

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2010-0548

MANDATORY PENALTY  
IN THE MATTER OF

DEPARTMENT OF GENERAL SERVICES  
OFFICE OF STATE PUBLISHING  
SACRAMENTO COUNTY

This Complaint is issued to the California Department of General Services, Office of State Publishing (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. This Complaint is based on findings that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Order R5-2005-0086 (NPDES No. CA0078875).

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 operates a publishing facility that provides printing and communications services to State, Federal, and City agencies. The Discharger discharges non-contact cooling water from air-conditioning heat exchange coils into the American River, a water of the United States. The discharge commingles with on-site storm runoff prior to the discharge to the American River.
2. On 24 June 2005, the Central Valley Water Board issued WDRs Order R5-2005-0086, which contained new requirements and rescinded WDRs Order 98-060. The WDRs include a time schedule which allows the Discharger until 21 May 2010 to comply with final effluent limitations. The Board also issued Time Schedule Order (TSO) R5-2005-0087, which includes interim effluent limitations for cadmium, copper, and lead. Resolution R5-2007-00164, issued 6 December 2007, amended the interim effluent limitations for arsenic and iron in TSO R5-2005-0087.
3. On 6 December 2007, the Central Valley Water Board issued Resolution R5-2007-0164 amending WDRs Order No. R5-2005-0086 and TSO R5-2005-0087. The resolution amended the WDRs to revise interim effluent limitations for, among other constituents, arsenic, cadmium, copper, iron, lead, nickel, and selenium.
4. On 28 June 2010, the Central Valley Water Board issued TSO R5-2010-0907. The TSO provided the Discharger until 1 November 2010 to comply with effluent limitations for cadmium, copper, and lead. This Complaint considers the compliance with the final effluent limitations for cadmium, copper, iron, and lead set forth in the WDRs, and the interim effluent limitations in TSO R5-2005-0087 as amended, during the period of 22 May 2010 and 28 June 2010.

5. On 29 July 2008 the Assistant Executive Officer of the Central Valley Water Board issued Administrative Civil Liability Complaint R5-2008-0557 for mandatory minimum penalties for effluent violations from 1 January 2000 through 31 March 2008. The Discharger paid the administrative civil liability charged in Complaint R5-2008-0557, and the Board considers those effluent violations specifically listed in Attachment A to Complaint R5-2008-0557 resolved.
6. This Complaint covers the period of 1 April 2008 through 31 July 2010. On 1 October 2010, Central Valley Water Board staff issued the Discharger a Notice of Violation and draft Record of Violations. The Discharger has not submitted any comments regarding the violations.
7. CWC sections 13385(h) and (i) require assessment of mandatory penalties and state, in part, the following:

CWC section 13385 subdivision (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 subdivision (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 twenty 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 subdivision (i)(1) states, in part:

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.

8. CWC section 13385(j)(3) states, in part:

(j) Subdivisions (h) and (i) do not apply to any of the following:

(3) A violation of an effluent limitation where the waste discharge is in compliance with ...a time schedule order ...

9. The Discharger violated the interim effluent limitations for iron set forth in TSO R5-2005-0087, as amended by Resolution R5-2007-0164, and therefore is subject to mandatory minimum penalties for these specific iron violations.

10. 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.

11. WDRs Order No. R5-2005-0086 Effluent Limitations No. B.1. states, in part,

1. Effluent shall not exceed the following limits unless otherwise specified per footnote 2:

<u>Constituents</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Daily Maximum</u>
Cadmium <sup>2</sup>	µg/L	0.41	0.82
	lbs/day <sup>1</sup>	0.0044	0.0089
Copper <sup>2</sup>	µg/L	1.7	3.4
	lbs/day <sup>1</sup>	0.018	0.037
Iron	µg/L	--	300
	lbs/day	--	3.3
Lead	µg/L	0.41	0.82
	lbs/day <sup>1</sup>	0.0044	0.0089

<sup>1</sup> Based upon an average discharge flow of 1.3 mgd for Discharge 001.

<sup>2</sup> Full compliance with this limitation is required by 22 May 2010 only upon approval of a compliance justification in accordance with Provision E4, otherwise full compliance is required by 1 November 2005.

12. WDRs Order No. R5-2005-0086 Effluent Limitations No. B.3. states:

3. The discharge shall not have a pH less than 6.5 nor greater than 8.5.

13. WDRs Order No. R5-2005-0086 Effluent Limitations No. B.4. states:

4. The temperature of the discharge shall not exceed 70°F in any day of discharge.

14. TSO R5-2005-0087 (as amended by Resolution R5-2007-0164) interim effluent limitations for iron, states in part:

<u>Constituents</u>	<u>Units</u>	<u>Daily Maximum</u>
Iron	µg/L	413
	lbs/day <sup>1</sup>	4.5

<sup>1</sup> Based upon an average discharge flow of 1.3 mgd.

