

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2011-0596

MANDATORY PENALTY  
IN THE MATTER OF

CITY OF ALTURAS  
WASTEWATER TREATMENT PLANT  
MODOC COUNTY

This Order is issued to the City of Alturas (hereafter Discharger) pursuant to California Water Code (CWC) section 13385, which authorizes the imposition of Administrative Civil Liability (ACL). This Order is based on findings that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Order R5-2006-0103 (NPDES No. CA0078921).

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 collection, treatment, and disposal system, and provides sewerage service to the city of Alturas. Treated municipal wastewater is discharged year-round to Pit River, a water of the United States.
2. On 5 September 2003, the Central Valley Water Board adopted Cease and Desist Order (CDO) R5-2003-0128 requiring the Discharger submit a report by 1 January 2004 identifying a method to provide adequate treatment for long-term compliance with discharge requirements. The Discharger selects facility upgrade as the most reasonable alternative for long-term compliance and submits a grant application to the State Water Resources Control Board for a \$2 million grant for the \$3.4 million project. The Discharger raises sewer rates to cover matching funding.
3. On 22 September 2006, the Central Valley Water Board adopted Waste Discharge Requirements Order R5-2006-0103 (NPDES No. CA0078921), for the City of Alturas' Wastewater Treatment Plant, to regulate the discharge of treated municipal wastewater. The new Order contains interim effluent limits for copper and zinc until 18 May 2010 and for total coliform bacteria until 15 November 2008. The Order also requires completion of the proposed Phase I facility improvements by 15 November 2007.
4. On 26 June 2007 the Discharger accepted a bid for construction of the facility upgrades and work began in the summer of 2007. Upgrades to the trickling filter were completed on 24 March 2008. A minimum mandatory exemption period went into effect for the effluent limitations contained in Waste Discharge Requirements Order R5-2006-0103 until construction of the new facility upgrades were completed. However, in July 2008, discharges from the facility continued to exceed effluent limitations for Total Suspended Solids (TSS) and Biological Oxygen Demand (BOD) after the minimum mandatory exemption period.
5. On 5 August 2008, Central Valley Water Board staff met with the Discharger and their consultant regarding the violations. On 12 August 2008 Discharger submitted a

proposal for modification of the trickling bed to address the effluent limit violations. The modifications to the trickling bed were made but they did not address the increased levels of TSS and BOD<sub>5</sub>. During the fall of 2008 through the spring of 2009, biological activity on the trickling filter was minimal and effluent limitation violations for TSS, BOD<sub>5</sub> and other parameters continued. Additional facility modifications were implemented but were insufficient to bring the facility into compliance.

6. On 9 October 2009, Central Valley Water Board staff issued a Draft Record of Violations letter to the Discharger for effluent limitation violations for the period of 18 July 2008 through 30 July 2009.
7. On 28 January 2010, the Discharger requested a time schedule order (TSO) extension for copper and zinc effluent limitations. The Central Valley Water Board issues Time Schedule Order R5-2010-0905 on 27 May 2010.
8. On 18 August 2010, Central Valley Water Board staff issued an updated Draft Record Violations letter to the Discharger for effluent limitation violations for the period of 18 July 2008 through 31 March 2010. The Discharger replied on 14 January 2011, arguing that they were a publicly owned treatment works serving a small community within the definition of California Water Code (CWC)13385(k)(2). The Discharger proposed that plant upgrades to the disinfection pumping and piping be considered as a compliance project under CWC 13385(k)(1) and credited towards the mandatory minimum penalties
9. On 27 October 2010, the Discharger submitted a proposal to come into compliance with final copper and zinc effluent limitations as required by the TSO. The proposal also contained long-term solutions for compliance with all effluent limitations. Central Valley Water Board staff commented on the plan on 7 December 2010 and requested a revised plan by 30 January 2011. The Discharger requested an extension to that date to 28 February 2011. The Discharger submitted a final work plan on 28 February 2011 which proposed a long-term solution to wastewater treatment through land discharge of the effluent and elimination of all surface water discharge.
10. CWC section 13385(h) and (i) requires the assessment of mandatory penalties and states, 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.

