APPENDIX B

California Regional Water Quality Control Board Central Valley Region
Administrative Civil Liability Complaint No. R5-2008-0506

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2008-0506

MANDATORY PENALTY
IN THE MATTER OF

CITY OF ROSEVILLE
PLEASANT GROVE WASTEWATER TREATMENT PLANT
PLACER COUNTY

This complaint is issued to the City of Roseville (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 No. 5-00-075 (NPDES No. CA0054573).

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 operates the City of Roseville Pleasant Grove Wastewater Treatment Plant (WWTP), which provides sewerage service to the City of Roseville, portions of southeast Placer County, and South Placer Municipal Utility District. Treated municipal wastewater is discharged to Pleasant Grove Creek, a water of the State, and tributary to Pleasant Grove Creek Canal, Natomas Cross Canal, and the Sacramento River, south of the confluence with the Feather River.

2. On 17 March 2000, the Regional Water Board adopted WDRs Order No. 5-00-075 to regulate discharges of waste from the WWTP. The WDRs include effluent limitations and other requirements regarding the waste discharges.

3. CWC section 13385(h) and (i) require assessment of mandatory penalties and state, in part, the following:

   CWC section 13385(h)(1): *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): *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): *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. WDRs Order No. 5-00-075 Effluent Limitations No. B.1. includes, in part, the following effluent limitation:

Constituent	Units	Daily Maximum
Turbidity	NTU	5

6. WDRs Order No. 5-00-075 Effluent Limitations No. B.1. includes, in part, the following effluent limitations:

Constituent	Units	1-Hour Average	4-Day Average
Chlorine Residual	mg/L	0.02	0.01
Cadmium	ug/L	Attachment D	Attachment D

7. WDRs Order No. 5-00-075 Effluent Limitations No. B.1. includes, in part, the following effluent limitations:

Constituent	Units	7-Day Median[1]	Single Sample, 30-Day Maximum[2]
Total Coliform Organisms	MPN/100ml	2.2	23 to 240

[1] 7-Day Median based on previous seven daily sample results

[2] In a 30-day period, only a single sample may exceed 23 MPN/100 ml and no sample should exceed 240 MPN/100 ml.

8. According to the Discharger's self-monitoring reports, the Discharger committed three (3) serious violations of the effluent limitations contained in WDRs Order No. 5-00-075 during the period beginning 1 January 2000 and ending 31 May 2007, because measured constituents exceeded prescribed levels by more than 20 percent or 40 percent on these occasions. The mandatory minimum penalty for these serious violations is **nine thousand dollars ($ 9,000)**.

9. According to the Discharger's self-monitoring reports, the Discharger committed eighteen (18) non-serious violations of the effluent limitations contained in the NPDES Permit during the period beginning 1 January 2000 and ending 31 May 2007. Eight (8) of the non-serious violations are subject to mandatory penalties under CWC Section 13385(i)(1), because these violations were precede by three or more other violations within a six-month period. The mandatory minimum penalty for these non-serious violations is **twenty-four thousand dollars ($ 24,000)**.

10. The total amount of the mandatory penalties assessed for the cited effluent violations is **thirty-three thousand dollars ($ 33,000)**. A detailed list of the cited effluent violations is included in Attachment A, a part of this ACL Complaint.

11. Issuance of this ACL Complaint to enforce CWC Division 7, Chapter 5.5 is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et. seq.), in accordance with Title 14 California Code of Regulations, Enforcement Actions by Regulatory Agencies, Section 15321(a)(2).

THE DISCHARGER 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-three thousand dollars ($ 33,000)**.

2. A hearing on this matter will be held at the Regional Water Board meeting scheduled on **24/25 April 2008**, unless the Discharger agrees to:

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 three thousand dollars ($33,000) thirty-three thousand dollars ($ 33,000)**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.

KENNETH D. LANDAU, Assistant Executive Officer

6 February 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 Roseville (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint No. R5-2008-0506 (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 issuance 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 issuance of the Complaint; and

4. I certify that the Discharger will remit payment for the civil liability imposed in the amount of thirty-three thousand dollars ($ 33,000) by check, which contains a reference to "ACL Complaint No. R5-2008-0506" 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 violations alleged in the Complaint that will not become final until after a public comment period.

