

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2009-0516

MANDATORY PENALTY
IN THE MATTER OF

MOUNTAIN HOUSE COMMUNITY SERVICES DISTRICT
WASTEWATER TREATMENT PLANT
SAN JOAQUIN COUNTY

This Complaint is issued to the Mountain House Community Services District, Wastewater Treatment Plant (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 R5-2007-0039 (NPDES No. CA0084271).

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 for the community of Mountain House. Treated wastewater is discharged to Old River, a water of the United States and part of the Sacramento-San Joaquin Delta.
2. On 4 May 2007, the Central Valley Water Board issued WDRs Order R5-2007-0039 to regulate discharges of waste from the wastewater treatment plant (WWTP).
3. On 4 May 2007, the Central Valley Water Board issued Time Schedule Order (TSO) R5-2007-0040, providing a time schedule until 30 April 2012 to comply with final effluent limitations for bis(2-ethylhexyl)phthalate, cyanide, group A pesticides (aldrin and heptachlor), and iron. The TSO also provides interim effluent limitations for those constituents. This Complaint considers the interim effluent limitations and the protection from Mandatory Minimum Penalties provided by TSO R5-2007-0040.
4. On 17 September 2008, the Assistant Executive Officer of the Central Valley Water Board issued Administrative Civil Liability Complaint R5-2008-0571 for mandatory minimum penalties for effluent violations from 24 June 2005 through 31 January 2008. The Discharger paid the Complaint and the Central Valley Water Board considers the matter resolved.
5. On 11 February 2009, Central Valley Water Board staff sent the Discharger a draft Record of Violations (ROV). The Discharger responded on 25 February 2009. Central Valley Water Board staff has prepared a technical memorandum, included as Attachment B and discussed in Finding 9 of this Complaint, which explains adjustments made to the ROV. The Discharger also requested it be allowed to pay any penalty after 1 July 2009.

6. CWC section 13385(h) requires 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.

7. 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.

8. WDRs Order R5-2007-0039 Effluent Limitations IV.A.1.a., include, in part, the following effluent limitations: “*The Discharger shall maintain compliance with the effluent limitations specified in Table 1.*”

Table 1: Final Effluent Limitations

Parameter	Units	Effluent Limitations				
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
Bis(2-ethylhexyl)phthalate	µg/L	1.8	--	3.6	--	--
Dichlorobromomethane	µg/L	0.56	--	1.1	--	--
Dibromochloromethane	µg/L	0.41	--	0.82	--	--

9. As described in the technical memorandum mentioned in Finding No. 5, Central Valley Water Board staff made the following adjustments to the draft Record of Violations (all violation numbers reference those contained in the draft Record of Violations).
- Bis(2-ethylhexyl)phthalate violation. The discharger provided evidence that this was due to sampler contamination. This violation was deleted.
10. According to the Discharger’s self-monitoring reports, the Discharger committed ten (10) serious Group II violation of the above effluent limitations contained in Order R5-2007-0039 during the period beginning 1 February 2008 and ending 31 December 2008. 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 **thirty-three thousand dollars (\$30,000)**.

11. The total amount of the mandatory penalties assessed for the cited effluent violations is **thirty thousand dollars (\$30,000)**. A detailed list of the cited effluent violations is included in Attachment A, a part of this Complaint.
12. 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 MOUNTAIN HOUSE COMMUNITY SERVICES DISTRICT WASTEWATER TREATMENT PLANT 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 thousand dollars (\$30,000)**.
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**:
 - 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 **thirty thousand dollars (\$30,000)**; 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.

PAMELA C. CREEDON, Executive Officer

16 March 2009

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

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

1. I am duly authorized to represent the Mountain House Community Services District (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint R5-2009-0516 (hereinafter the "Complaint");
2. 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" with the Complaint;
3. I hereby waive any right the Discharger may have to a hearing before the Central Valley Regional Water Quality Control Board (Central Valley Water Board) within ninety (90) days of service of the Complaint; and
4. **(Check here if the Discharger will waive the hearing requirement and will pay the fine)**
 - a. I certify that the Discharger will remit payment for the proposed civil liability in the amount of **thirty thousand dollars (\$30,000)** by check, which will contain a reference to "ACL Complaint R5 2009-0516" and will be made payable to the "*State Water Pollution Cleanup and Abatement Account.*" Payment must be received by the Central Valley Water Board by **15 April 2009** or this matter will be placed on the Central Valley Water Board's agenda for adoption at the **11/12 June 2009** Central Valley Water Board meeting.
 - b. I understand the payment of the above amount constitutes a settlement of the Complaint, and that any settlement will not become final until after the 30-day public notice and comment period mandated by Federal regulations (40 CFR 123.27) expires. 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. New information or comments include those submitted by personnel of the Central Valley Water Board who are not associated with the enforcement team's issuance of the Complaint.
 - c. 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.

