of which were subject to MMPs) and the final Administrative Civil Liability Complaint (ACLC) amount to \$36,000. Staff received the final ACLC on June 23, 2008. The ACLC included a deadline of July 21, 2008, to remit payment of the MMPs. Payment was made on July 7, 2008.

ENVIRONMENTAL CLEARANCE: Payment of the ACLC is not considered a project under the California Environmental Quality Act Guidelines.

FISCAL IMPACT: Funding for the \$36,000 ACLC came from the SMD 1 Operations Budget for Fiscal Year 2007/08.

JD:WD:KS

ATTACHMENT: ACLC

T:\FAC\BSMEMO2008\EE\SMD1 ACLC.DOC



California Regional Water Quality Control Board

Central Valley Region

Karl E. Longley, ScD, PE, Chair



Arnold Schwarzenegger
Governor

Linda S. Adams
Secretary for
Environmental
Protection

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

20 June 2008

Mr. Will Dickinson, Deputy Director
County of Placer Facility Services Department
11476 C Avenue
Auburn, CA 95603

CERTIFIED MAIL
7007 2560 0001 7472 1766

2008 JUN 23 PM 1:41
RECEIVED
COUNTY OF PLACER

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2008-0537 FOR ASSESSMENT OF MANDATORY MINIMUM PENALTIES, PLACER COUNTY FACILITY SERVICES DEPARTMENT, PLACER COUNTY SEWER MAINTENANCE DISTRICT NO. 1, WASTEWATER TREATMENT PLANT, PLACER COUNTY

Enclosed is an Administrative Civil Liability Complaint (Complaint), issued pursuant to California Water Code (CWC) section 13385, for violations of Waste Discharge Requirements Nos. 97-113 and R5-2005-0074 (NPDES No. CA0079316) by the Placer County Department of Facility Services, Placer County Sanitary District No. 1, Wastewater Treatment Plant (hereafter referred to as "Discharger"). The Complaint charges the Discharger with civil liability in the amount of **thirty-six thousand dollars (\$36,000)** which represents the sum of the statutory Mandatory Minimum Penalties for effluent limitation violations which occurred at the facility from 1 January 2001 through 31 December 2007.

Pursuant to CWC section 13323, the Discharger may either pay the civil liability and waive its right to a hearing before the Regional Water Board, or may contest the Complaint and exercise its right to a hearing. The Discharger has the right to a hearing before the Regional Water Board within 90 days of the service of this Complaint. If the Discharger chooses to waive this right and settle the Complaint without a hearing, then a duly authorized agent must sign the enclosed waiver and submit it to this office, along with a check for the full amount of the penalty, by **21 July 2008**. The Regional Water Board will consider submittal of the waiver and payment of the full penalty amount as a settlement of the Complaint. However, the settlement will only be considered effective after a 30-day period, starting from the date of this Complaint, during which time interested parties may comment on this action by submitting information to this office, attention Barry Hilton.

If the Regional Water Board does not receive a waiver and a check for the full amount within 30 days of the date of this Complaint (**by 21 July 2008**), then a hearing will be scheduled for the **11/12 September 2008** Regional Water Board meeting in Rancho Cordova. Specific notice about this hearing and its procedures will be provided under separate cover.

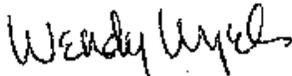
California Environmental Protection Agency



380

Any comments or evidence concerning the enclosed Complaint must be submitted to this office, attention Patricia Leary, **no later than 5 p.m. on 21 July 2008**. This includes material submitted by the Discharger to be considered at a hearing and material submitted by interested parties, including members of the public, who wish to comment on the proposed settlement. If the Regional Water Board does not hold a hearing on the matter, and the terms of the final settlement are not significantly different from those proposed in the enclosed Complaint, then there will not be additional opportunities for public comment on the proposed settlement. Written materials received after **5 p.m. on 21 July 2008** will not be accepted and will not be incorporated into the administrative record if doing so would prejudice any party.