6. I understand that the Assistant Executive Officer has complete discretion to modify or terminate this settlement.

7. 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. R5-2008-0506

City of Roseville
Pleasant Grove Wastewater Treatment Plant
RECORD OF VIOLATIONS (1 January 2000 – 31 May 2007) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Program No. 5-00-075.)

	Date	Violation Type	Units	Limit	Result	Period Type	Remarks
1	5-Jul-04	Coliform	MPN/100 ml	240	1600	30-Day Maximum	6
2	31-Jul-04	Coliform	MPN/100 ml	2.2	4	7-Day Median	6
3	1-Aug-04	Coliform	MPN/100 ml	2.2	4	7-Day Median	6
4	2-Aug-04	Coliform	MPN/100 ml	2.2	4	7-Day Median	6
5	3-Aug-04	Coliform	MPN/100 ml	2.2	7	7-Day Median	6
6	4-Aug-04	Coliform	MPN/100 ml	2.2	4	7-Day Median	6
7	4-Oct-04	Coliform	MPN/100 ml	2.2	4	7-Day Median	3
8	5-Oct-04	Coliform	MPN/100 ml	2.2	4	7-Day Median	3
9	6-Oct-04	Coliform	MPN/100 ml	2.2	4	7-Day Median	3
10	7-Oct-04	Coliform	MPN/100 ml	2.2	4	7-Day Median	4
11	8-Oct-04	Coliform	MPN/100 ml	2.2	4	7-Day Median	4
12	7-Nov-04	Turbidity	NTU	5	5.7	Daily Maximum	4
13	21-Nov-04	Chlorine Residual	mg/l	0.02	0.24	1-Hour Average	2
14	30-Dec-04	Chlorine Residual	mg/l	0.02	0.83	1-Hour Average	2
15	8-Jun-05	Coliform	MPN/100 ml	2.2	8	7-Day Median	3
16	30-Oct-05	Coliform	MPN/100 ml	2.2	4	7-Day Median	3
17	1-Nov-05	Coliform	MPN/100 ml	2.2	4	7-Day Median	3
18	4-Nov-05	Coliform	MPN/100 ml	2.2	4	7-Day Median	4
19	5-Nov-05	Coliform	MPN/100 ml	2.2	4	7-Day Median	4
20	17-Dec-06	Cadmium	ug/l	5.2	5.6	1-Hour Average	3
21	17-Dec-06	Cadmium	ug/l	2.7	3.8	4-Day Average	2
22	10-Feb-07	Coliform	MPN/100 ml	2.2	4	7-Day Median	3
23	11-Feb-07	Coliform	MPN/100 ml	2.2	4	7-Day Median	3
24	12-Feb-07	Coliform	MPN/100 ml	2.2	4	7-Day Median	3
25	13-Feb-07	Coliform	MPN/100 ml	2.2	4	7-Day Median	4
26	14-Feb-07	Coliform	MPN/100 ml	2.2	4	7-Day Median	4
27	9-Mar-07	Coliform	MPN/100 ml	23	30	30-Day Maximum	4

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 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 limit exceedances due only to wet weather not assessed MMPs, pursuant to SWRCB Order WQO 2004-0013.
6. Violation during defined period of adjusting or testing, usually the first 90 days after system start-up, exempt from MMPs.

VIOLATIONS AS OF:	**5/31/2007**
Group 1 Serious Violations:	0
Group 2 Serious Violations:	3
Non-Serious Exempt from MPs:	10
Non-serious Violations Subject to MPs:	8
Mass Rate Violations, Wet Weather, Exempt From MPs:	0
Violations During Adjusting or Testing, Exempt From MPs:	6
Total Violations Subject to MMPs:	**27**

Mandatory Minimum Penalty = (3 Serious Violations + 8 Non-Serious Violations) x $3,000 = $33,000