-or-

5. **(Check here if the Discharger will waive the 90-day hearing requirement, but will not pay at the current time. The Central Valley Water Board must receive information from the Discharger indicating a controversy regarding the assessed penalty at the time this waiver is submitted, or this waiver may not be accepted.)** I certify that the Discharger will promptly engage the Central Valley Water Board staff in discussions to resolve the outstanding violation(s). By checking this box, the Discharger is *not* waiving its right to a hearing on this matter. By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing so that the Discharger and Central Valley Water Board staff can discuss settlement. It remains within the discretion of the Central Valley Water Board to agree to delay the hearing. A hearing on the matter may be held before the Central Valley Water Board if these discussions do not resolve the liability proposed in the Complaint. The Discharger agrees that this hearing may be held after the 90-day period referenced in California Water Code section 13323 has elapsed.
6. If a hearing on this matter is held, the Central Valley Water Board will consider whether to issue, reject, or modify the proposed Administrative Civil Liability Order, or whether to refer the matter to the Attorney General for recovery of judicial civil liability. Modification of the proposed Administrative Civil Liability Order may include increasing the dollar amount of the assessed civil liability.

(Print Name and Title)

(Signature)

(Date)

**ATTACHMENT A
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2009-0516**

**Mt. House Community Services District
Wastewater Treatment Plant**

RECORD OF VIOLATIONS (1 February 2008 – 31 December 2008) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Program R5-2007-0039)

	<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	30-Apr-08	Dibromochloromethane	µg/L	0.41	1.9	Monthly	2	805179
2	30-Apr-08	Dichlorobromomethane	µg/L	0.56	1.5	Monthly	2	805180
3	7-May-08	Dibromochloromethane	µg/L	0.82	1.9	Daily Max	2	805182
4	7-May-08	Dichlorobromomethane	µg/L	1.1	1.5	Daily Max	2	805183
5	31-Jul-08	Dichlorobromomethane	µg/L	0.56	0.9	Monthly	2	805188
6	13-Aug-08	Dibromochloromethane	µg/L	0.82	1.4	Daily Max	2	805189
7	31-Aug-08	Dibromochloromethane	µg/L	0.41	1.4	Monthly	2	805190
8	31-Aug-08	Dichlorobromomethane	µg/L	0.56	0.9	Monthly	2	805191
9	31-Oct-08	Dibromochloromethane	µg/L	0.41	0.67	Monthly	2	805192
10	31-Dec-2008	Dibromochloromethane	µg/L	0.41	0.6	Monthly	2	805193

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:	0
Group II Serious Violations:	10
Non-Serious Exempt from MPs:	0
Non-serious Violations Subject to MPs:	0
<u>Total Violations Subject to MPs:</u>	<u>10</u>

Mandatory Minimum Penalty = (10 Serious Violation + 0 Non-Serious Violations) x \$3,000 = \$30,000



Linda S. Adams
Secretary for
Environmental Protection

ATTACHMENT B

California Regional Water Quality Control Board Central Valley Region

Karl E. Longley, ScD, P.E., Chair



Arnold
Schwarzenegger
Governor

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

TO: Wendy Wyels, Supervisor
NPDES Compliance and Enforcement

FROM: Barry Hilton, WRCE
NPDES Compliance and Enforcement

DATE: 11 March 2009

SIGNATURE: _____

SUBJECT: MOUNTAIN HOUSE COMMUNITY SERVICES DISTRICT, ASSESSMENT OF
MMPS

On 11 February 2009, Central Valley Water Board staff sent the Discharger a draft Record of Violations (ROV) for the period 1 February 2008 through 31 December 2008. The Discharger responded on 25 February 2009. The following discusses the changes I made to the ROV during my preparation of the Administrative Civil Liability Complaint.

Bis(2-ethylhexyl)phthalate

Violation 3, Bis(2-ethylhexyl)phthalate. the Discharger provided convincing evidence that the sample was contaminated by the tubing for the automatic sampler. The Discharger changed its collection method to eliminate this sample contamination source. I deleted the violation.

Dibromochloromethane and Dichlorobromomethane

Violations 1,2 and 4-11. The Discharger certified that it is not using chlorine to disinfect the effluent and that the dibromochloromethane and dichlorobromomethane most likely originate from discharges of water treatment plant sludge into the wastewater treatment plant. The Discharger requested and received a Time Schedule Order (TSO) for dibromochloromethane and dichlorobromomethane on 5 February 2009. Effluent limitation violations prior to the adoption of a TSO are not exempt from MMPs. I retained the violations.

California Environmental Protection Agency



Mt. House Community Services District

Wastewater Treatment Plant

RECORD OF VIOLATIONS (1 February 2008 – 31 December 2008) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Program R5-2007-0039)

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2	30-Apr-08	Dichlorobromomethane	µg/L	0.56	1.5	Monthly	2	805180
3	7-May-08	Bis(2-ethylhexyl)phthalate	µg/L	23	38	Daily Max	2	805181
4	7-May-08	Dibromochloromethane	µg/L	0.82	1.9	Daily Max	2	805182
5	7-May-08	Dichlorobromomethane	µg/L	1.1	1.5	Daily Max	2	805183
6	31-Jul-08	Dichlorobromomethane	µg/L	0.56	0.9	Monthly	2	805188
7	13-Aug-08	Dibromochloromethane	µg/L	0.82	1.4	Daily Max	2	805189
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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:	0
Group II Serious Violations:	1044
Non-Serious Exempt from MPs:	0
Non-serious Violations Subject to MPs:	0
<u>Total Violations Subject to MPs:</u>	<u>1044</u>

Mandatory Minimum Penalty = (1044 Serious Violation + 0 Non-Serious Violations) x \$3,000 = \$303,000