If you have any questions or comments regarding the Administrative Civil Liability Complaint, please contact Barry Hilton at (916) 464-4762 or Patricia Leary at (916) 445-4623.



WENDY WYELS
Environmental Program Manager
Compliance and Enforcement Section

Enclosure

cc: Ms. Pamela Creedon, Executive Officer
Mr. Kenneth Greenberg, USEPA, Region 9, San Francisco
Mr. Patrick Pulupa, Office of Chief Counsel, SWRCB, Sacramento
Mr. Reed Sato, Office of Enforcement, SWRCB, Sacramento
Ms. Lori Okun, Office of Chief Counsel, SWRCB, Sacramento
Ms. Ernel Wadhvani, Office of Chief Counsel, SWRCB, Sacramento
Ms. Carol Oz, Department of Fish and Game, Region 2, Rancho Cordova
Placer County Environmental Health Division, Auburn
Mr. Bill Jennings, California Sport Fishing Protection Alliance, Stockton

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2008-0537

MANDATORY PENALTY
IN THE MATTER OF

PLACER COUNTY DEPARTMENT OF FACILITY SERVICES
PLACER COUNTY SEWER MAINTENANCE DISTRICT NO. 1
WASTEWATER TREATMENT PLANT

PLACER COUNTY

RECEIVED
FACILITY SERVICES

2008 JUN 23 PM 1:47

This Complaint is issued to the Placer County Department of Facility Services, Placer County Sewer Maintenance District No. 1, (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 No. 97-113 and Order No. R5-2005-0074 (NPDES No. CA0077828).

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 a wastewater collection, treatment, and disposal system, and provides sewerage service to the unincorporated area of North Auburn in Placer County. The wastewater treatment plant provides tertiary treatment when influent flows are 3.5 million gallons per day (mgd) or less and a mixture of secondary and tertiary treatment when flows are greater than 3.5 mgd. Treated municipal wastewater is discharged to Rock Creek, a water of the United States.
2. On 20 June 1997, the Regional Water Board adopted WDRs Order No. 97-113 to regulate discharges of waste from the wastewater treatment plant. On 23 June 2005, the Regional Water Board adopted WDRs Order No. R5-2005-0074, which contained new regulations and rescinded Order No. 97-113. The WDRs include effluent limitations and other requirements regarding the wastewater discharges.
3. On 23 June 2005, the Regional Water Board adopted Cease and Desist Order No. R5-2005-0075 requiring the Discharger to cease and desist from discharging wastewater contrary to WDRs Order No. R5-2005-0074.
4. 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."

5. 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."

6. The Executive Officer previously issued Administrative Civil Liability Complaint (ACLC) No. R5-2001-0514 to the Discharger for mandatory penalties for effluent limitation violations from 1 January 2000 to 31 December 2000 in the amount of \$12,000. The Regional Water Board has accepted payment from the Discharger of the penalty associated with ACLC No. R5-2001-0514, and considers this prior matter resolved.

7. WDRs Order No. 97-113 Effluent Limitations No. B.1. include, in part, the following effluent limitations: "Effluent shall not exceed the following limits from 1 May through 31 October:"

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2008-0537
 MANDATORY PENALTY
 PLACER COUNTY DEPARTMENT OF FACILITY SERVICES
 PLACER COUNTY SEWER MAINTENANCE DISTRICT NO. 1
 WASTEWATER TREATMENT PLANT
 PLACER COUNTY

<u>Constituents</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Monthly Median</u>	<u>Daily Maximum</u>
Total Coliform Organisms	MPN/100 mL	--	--	2.2	23
Turbidity	NTU	2			5 ³
Chlorine Residual	mg/L		--	--	0.02

³ May not exceed 5 NTUs more than 5% of the time during any 24-hour period.

8. WDRs Order No. 97-113 Effluent Limitations B.4. states: "The discharge shall not have a pH less than 6.5 nor greater than 8.5."
9. WDRs Order No. R5-2005-0074 Effluent Limitations No. B.1. states, in part, "Effluent shall not exceed the following limits."

