

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

To: BOARD OF SUPERVISORS

Date: JUNE 9, 2009

From: JD JAMES DURFEE / WILL DICKINSON (wdd)

Subject: PAYMENT OF AN ADMINISTRATIVE CIVIL LIABILITY FOR SEWER MAINTENANCE DISTRICT 3

**ACTION REQUESTED / RECOMMENDATION:** Authorize the Director of Facility Services or his designee to pay assessed fines not to exceed \$57,000 for permit violations at the Sewer Maintenance District 3 Wastewater Treatment Plant (Plant 3).

**BACKGROUND:** Sewer Maintenance District 3 (SMD 3) provides sewer service to approximately 528 connections (615 EDUs) in the Horseshoe Bar area. Plant 3, constructed in 1961, uses biological and filtration processes that cannot meet current regulatory standards as defined in a new permit for Plant 3 approved by the Regional Water Quality Control Board (RWQCB) in June 2007. Violations of the discharge standards included in the permit are subject to Mandatory Minimum Penalties (MMPs) of \$3,000 for each violation.

On March 16, 2009, SMD 3 received an Administrative Civil Liability Complaint (ACLC) from the RWQCB for 20 discharge violations at Plant 3 during calendar year 2008. The ACLC included the assessment of \$57,000 in MMPs for 19 of the violations. Staff reviewed the ACLC and believe that the RWQCB incorrectly assessed MMPs on 2 of the violations. We have entered into settlement negotiations with the RWQCB to resolve this discrepancy. If the RWQCB agrees with our assessment, the amount of the fine will be reduced to \$51,000.

Seventeen of the violations identified in the ACLC were for exceedances of the permit limits for ammonia. As a long term plan to address permit compliance in SMD 3, on January 8, 2008 your Board sent a letter to the RWQCB indicating that the County intends to pursue regionalization of the system by abandoning Plant 3 and constructing a pipeline to Roseville's wastewater treatment plant. Regionalization will take a number of years to complete; as an interim solution, on April 29, 2008 your Board created a capital project budget for the SMD 3 De-nitrification Project. This project is scheduled for construction in the summer of 2010 and will provide additional treatment for several constituents including ammonia.

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

**FISCAL IMPACT:** Adequate funding exists in the Fiscal Year 2008/09 SMD 3 Operations Budget to pay the \$57,000 MMPs included in the ACLC.

JD:WD:BZ

ATTACHMENT: ACLC

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California Regional Water Quality Control Board  
Central Valley Region

Karl E. Longley, ScD, PE, Chair

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Arnold  
Schwarzenegger  
Governor

Linda S. Adams  
Secretary for  
Environmental  
Protection

16 March 2009

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

CERTIFIED MAIL  
7008 1140 0002 8805 7487

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**ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2009-0514 FOR ASSESSMENT OF MANDATORY MINIMUM PENALTIES, PLACER COUNTY FACILITY SERVICES DEPARTMENT, PLACER COUNTY SEWER MAINTENANCE DISTRICT NO. 3, 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 (WDRs) Order R5-2007-0070 (NPDES No. CA0079367) by the Placer County Department of Facility Services, Placer County Sanitary District No. 3 (Discharger). The Complaint charges the Discharger with civil liability in the amount of **fifty-seven thousand dollars (\$57,000)**, which represents the sum of accrued Mandatory Minimum Penalties for effluent limitation violations which occurred from 1 January 2008 through 31 December 2008.

On 11 February 2009, Central Valley Water Board staff issued a draft Record of Violations (ROV). The Discharger responded on 24 February 2009, by telephone, and verified the violations.

Pursuant to CWC section 13323, the Discharger may:

- Pay the assessed civil liability and waive its right to a hearing before the Central Valley Water Board by signing the enclosed waiver (checking off the box next to item #4) and submitting it to this office by **15 April 2009**, along with payment for the full amount;
- Agree to enter into settlement discussions with the Central Valley Water Board and request that any hearing on the matter be delayed by signing the enclosed waiver (checking off the box next to item #5) and submitting both the waiver and either (a) a letter describing the issues to be discussed, or (b) a SEP proposal that contains the information described below to this office by **15 April 2009**; or
- Contest the Complaint and/or enter into settlement discussions with the Central Valley Water Board without signing the enclosed waiver.

~~If the Discharger chooses to sign the waiver and pay the assessed civil liability, this will be considered a tentative settlement of the violations in the Complaint. This settlement will be~~

**California Environmental Protection Agency**



considered final pending a 30-day period, starting from the date of this Complaint, during which time interested parties may comment on this proposed settlement by submitting information to this office, attention Barry Hilton. Should the Central Valley Water Board receive 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. If the Central Valley Water Board does not hold a hearing on the matter, and if 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.