11. CWC section 13323(a) 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.

12. WDRs Order R5-2006-0103 Effluent Limitations state, in part:

**B. Effluent Limitations**

1. The Discharge of wastewater effluent to the Pit River at Discharge Point 001 in excess of the following limits is prohibited:

<i>Constituent</i>	<i>Units</i>	<i>Monthly Average</i>	<i>Weekly Average</i>	<i>Daily Maximum</i>	<i>4-Day Average</i>	<i>Monthly Median</i>
BOD <sub>5</sub> <sup>a</sup>	mg/L	30 <sup>b</sup>	45 <sup>b</sup>	60 <sup>b</sup>		
	lbs/day <sup>c</sup>	125	187	250		
TSS	mg/L	30 <sup>b</sup>	45 <sup>b</sup>	60 <sup>b</sup>		
	lbs/day <sup>c</sup>	125	187	250		
Settleable Solids	ml/L	0.1		0.2		
Chlorine	mg/L			0.02 <sup>d</sup>	0.01	
Copper	ug/L	4.6		9.2		
Zinc	ug/L	40.5		81.9		
Turbidity	NTU					5
Total Coliform Bacteria	MPN/100 mL			23		2.2

<i>Constituent</i>	<i>Units</i>	<i>Monthly Average</i>	<i>Weekly Average</i>	<i>Daily Maximum</i>	<i>4-Day Average</i>	<i>Monthly Median</i>
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<sup>a</sup> Five-day biochemical oxygen demand at 20° C

<sup>b</sup> To be ascertained by a 24-hour composite

<sup>c</sup> Based upon a design treatment capacity of 0.5 mgd

<sup>d</sup> 1-hour average

2. Interim effluent limits have been established for copper, zinc and total coliform bacteria. The interim effluent limits for copper and zinc apply until **18 May 2010** and those for total coliform bacteria apply until **15 November 2008**. The final limit for turbidity will not apply until **15 November 2008**. The interim discharge of wastewater to the Pit River in excess of the following is prohibited:

<i>Constituent</i>	<i>Units</i>	<i>Monthly Average</i>	<i>Weekly Average</i>	<i>Daily Maximum</i>	<i>4-Day Average</i>	<i>7-Day Median</i>
Copper	ug/L	11.8		36.7		
Zinc	ug/L	58.0		180.4		
Total Coliform Bacteria <sup>a</sup>	MPN/100 mL			500		23

<sup>a</sup>The Discharger is required to meet the more stringent coliform limit only when there is less than 20:1 dilution in the receiving water.

3. The arithmetic mean of 20°C BOD (five-day) and total suspended solids in effluent samples collected over a monthly period shall not exceed 15 percent of the arithmetic mean of the values for influent samples collected at approximately the same times during the same period (85 percent removal).

### C Toxicity Limitation

Survival of test fish in 96-hour bioassays of undiluted waste shall be no less than:

Minimum for any one bioassay 70 %

Median for any three or more consecutive bioassays 90 %

13. Cease and Desist Order R5-2010-0103 contains interim effluent limitations for copper and zinc as follows:

<b>Parameter</b>	<b>Unit</b>	<b>Daily Maximum</b>
Copper, Total Recoverable	µg/l	38.1
Zinc, Total Recoverable	µg/l	73.8

14. According to the Discharger's self-monitoring reports, the Discharger committed forty-two non-serious violations of the above effluent limitations contained in Order R5-2006-0103 during the period beginning July 2008 and ending March 2010.

Thirty-eight of the violations are subject to mandatory penalties under CWC Section 13385(i)(1) because these violations were preceded by three similar violations within a six-month period. The mandatory minimum penalty for the violations is **one hundred eleven thousand dollars (\$111,000)**.