<u>Constituents</u>	<u>Units</u>	<u>30-Day Average</u>	<u>4-Day Average¹</u>	<u>1-hour Average²</u>
Total Ammonia ⁴	mg/L lbs/day ³	Attach. E ¹ Calculate ⁵	Attach. D Calculate ⁵	Attach. C Calculate ⁵
Chlorine Residual	mg/L lbs/day ³	-- --	0.01 0.182	0.02 0.384

¹ Continuous Concentration (Chronic)

² Maximum concentration (Acute)

³ Based upon the Design Dry Weather Flow Rate of 2.18 mgd ($x \text{ mg/L} \times 8.345 \times 2.18 \text{ mgd} = y \text{ lbs/day}$).

⁴ Temperature and pH must be determined concurrently.

⁵ Based upon the Design Dry Weather Flow Rate of 2.18 mgd ($x \text{ mg/L} \times 8.345 \times 2.18 \text{ mgd} = y \text{ lbs/day}$), where x is the value obtained from Attachment C, D, or E, as specified above.

10. WDRs Order No. R5-2005-0074 Effluent Limitations No. B.2. states, in part: "When flow is less than or equal to 3.5 mgd:"

<u>Constituent</u>	<u>Units</u>	<u>7-Day Median</u>	<u>Daily Maximum</u>
Total Suspended Solids	lbs/day ³		455
Total Coliform Organisms	MPN/100 mL	2.2 ⁴	23/240 ⁵

³ Based upon the Design Dry Weather Flow Rate of 2.18 mgd ($x \text{ mg/L} \times 8.345 \times 2.18 \text{ mgd} = y \text{ lbs/day}$).

⁴ 7-Day Median based on previous seven daily sample results.

⁵ In a 30-day period, only a single sample may exceed 23 MPN/100 mL, and no sample shall exceed 240 MPN/100 mL.

11. WDRs Order No. R5-2005-0074 Effluent Limitations No. B.5. states, in part: "...effluent shall not exceed the following interim limits:"

<u>Constituents</u>	<u>Units</u>	<u>Daily Maximum</u>
Bis-(2-ethylhexyl)phthalate	µg/l	9.11
Bromodichloromethane	µg/L	5.48

12. WDRs Order No. R5-2005-0074 Effluent Limitations No. B.8. requires: "The discharge shall not have a pH less than 6.5 nor greater than 8.5."
13. According to the Discharger's self-monitoring reports, the Discharger committed three (3) serious Group I violations of the above effluent limitations contained in Order Nos. 97-113 and R5-2005-0074 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 **nine thousand dollars (\$9,000)**.
14. According to the Discharger's self-monitoring reports, the Discharger committed six (6) serious Group II violations of the above effluent limitations contained in Order Nos. 97-113 and R5-2005-0074 during the period beginning 1 January 2001 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 **eighteen thousand dollars (\$18,000)**.
15. According to the Discharger's self-monitoring reports, the Discharger committed fifteen (15) non-serious violations of the above effluent limitations contained in Order Nos. 97-113 and R5-2005-0074 during the period beginning 1 January 2001 and ending 31 December 2007. 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)**.
16. The total amount of the mandatory penalties assessed for the cited effluent violations is **thirty-six thousand dollars (\$36,000)**. A detailed list of the cited effluent violations is included in Attachment A, a part of this Order.
17. 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).

PLACER COUNTY DEPARTMENT OF FACILITY SERVICES, PLACER COUNTY SEWER MAINTENANCE DISTRICT NO. 1, 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 **thirty-six thousand dollars (\$36,000)**.
2. A hearing on this matter will be held at the Regional Water Board meeting scheduled on **11/12 September 2008**, unless the Discharger agrees to complete the following by **21 July 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 **thirty-six thousand dollars (\$36,000)** 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

20 June 2008

Attachment A: Record of Violations
BLH: 06/20/08

ATTACHMENT A
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NUMBER 05-2008-0537

Placer County Department of Facility Services
Placer County Sewer Maintenance District No. 1
Wastewater Treatment Plant

RECORD OF VIOLATIONS (1 January 2001 – 31 December 2007) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Program Nos. 97-113 and R5-2005-0074.)

