

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2010-0529

MANDATORY PENALTY  
IN THE MATTER OF

CITY OF RIO VISTA  
BEACH WASTEWATER TREATMENT PLANT  
SOLANO COUNTY

This Order is issued to the City of Rio Vista (hereafter Discharger) pursuant to California Water Code (CWC) section 13385, which authorizes the imposition of Administrative Civil Liability. This Order is based on findings that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Orders 5-01-178 and R5-2008-0108 (NPDES No. CA0079588).

The Assistant 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 the City of Rio Vista Beach Wastewater Treatment Plant (WWTP). The WWTP provides sewerage service to part of the City of Rio Vista, in Solano County. Treated domestic, commercial and industrial wastewater is discharged to the Sacramento River, a water of the United States.
2. On 14 June 2001, the Central Valley Water Board issued WDRs Order No. 5-01-178. On 31 July 2008, effective 19 September 2008, the Board issued WDRs Order R5-2008-0108 rescinding Order 5-01-178, and containing new requirements. The WDRs include effluent limitations and other requirements regarding the wastewater discharges.
3. On 5 December 2008, the Discharger requested modification of the effluent limitations and monitoring requirements for dibromochloromethane and dichlorobromomethane set forth in Order R5-2008-0108. The Discharger normally collected one sample per month, but collected additional samples each month to provide a statistically significant number of samples to support its amendment request. This Order includes the additional samples collected each month in the assessment of Mandatory Minimum Penalties.
4. On 24 April 2009, the Central Valley Water Board issued Order No. R5-2009-0037 amending the effluent limitations and monitoring requirements for dibromochloromethane and dichlorobromomethane contained in WDRs Order R5-2008-0108. The amendment increased the effluent limitations for dibromochloromethane and dichlorobromomethane and reduced the required monitoring frequency from once per month to once per quarter. Subsequent to the effective date of Order R5-2009-0037, the Discharger has complied with the effluent limitations for dibromochloromethane and dichlorobromomethane.
5. On 31 July 2008, the Central Valley Water Board issued Time Schedule Order R5-2008-0109 requiring the Discharger to comply fully with the iron limitation in WDRs Order R5-2008-0108 by 1 August 2013.

6. On 5 May 2008, the Assistant Executive Officer of the Central Valley Water Board issued Administrative Civil Liability Complaint R5-2008-0524 for mandatory minimum penalties for effluent violations from 1 April 2002 through 31 December 2007. The Discharger completed a compliance project which cost more than of the mandatory minimum penalty, and which was designed to correct the violations. The Board considers the matter resolved.
7. This Order covers the period of 1 January 2008 through 31 January 2010. On 12 October 2009, Central Valley Water Board staff issued the Discharger a Notice of Violation and draft Record of Violations (ROV) for effluent limitation violations for the period of 1 January 2008 through 30 June 2009. In its 4 November 2009 response, the Discharger requested that the proposed upgrade of the effluent disinfection system be credited towards the penalties. This Order extends the period from 1 January 2008 through 31 January 2010.
8. CWC sections 13385(h) and (i) require assessment of mandatory penalties and state, 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.

9. 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.

10. WDRs Order 5-01-178 Effluent Limitations B.1, states, in part:

Effluent shall not exceed the following limits:

<u>Constituents</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Monthly Median</u>	<u>Daily Maximum</u>
Total Coliform	MPN/100mL	--	--	23	500
<u>Chlorine Residual</u>	mg/L	0.01	--	--	0.02

11. WDRs Order R5-2008-0108 Effluent Limitations IV.A.1.a. states, in part:

The Discharger shall maintain compliance with the effluent limitations specified in Table 6:

**Table 6. Effluent Limitations**

Parameter	Units	Effluent Limitations				
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
Dibromochloromethane	µg/L	--	--	2.8	--	--
Dichlorobromomethane	µg/L	--	--	5.6	--	--

12. WDRs Order R5-2008-0108 Effluent Limitations IV.A.1.e. states, in part:

Total Coliform Organisms. Effluent total coliform organisms shall not exceed:

- i. 23 MPN/100 mL as a 7-day median; and
- ii. 240 MPN/100 mL more than once in any 30-day period.

13. Compliance Determination VII.C, total coliform organisms effluent limitations, states:

For each day that an effluent sample is collected and analyzed for total coliform organisms, the 7-day median shall be determined by calculating the median concentration of total coliform bacteria in the effluent utilizing the bacteriological results of the last seven days for which analyses have been completed. If the 7-day median of total coliform organisms exceeds a most probable number (MPN) of 23 per 100 milliliters, the Discharger will be considered out of compliance for that parameter for that 1 day only within the reporting period.

14. According to the Discharger's self-monitoring reports, the Discharger committed twenty-nine (29) serious Group II violations of the above effluent limitations contained in Orders 5-01-178 and R5-2008-0108 during the period beginning 1 January 2008 and ending 31 January 2010. These violations are defined as serious because the measured concentration 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 **eighty-seven thousand dollars (\$87,000)**.