15. According to the Discharger's self-monitoring reports, the Discharger committed sixteen serious violations [as defined in CWC Section 13385(h)(2)] of the above effluent limitations contained in Order R5-2006-0103 during the period beginning July 2008 and ending March 2010. All sixteen of the violations are subject to mandatory penalties under CWC Section 13385(h)(1). The mandatory minimum penalty for the sixteen serious violations is **forty-five thousand dollars (\$45,000)**.
16. The total amount of the mandatory minimum penalties assessed for the cited violations is **one hundred fifty six thousand dollars (\$156,000)**. A detailed list of the cited effluent violations is included in Attachment A, a part of this Order.
17. CWC section 13385 (k) states:
  - (1) In lieu of assessing all or a portion of the mandatory minimum penalties pursuant to subdivisions (h) and (i) against a publicly owned treatment works serving a small community, the state board or the regional board may elect to require the publicly owned treatment works to spend an equivalent amount towards the completion of a compliance project proposed by the publicly owned treatment works, if the state board or the regional board finds all of the following:
    - (A) The compliance project is designed to correct the violations within five years.
    - (B) The compliance project is in accordance with the enforcement policy of the state board, excluding any provision in the policy that is inconsistent with this section.
    - (C) The publicly owned treatment works has prepared a financing plan to complete the compliance project.
  - (2) For the purposes of this subdivision, "a publicly owned treatment works serving a small community" means a publicly owned treatment works serving a population of 10,000 persons or fewer or a rural county, with a financial hardship as determined by the state board after considering such factors as median income of the residents, rate of unemployment, or low population density in the service area of the publicly owned treatment works.
18. Staff at the Central Valley Water Board has determined that the Discharger's wastewater treatment plant is a publicly owned treatment works serving a small community within the meaning of CWC section 13385(k)(2).
19. In response to the ongoing violations at the WWTP, the Discharger proposed a Compliance Project in form of an Interim Operations Plan (IOP) in September 2009 to improve effluent quality from the facility. The project was initiated and completed in response to wastewater treatment challenges faced by the plant, including the

violations of effluent limitations detailed in Attachment A. Changes implemented in the IOP included the addition of chemicals to aid in pollutant removal, piping modification, operational changes, and equipment modifications. Violations prior to the implementation of the IOP were for a broad range of constituents. The implementation of the IOP has greatly reduced the frequency of violations at the facility and has been effective at reducing constituent levels in the plant's effluent below regulatory limits.

In addition to the IOP, the Discharger is in the process of developing a long-term solution to the disposal issues. The facility is moving toward a land-application system for treated wastewater. Elimination of surface water dischargers from the plant will undoubtedly proved an environmental benefit to water quality in the Pit River.

20. On 8 June 2011, the Public Works Director for the City of Alturas submitted accounting records showing that the Discharger expended \$158,067.04 on the IOP which is in excess of the mandatory minimum penalty that is required by CWC sections 13385(h) and (i).
21. The Central Valley Water Board finds that the Compliance Project has been designed to correct the violations that led to the issuance of this Administrative Civil Liability and that the project is in accordance with the enforcement policy of the State Water Board.
22. On 9 September 2011, the Executive officer issued R5-2011-0591, an administrative civil liability complaint for the mandatory minimum penalty in the amount of \$156,000 for the violations that occurred between July 2008 and March 2010. On 3 October 2011 the Central Valley Water Board received a signed waiver of public hearing within 90 days and a request from the Discharger to apply the civil liability towards the compliance project outlined in Finding 20 above. The complaint was publicly notice from 8 September through 7 October 2011, with no comments received.
23. The Central Valley Water Board finds that the Compliance Project corrected the violations that led to the issuance of this Administrative Civil Liability Order. The project is in accordance with the enforcement policy of the State Water Board, and that the Discharger had appropriate financing to complete the project
24. This Order constitutes a settlement of the violations herein mentioned. Notice of this settlement was published on the Central Valley Water Board's website, and was provided to all interested parties. The 30-day public notice and comment period mandated by Federal regulations (40 CFR 123.27) has expired.
25. Issuance of this Administrative Civil Liability Order 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).

**IT IS HEREBY ORDERED**, pursuant to CWC section 13385 and Resolution R5-2009-0027, that:

1. City of Alturas, Alturas Wastewater Treatment Plant, its agents, successors and assigns, shall be assessed an Administrative Civil Liability in the amount of **one hundred fifty-six thousand dollars (\$156,000)**.
2. The entire \$156,000 is treated as a Suspended Administrative Liability as the discharger has submitted proof to the Regional Board that the money spent toward the Compliance Project detailed in Finding 20 was equal or greater than the Suspended Administrative Liability.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with CWC section 13320 and California Code of Regulations, Title 23, Sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

[http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality)

or will be provided upon request.

This Order is effective immediately upon issuance.