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Result</u>	<u>Period Type</u>	<u>Flow Rate</u>	<u>Remarks</u>
1	4-Jan-01	pH	pH units	8.5	8.8	Instantaneous		3
2	14-May-01	Chlorine Residual	mg/l	0.02	0.6	Daily Maximum		2
3	3-Jul-01	Coliform	MPN/100ml	23	300	Daily Maximum		3
4	6-Aug-01	Coliform	MPN/100ml	23	240	Daily Maximum		3
5	13-Oct-01	Turbidity	NTU	5	12	Instantaneous		1
6	24-Mar-02	pH	pH units	6.5	3.6	Instantaneous		3
7	12-Feb-03	pH	pH units	6.5	6.2	Instantaneous		3
8	12-Sep-03	Coliform	MPN/100ml	23	50	Daily Maximum		3
9	13-Jun-04	pH	pH units	6.5	5.8	Instantaneous		3
10	10-Sep-05	Coliform	MPN/100ml	2.2	4	7-Day Median		3
11	11-Sep-05	Coliform	MPN/100ml	2.2	4	7-Day Median		3
12	12-Sep-05	Coliform	MPN/100ml	2.2	4	7-Day Median		3
13	27-Sep-05	Bis-(2-ethylhexyl)-phthalate	µg/l	9.11	10	Daily Maximum		4
14	27-Sep-05	Bromodichloromethane	µg/l	5.48	13	Daily Maximum		2
15	29-Dec-05	TSS	lbs/day	455	505	Daily Maximum	3.31	5
16	27-Jan-06	Ammonia	mg/l	4.64	9.90	1-Hour Avg.		1
17	27-Jan-06	Ammonia	lbs/day	84	154	1-Hour Avg.	1.86	1
18	31-Jan-06	Ammonia	mg/l	4.73	6.3	1-Month Average		4
19	31-Jan-06	Ammonia	lbs/day	98.2	127	1-Month Average	2.59	5
20	9-Feb-06	Coliform	MPN/100ml	2.2	4	7-Day Median		4
21	8-Aug-06	Coliform	MPN/100ml	240	1600	Daily Maximum		3
22	25-Oct-06	Bromodichloromethane	µg/L	5.48	9.3	30-Day Average		2
23	23-May-07	Chlorine Residual	mg/l	0.02	1.07	Daily Maximum		2
24	23-May-07	Chlorine Residual	lbs/day	0.364	12.3	Daily Maximum	1.38	2
25	25-Jun-07	pH	pH units	6.5	6.0	Instantaneous		3
26	5-Jul-07	Bromodichloromethane	µg/L	5.48	10	Daily Maximum		2

ATTACHMENT A
PLACER COUNTY DEPARTMENT OF FACILITY SERVICES
PLACER COUNTY SEWER MAINTENANCE DISTRICT NO. 1
WASTEWATER TREATMENT PLANT
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2008-0537

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.
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 1 Serious Violations:	3
Group 2 Serious Violations:	6
Non-Serious Exempt from MMPs:	12
Non-serious Violations Subject to MMPs:	3
Mass Rate Limitation, Wet Weather, Exempt from MMPs:	2
<u>Total Violations Subject to MMPs:</u>	<u>12</u>

Mandatory Minimum Penalty = (9 Serious Violations + 3 Non-Serious Violations) × \$3,000 = \$36,000

* Arithmetic mean of all 1-day flow rates ("EFF FLOW" on Discharger Self Monitoring Reports, in mgd) while discharging to surface waters during period. Values greater than the design dry weather flow rate (2.18 mgd) are considered wet weather for purposes of applying SWRCB Order WQO 2004-0013.