15. According to the Discharger's self-monitoring reports, the Discharger committed thirteen (13) non-serious violations of the above effluent limitations contained in Orders 5-01-178 and R5-2008-0108 during the period beginning 1 January 2008 and ending 31 January 2010. Ten 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 the ten non-serious violations is **thirty thousand dollars (\$30,000)**.
16. The total amount of the mandatory penalties assessed for the cited effluent violations is **one hundred seventeen thousand dollars (\$117,000)**. A detailed list of the cited effluent violations is included in Attachment A, a part of this Order.
17. CWC Section 13385 (k)(1) states, in part:

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...
18. CWC Section 13385 (k)(2) states, in part:

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.
19. The City of Rio Vista Beach Wastewater Treatment Plant is a publicly owned treatment works serving a small community with a financial hardship and depends primarily on residential fees to fund its wastewater treatment facility.
20. On 10 March 2010, amended 17 May 2010, the Discharger submitted a Compliance Project in which it proposed to spend approximately \$122,000 to install an Automated Chlorination System. The Discharger will install two new feed pumps each for sodium hypochlorite and for sodium bisulfate. A sample pump with a redundant pump will be installed at the discharge end of the mixing chamber; the sample will be delivered to an on-line chlorine analyzer and the results used to adjust the chlorine feed rate. Another sample pump will be installed at the end of the chlorine contact basin, and the results will be used to determine the sodium bisulfate feed rate. A third sample pump will be installed to sample the final effluent. There will be a redundant pump and analyzer for this system. The results of all analyses will be recorded continuously on a SCADA system. The SCADA system will trigger a series of alarms through the PLC for different conditions. These upgrades require new underground electrical, instrumentation wiring, and a new PLC processor.
21. According to the Discharger, the \$122,000 project budget is comprised of the following: \$23,000 electrical, \$50,000 equipment, \$21,000 instrumentation/SCADA, \$18,000 installation, and \$10,000 design and administration.

22. The upgrades will include automatic disinfection control; alarm notification; increased consistency in meeting pathogen reduction requirements; reduced disinfection by-products; increased consistency in meeting “zero” chlorine residual; and system alarms. The improvements will address the violations which are the basis for this Order. Funding for the improvements is included in the Fiscal Year 2009-2010 budget.
23. The Central Valley Water Board finds that the Compliance Project has been designed to correct the violations that have led to the issuance of this Administrative Civil Liability Order within five years, that 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. On 23 April 2009, the Central Valley Water Board delegated the authority to issue Administrative Civil Liability Orders, where the matter is not contested by the Discharger, to the Executive Officer, or to an Assistant Executive Officer when the Executive Officer is serving as head of the Board’s Prosecution Team (Resolution R5-2009-0027). Pamela Creedon is serving as the head of the Board’s Prosecution Team for this matter, and therefore Assistant Executive Officer Kenneth Landau has the authority to issue this Order.
26. 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).

**THE CITY OF RIO VISTA IS HEREBY GIVEN NOTICE THAT:**

1. The Assistant Executive Officer of the Central Valley Water Board proposes that the Discharger be assessed an Administrative Civil Liability in the amount of **one hundred seventeen thousand dollars (\$117,000)**.
2. The \$117,000 penalty shall be suspended if the Discharger complies with the following time schedule to complete its compliance project. Each component of the project shall be completed as described in the above Findings.

<u>Task</u>	<u>Compliance Date</u>
Complete construction	15 July 2010
Submit Final Report (including details of funds expended, upgrades completed, and goals achieved)	16 August 2010
Achieve full compliance with effluent limits	16 August 2010

3. The Assistant Executive Officer may extend the abovementioned deadlines if the Discharger demonstrates that unforeseeable contingencies have created delays, provided that the Discharger continues to undertake all appropriate measures to meet the deadlines. The Discharger shall make any deadline extension request in writing. Under no circumstances may the completion of the Compliance Project extend past five (5) years from the issuance of this Order.
4. If, in the judgment of the Assistant Executive Officer, the Discharger fails to complete the compliance project in accordance with the specified time schedule or fails to construct the Compliance Project in accordance with the Proposal without obtaining Central Valley Water Board approval, the suspended mandatory minimum penalty (\$117,000) must be paid within 30 days of notification by the Assistant Executive Officer of such failure.
5. The Discharger must obtain explicit approval from the Assistant Executive Officer for any significant departures from the project outline submitted on 10 March 2010, as revised on 17 May 2010. Failure to obtain approval for any significant departures will result in the assessment of the full amount of the suspended mandatory minimum penalty.
6. Should the Discharger fail to take any of the above actions, the Assistant Executive Officer may refer the matter to the State Attorney General for enforcement of the terms of this Order.

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 that this Order becomes final, except that if the thirtieth day following the date that this Order becomes final falls on a Saturday, Sunday, or state holiday (including mandatory furlough days), 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.