15. According to the Discharger's self-monitoring reports, the Discharger committed two (2) serious Group I violations of the above effluent limitations contained in WDRs Order R5-2005-0086 and TSO R5-2007-0087 as amended by Resolution R5-2007-0164 during the period beginning 1 April 2008 and ending 31 July 2010. The violations are defined as serious because measured concentrations of Group I constituents exceeded maximum prescribed levels by twenty percent or more on these occasions. The mandatory minimum penalty for these serious violations is **six thousand dollars (\$6,000)**.
16. According to the Discharger's self-monitoring reports, the Discharger committed ten (10) serious Group II violations of the above effluent limitations contained in Order R5-2005-0086 during the period beginning 1 April 2008 and ending 31 July 2010. The violations are defined as serious because measured concentrations of Group II constituents exceeded maximum prescribed levels by twenty percent or more on these occasions. The mandatory minimum penalty for these serious violations is **thirty thousand dollars (\$30,000)**.
17. According to the Discharger's self-monitoring reports, the Discharger committed six (6) non-serious violations of the above effluent limitations contained in Order R5-2005-0086 during the period beginning 1 April 2008 and ending 31 July 2010. None of the non-serious violations are subject to mandatory penalties under CWC section 13385(i)(1) because these violations were not preceded by three or more similar violations within a six-month period.
18. 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 Complaint. This Complaint addresses administrative civil liability for violations that are specifically identified in Attachment A.
19. 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 CALIFORNIA DEPARTMENT OF GENERAL SERVICES, OFFICE OF STATE PUBLISHING, 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 **thirty-six thousand dollars (\$36,000)**.
2. A hearing on this matter will be conducted at the Central Valley Water Board meeting scheduled on **2/3/4 February 2011**, unless the Discharger does one of the following **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 **thirty-six thousand dollars (\$36,000)**; 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 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.

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

4 November 2010

**WAIVER OF 90-DAY HEARING REQUIREMENT FOR  
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT  
WAIVER FORM  
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

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

I am duly authorized to represent the California Department of General Services, Office of State Publishing (hereafter Discharger) in connection with Administrative Civil Liability Complaint R5-2010-0548 (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 **thirty-six thousand dollars (\$36,000)** by check that references "ACL Complaint R5-2010-0548" 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. R5-2010-0548**

**California Department of General Services**  
**Office of State Publishing**

RECORD OF VIOLATIONS (1 April 2008 – 31 July 2010) MANDATORY PENALTIES  
(Data reported under Monitoring and Reporting Program R5-2005-0086)

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measure</u> <u>d</u>	<u>Period Type</u>	<u>Remarks</u>	<u>CIWQS</u>
1	20-Jun-08	Temperature	deg. F	70	71	Daily	3	807501
2	21-Jun-08	Temperature	deg. F	70	71	Daily	3	807502
3	5-May-09	pH	pH units	6.5	6.4	Daily	3	829456
4	6-May-09	pH	pH units	6.5	6.4	Daily	3	829458
5	7-May-09	pH	pH units	6.5	6.3	Daily	3	829460
6	12-May-10	pH	s.u.	6.5	6.4	Daily	3	877455
	21-May-10	WDRs interim limitations for cadmium, copper, and lead ends						
7	26-May-10	Iron	µg/L	300*	4380	Daily	1	877482
8	26-May-10	Iron	lbs/day	3.3*	5.2	Daily	1	877481
9	26-May-10	Cadmium	µg/L	0.82	1.3	Daily Max	2	877456
10	26-May-10	Copper	µg/L	3.4	37.7	Daily Max	2	877458
11	26-May-10	Copper	lbs/day	0.037	0.045	Daily Max	2	877469
12	26-May-10	Lead	µg/L	0.82	20.1	Daily Max	2	877471
13	26-May-10	Lead	lbs/day	0.0089	0.024	Daily Max	2	877473
14	31-May-10	Cadmium	µg/L	0.41	1.3	Monthly Ave	2	877474
15	31-May-10	Copper	µg/L	1.7	37.7	Monthly Ave	2	877475
16	31-May-10	Copper	lbs/day	0.018	0.090	Monthly Ave	2	877477
17	31-May-10	Lead	µg/L	0.41	20.1	Monthly Ave	2	877478
18	31-May-10	Lead	lbs/day	0.0044	0.048	Monthly Ave	2	877479
	29-Jun-10	TSO R5-2010-0907 protection for cadmium, copper, and lead begins						

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 penalties.

\* Exceeds both the interim limitations set forth in TSO R5-2005-0087 (as amended by Resolution R5-2007-0164) and the WDR limit.

**VIOLATIONS AS OF: 7/31/2010**

Group I Serious Violations:	2
Group II Serious Violations:	10
Non-Serious Exempt from MPs:	6
Non-serious Violations Subject to MPs:	0

**Total Violations Subject to MPs: 12**

**Mandatory Minimum Penalty = (12 Serious Violations + 0 Non-Serious Violations) x \$3,000 = \$36,000**