Original signed by

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PAMELLA C. CREEDON, Executive Officer

12 December 2011

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(Date)

Attachment A: Record of Violations  
KEK:

**ATTACHMENT A**  
**ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R5-2011-0596**

ALTURAS WASTEWATER TREATMENT PLANT  
Record of Violations (18 July 2008 to 31 March 2010)  
MANDATORY MINIMUM PENALTIES  
(Data reported under Monitoring and Reporting Program No. R5-2006-0103)

Violation Date	Pollutant/ Parameter	Effluent Limit	Analytical Results	Percentage Over	Violation Type	MMP Amount
7/22/2008	Total Coliform daily maximum	500 MPN/100 mL	>1600 MPN/100 mL	--	Non-Serious Other	\$ -
8/31/2008	BOD monthly average	30 mg/L	33.8 mg/L	13	Non-Serious Group I	\$ -
9/30/2009	BOD removal	15% remaining	20.4% remaining	36	Non-Serious Group I	\$ -
9/30/2008	TSS removal	15% remaining	19.5% remaining	30	Non-Serious Group I	\$ -
9/30/2008	Total Coliform monthly median	23 MPN/100mL	131.5 MPN/100 mL	--	Non-Serious Other	\$3,000.00
10/31/2008	Total Coliform monthly median	23 MPN/100mL	263 MPN/100 mL	--	Non-Serious Other	\$3,000.00
11/30/2008	Total Coliform monthly median	23 MPN/100mL	46 MPN/100 mL	--	Non-Serious Other	\$3,000.00
12/31/2008	BOD removal	15% remaining	27.4% remaining	83	Serious – Group I	\$3,000.00
12/31/2008	TSS removal	15% remaining	23.9% remaining	59	Serious – Group I	\$3,000.00
12/31/2008	Total Coliform monthly median	23 MPN/100mL	46 MPN/100 mL	--	Non-Serious – Other	\$3,000.00
1/6/2009	BOD weekly average	45 mg/L	45.9 mg/L	2	Non-Serious Group I	\$3,000.00
1/31/2009	BOD monthly average	30 mg/L	35.3 mg/L	18	Non-Serious Group I	\$3,000.00
1/31/2009	BOD removal	15% remaining	20.2% remaining	35	Non-Serious Group I	\$3,000.00
1/31/2009	TSS removal	15% remaining	16.3% remaining	9	Non-Serious Group I	\$3,000.00
1/31/2009	Total Coliform monthly median	23 MPN/100 mL	46 MPN/100 mL	--	Non-Serious Other	\$3,000.00
2/2/2009	Acute toxicity	70% survival	35% survival	50	Serious – Group II	\$3,000.00
2/4/2009	BOD weekly average	45 mg/L	47.9 mg/L	6	Non-Serious Group I	\$3,000.00
2/28/2009	BOD monthly average	30 mg/L	37.9 mg/L	26	Non-Serious Group I	\$3,000.00
2/28/2009	BOD removal	15% remaining	35.9% remaining	139	Serious – Group I	\$3,000.00
2/28/2009	Total Coliform monthly median	23 MPN/100 mL	46 MPN/100 mL	--	Non-Serious Other	\$3,000.00
3/3/2009	BOD weekly average	45 mg/L	49.7 mg/L	10	Non-Serious Group I	\$3,000.00
3/31/2009	BOD monthly average	30 mg/L	41.1 mg/L	37	Non-Serious Group I	\$3,000.00
3/31/2009	BOD % remaining	15% remaining	19.9% remaining	33	Non-Serious Group I	\$3,000.00
3/31/2009	TSS monthly average	30 mg/L	31 mg/L	3	Non-Serious Group I	\$3,000.00
3/31/2009	TSS % remaining	15% remaining	20% remaining	33	Non-Serious Group I	\$3,000.00
3/31/2009	Total coliform monthly median	23 MPN/100 mL	46 MPN/100 mL	--	Non-Serious Other	\$3,000.00
4/6/2009	Acute toxicity	70% survival	0% survival	100%	Serious – Group II	\$3,000.00
4/6/2009	Acute toxicity	90% median 3 test	35%	61%	Serious – Group II	\$3,000.00
4/7/2009	BOD weekly average	45 mg/L	54.4 mg/L	21	Non-Serious Group I	\$3,000.00
4/14/2009	BOD weekly average	45 mg/L	46.9 mg/L	4	Non-Serious Group I	\$3,000.00
4/30/2009	BOD monthly average	30 mg/L	39.1 mg/L	30	Non-Serious Group I	\$3,000.00
4/30/2009	BOD removal	15% remaining	35.2% remaining	135	Serious – Group I	\$3,000.00
4/30/2009	TSS monthly average	30 mg/L	32.5 mg/L	8	Non-Serious Group I	\$3,000.00
4/30/2009	TSS removal	15% remaining	25% remaining	67	Serious – Group I	\$3,000.00
4/30/2009	Total Coliform monthly median	23 MPN/100 mL	168 MPN/100 mL	--	Non-Serious Other	\$3,000.00