As described in CWC section 13385(l)(1), a maximum of \$36,000 of this liability may be applied to a Supplemental Environmental Proposal (SEP). Any proposal for a SEP must include information showing how it meets the criteria of the State Water Board's February 2009 *Policy on Supplemental Environmental Projects*, and must include a project description, timeline, deliverables, and budget. In accordance with the Policy, the Central Valley Water Board may require the payment of staff oversight costs in addition to the base penalty, or may require the Discharger to hire a third-party auditor to oversee expenditure of SEP funds. In the event that a SEP is approved, Central Valley Water Board staff will develop an ACL Order memorializing the settlement. This Order will then be subject to a new 30-day comment period, during which time interested parties may comment on the action.

If the Central Valley Water Board does not receive a signed waiver within 30 days of the date of this Complaint (**by 15 April 2009**), then a hearing will be scheduled for the **11/12 June 2009** Central Valley Water Board meeting in Rancho Cordova. The Central Valley Water Board's Prosecution Team has proposed the enclosed draft Hearing Procedures to govern the conduct of such a hearing. Any objections to these draft Hearing Procedures must be received by Lori Okun, whose contact information is listed in the enclosed draft Hearing procedures, by **5 p.m. on 30 March 2009**.

Any comments or evidence concerning the enclosed Complaint must be submitted in accordance with the deadlines contained in the enclosed draft Hearing Procedures, unless these deadlines are changed by the Central Valley Water Board's Adjudicatory Team, either on its own accord or upon request.

In order to conserve resources, this letter transmits paper copies of the documents to the Discharger only. Interested persons may download the documents from the Regional Water Board's Internet website at [http://www.waterboards.ca.gov/centralvalley/tentative\\_orders/](http://www.waterboards.ca.gov/centralvalley/tentative_orders/). Copies of these documents can also be obtained by contacting or visiting the Regional Water Board's office weekdays between 8:00 AM and 5:00 PM.

If you have any questions or comments regarding the Administrative Civil Liability Complaint, please contact Barry Hilton at (916) 464-4762 or bhilton@waterboards.ca.gov.

*Wendy Wyels*

WENDY WYELS

Supervisor

Compliance and Enforcement Section

Enclosure: ACLC R5-2009-0514  
Draft Hearing Procedures  
Hearing waiver

cc w/o encl: Mr. Kenneth Greenberg, USEPA, Region 9, San Francisco  
Mr. Reed Sato, Office of Enforcement, SWRCB, Sacramento  
Mr. Patrick Pulupa, Office of Chief Counsel, SWRCB, Sacramento  
Ms. Lori Okun, Office of Chief Counsel, SWRCB, Sacramento  
Ms. Emel 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 Sportfishing Protection Alliance, Stockton

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2009-0514

MANDATORY PENALTY  
IN THE MATTER OF

PLACER COUNTY SEWER MAINTENANCE DISTRICT NO. 3  
WASTEWATER TREATMENT PLANT

REGIONAL WASTEWATER CONTROL FACILITY  
PLACER COUNTY

This Complaint is issued to the Placer County Sewer Maintenance District No. 3 (hereafter Discharger) pursuant to California Water Code (CWC) section 13385, which authorizes the imposition of Administrative Civil Liability, 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 R5-2007-0070 (NPDES No. CA0079367).

The 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 Wastewater Treatment Plant (WWTP) which provides sewerage service to the Granite Bay area in Placer County. Treated domestic, commercial, and industrial wastewater is discharged to Miners Ravine, a water of the United States.
2. On 22 June 2007, effective 11 August 2007, the Central Valley Water Board issued WDRs R5-2007-0070 to regulate discharges of waste from the wastewater treatment plant.
3. On 17 December 2008, the Assistant Executive Officer of the Central Valley Water Board issued Administrative Civil Liability Complaint R5-2008-0510 for mandatory minimum penalties for effluent violations from 1 January 2000 through 31 December 2007. The Discharger paid the Complaint and the Central Valley Water Board considers the matter resolved.
4. On 11 February 2009, Central Valley Water Board staff sent the Discharger a draft Record of Violations. The Discharger responded on 24 February 2009, and agreed with the record.
5. CWC sections 13385(h) and (i) require assessment of mandatory penalties and state, in part, the following:

CWC section 13385(h)(1) states:

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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) Falls 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 R5-2007-0070 Effluent Limitations No. IV.A.1.a., states, in part:

The discharge of treated wastewater shall maintain compliance with the following effluent limitations at Discharge Point D-001....:

MANDATORY PENALTY  
 PLACER COUNTY DEPARTMENT OF FACILITY SERVICES  
 PLACER COUNTY SEWER MAINTENANCE DISTRICT NO. 3  
 PLACER COUNTY

Parameter	Units	Effluent Limitations				
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
pH	standard units	--	--	--	6.5	8.2
Manganese (Total)	µg/L	50	--	--	--	--
	lbs/day	0.13	--	--	--	--
Ammonia, total (as N)	mg/L	1.2	--	3.7	--	--

<sup>1</sup> Based upon an average dry weather flow of 0.3 mgd.