*Original signed by*

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KENNETH D. LANDAU, Assistant Executive Officer

1 July 2010

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DATE

**ATTACHMENT A  
ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2010-0529**

**City of Rio Vista  
Beach Wastewater Treatment Plant**

RECORD OF VIOLATIONS (1 January 2008 – 31 January 2010) MANDATORY PENALTIES  
(Data reported under Monitoring and Reporting Program 5-01-178 and R5-2008-0108)

<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measure d</u>	<u>Period Type</u>	<u>Remarks</u>	<u>CIWQS</u>	
Violations under Order 5-01-178								
		MPN/100m						
1	31-Mar-08	Coliform	L	23	25	Monthly	3	805009
			MPN/100m					
2	1-Apr-08	Coliform	L	500	900	Daily	3	805010
			MPN/100m					
3	3-Apr-08	Coliform	L	500	900	Daily	4	805012
			MPN/100m					
4	30-Aug-08	Coliform	L	23	60	Monthly	4	805013
5	7-Sep-08	Chlorine Residual	mg/l	0.02	0.05	Daily max	2	805014
Violations under Order R5-2008-0108								
			MPN/100m					
6	8-Oct-08	Coliform	L	23	50	7-day	4	805015
7	8-Oct-08	Dibromochloromethane	µg/L	2.8	12	Daily	2	805018
8	8-Oct-08	Dichlorobromomethane	µg/L	5.6	20	Daily	2	805019
9	23-Oct-08	Dibromochloromethane	µg/L	2.8	9	Daily	2	805021
10	23-Oct-08	Dichlorobromomethane	µg/L	5.6	11	Daily	2	805022
11	4-Nov-08	Dibromochloromethane	µg/L	2.8	29	Daily	2	805023
12	4-Nov-08	Dichlorobromomethane	µg/L	5.6	24	Daily	2	805024
13	17-Nov-08	Dibromochloromethane	µg/L	2.8	9	Daily	2	805267
14	17-Nov-08	Dichlorobromomethane	µg/L	5.6	11	Daily	2	805268
15	19-Nov-08	Dibromochloromethane	µg/L	2.8	11	Daily	2	805269
16	19-Nov-08	Dichlorobromomethane	µg/L	5.6	11	Daily	2	805270
17	4-Dec-08	Dibromochloromethane	µg/L	2.8	9	Daily	2	805271
18	22-Dec-08	Dibromochloromethane	µg/L	2.8	29	Daily	2	805273
19	4-Dec-08	Dichlorobromomethane	µg/L	5.6	18	Daily	2	805272
20	22-Dec-08	Dichlorobromomethane	µg/L	5.6	29	Daily	2	805274
21	8-Jan-09	Dibromochloromethane	µg/L	2.8	10	Daily	2	823740
22	8-Jan-09	Dichlorobromomethane	µg/L	5.6	16	Daily	2	823741
23	15-Jan-09	Dibromochloromethane	µg/L	2.8	11	Daily	2	823742
24	15-Jan-09	Dichlorobromomethane	µg/L	5.6	14	Daily	2	823743

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measure</u> <u>d</u>	<u>Period</u> <u>Type</u>	<u>Remarks</u>	<u>CIWQS</u>
25	12-Feb-09	Dibromochloromethane	µg/L	2.8	11	Daily	2	823744
26	12-Feb-09	Dichlorobromomethane	µg/L	5.6	18	Daily	2	823745
27	17-Feb-09	Dibromochloromethane	µg/L	2.8	7	Daily	2	823747
28	17-Feb-09	Dichlorobromomethane	µg/L	5.6	14	Daily	2	823749
29	16-Feb-09	Coliform	MPN/100ml	23	66	7-day	4	823750
30	19-Feb-09	Coliform	MPN/100ml	23	56	7-day	4	823751
31	12-Mar-09	Coliform	MPN/100ml	23	803	7-day	4	823752
32	11-Mar-09	Dibromochloromethane	µg/L	2.8	10	Daily	2	823753
33	18-Mar-09	Dibromochloromethane	µg/L	2.8	11	Daily	2	823754
34	11-Mar-09	Dichlorobromomethane	µg/L	5.6	18	Daily	2	823755
35	18-Mar-09	Dichlorobromomethane	µg/L	5.6	16	Daily	2	823756
36	20-Apr-09	Dibromochloromethane	µg/L	2.8	12	Daily	2	823757
37	20-Apr-09	Dichlorobromomethane	µg/L	5.6	21	Daily	2	823758
38	6-Oct-09	Coliform	MPN/100m L	23	27	7-day	3	851138
39	7-Oct-09	Coliform	MPN/100m L	23	30	7-day	4	851139
40	8-Oct-09	Coliform	MPN/100m L	23	30	7-day	4	851140
41	9-Oct-09	Coliform	MPN/100m L	23	30	7-day	4	851141
42	20-Jan-10	Coliform	MPN/100m L	23	33	7-day	4	869256

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.

<b><u>VIOLATIONS AS OF:</u></b>	<b><u>1/31/2010</u></b>
Group I Serious Violations:	0
Group II Serious Violations:	29
Non-Serious Exempt from MPs:	3
Non-serious Violations Subject to MPs:	10
<b><u>Total Violations Subject to MPs:</u></b>	<b><u>39</u></b>

**Mandatory Minimum Penalty = (29 Serious Violations + 10 Non-Serious Violations) x \$3,000 = \$117,000**