**ATTACHMENT A**  
**ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R5-2011-0596**

<b>Violation Date</b>	<b>Pollutant/ Parameter</b>	<b>Effluent Limit</b>	<b>Analytical Results</b>	<b>Percentage Over</b>	<b>Violation Type</b>	<b>MMP Amount</b>
5/5/2009	BOD weekly average	45 mg/L	45.9 mg/L	2	Non-Serious Group I	\$3,000.00
5/12/2009	BOD weekly average	45 mg/L	50 mg/L	11	Non-Serious Group I	\$3,000.00
5/26/2009	TSS weekly average	45 mg/L	50 mg/L	11	Non-Serious Group I	\$3,000.00
5/31/2009	BOD monthly average	30 mg/L	41.1 mg/L	37	Non-Serious Group I	\$3,000.00
5/31/2009	BOD removal	15% remaining	32.1 % remaining	114	Serious – Group I	\$3,000.00
5/31/2009	TSS monthly average	30 mg/L	43.3 mg/L	44	Serious – Group I	\$3,000.00
5/31/2009	TSS removal	15% remaining	32.8 % remaining	119	Serious – Group I	\$3,000.00
5/31/2009	Total Coliform monthly median	23 MPN/100 mL	88 MPN/100 mL	--	Non-Serious Other	\$3,000.00
6/9/2009	BOD weekly average	45 mg/L	50 mg/L	11	Non-Serious Group I	\$3,000.00
6/16/2009	TSS weekly average	45 mg/L	68 mg/L	51	Serious – Group I	\$3,000.00
6/30/2009	BOD monthly average	30 mg/L	33.3 mg/L	11	Non-Serious Group I	\$3,000.00
6/30/2009	BOD removal	15% remaining	16.9% remaining	13	Non-Serious Group I	\$3,000.00
6/30/2009	TSS monthly average	30 mg/L	39.9 mg/L	33	Non-Serious Group I	\$3,000.00
6/30/2009	TSS removal	15% remaining	26.5% remaining	77	Serious – Group I	\$3,000.00
7/31/2009	TSS removal	15% remaining	19.8 % remaining	32	Non-Serious Group I	\$3,000.00
8/11/2009	TSS weekly average	45 mg/L	56 mg/L	24	Non-Serious Group I	\$3,000.00
8/31/2009	TSS monthly average	30 mg/L	42.5 mg/L	42	Serious – Group I	\$3,000.00
8/31/2009	TSS removal	15% remaining	26.4% remaining	76	Serious – Group I	\$3,000.00
8/31/2009	Total Coliform monthly median	23 MPN/100 mL	36.5 MPN/100 mL	--	Non-Serious Other	\$3,000.00
9/30/2009	TSS monthly average	30 mg/L	36.8 mg/L	23	Non-Serious Group I	\$3,000.00
9/30/2009	TSS removal	15% remaining	19.8 % remaining	24	Non-Serious Group I	\$3,000.00
<b>Total</b>						<b>\$156,000</b>

Violation Types

- Serious, Group I (Group I Pollutant  $\geq$  40% Exceedance)
- Non-Serious, Group I (Group I Pollutant < 40% Exceedance)
- Serious, Group II (Group II Pollutant  $\geq$  20% Exceedance)
- Non-Serious, Group II (Group II Pollutant < 20% Exceedance)
- Non-Serious, Other WDR Effluent Limitation