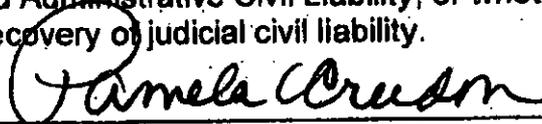
8. According to the Discharger's self-monitoring reports, the Discharger committed nine (9) serious Group I violations of the above effluent limitations contained in Order R5-2007-0070 during the period beginning 1 January 2008 and ending 31 December 2008. These violations are defined as serious because 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 **twenty-seven thousand dollars (\$27,000)**.
9. According to the Discharger's self-monitoring reports, the Discharger committed eleven (11) non-serious violations of the above effluent limitations contained in Order R5-2007-0070 during the period beginning 1 January 2008 and ending 31 December 2008. Ten (10) 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 **thirty thousand dollars (\$30,000)**.
10. The total amount of the mandatory penalties assessed for the cited effluent violations is **fifty-seven thousand dollars (\$57,000)**. A detailed list of the cited effluent violations is included in Attachment A, a part of this Complaint.
11. 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. 3 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 **fifty-seven thousand dollars (\$57,000)**.
2. A hearing on this matter will be held at the Central Valley Water Board meeting scheduled on **11/12 June 2009**, unless the Discharger does either of the following by **15 April 2009**:

MANDATORY PENALTY  
PLACER COUNTY DEPARTMENT OF FACILITY SERVICES  
PLACER COUNTY SEWER MAINTENANCE DISTRICT NO. 3  
PLACER COUNTY

- 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 **fifty-seven thousand dollars (\$57,000)**; 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.



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PAMELA C. CREEDON, Executive Officer

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16 March 2009

Attachment A: Record of Violations  
BLH: 13-Mar-09

**ATTACHMENT A  
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2009-0514**

**Placer County Department of Facility Services  
Placer County Sewer Maintenance District No. 3  
Wastewater Treatment Plant**

**RECORD OF VIOLATIONS (1 January 2008 – 31 December 2008) MANDATORY PENALTIES  
(Data reported under Monitoring and Reporting Program R5-2007-0070.)**

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measured</u>	<u>Period Type</u>	<u>Remarks</u>	<u>CIWQS</u>
1	3-Jan-08	Ammonia	mg/l	3.7	6.2	Daily Max	1	805368
2	5-Mar-08	Ammonia	mg/L	3.7	4.7	Daily Max	3	805370
3	6-Mar-08	Ammonia	mg/L	3.7	4.2	Daily Max	4	805371
4	10-Mar-08	Ammonia	mg/L	3.7	4.0	Daily Max	4	805372
5	17-Mar-08	Ammonia	mg/L	3.7	4.7	Daily Max	4	805373
6	18-Mar-08	Ammonia	mg/L	3.7	4.2	Daily Max	4	805374
7	25-Mar-08	Ammonia	mg/L	3.7	9.8	Daily Max	1	805375
8	27-Mar-08	Ammonia	mg/L	3.7	5.3	Daily Max	1	805376
9	31-Mar-08	Ammonia	mg/l	1.2	3.1	Monthly	1	808051
10	29-Apr-08	Ammonia	mg/l	3.7	4.1	Daily Max	4	805377
11	16-May-08	Ammonia	mg/l	3.7	4.7	Daily Max	4	805382
12	30-May-08	Ammonia	mg/l	3.7	5.8	Daily Max	1	805383
13	31-May-08	Ammonia	mg/l	1.2	1.7	Monthly	1	805384
14	2-Jun-08	Ammonia	mg/l	3.7	5.4	Daily Max	1	805385
15	5-Jun-08	Manganese	µg/L	50	903	Monthly Avg	1	805386
16	5-Jun-08	Manganese	lbs/day	0.13	1.17	Monthly Avg	1	805387
17	13-Aug-08	pH	pH units	6.5	6.4	Instantaneous	4	805388
18	26-Dec-08	Ammonia	mg/l	3.7	4	Daily Max	4	805389
19	29-Dec-08	Ammonia	mg/l	3.7	4.5	Daily Max	4	805391
20	31-Dec-08	Ammonia	mg/l	1.2	1.4	Monthly	4	805392

**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>12/31/2008</u>
Group I Serious Violations:	9
Group II Serious Violations:	0
Non-Serious Exempt from MPs:	1
Non-serious Violations Subject to MPs:	10
<b><u>Total Violations Subject to MPs:</u></b>	<b>19</b>

**Mandatory Minimum Penalty = (9 Serious Violation + 10 Non-Serious Violations) x \$3,000 = \$57,000**

