

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2015-0529

MANDATORY PENALTY  
IN THE MATTER OF

CITY OF COLFAX  
WASTEWATER TREATMENT PLANT  
PLACER COUNTY

This Order is issued to the City of Colfax (Discharger) pursuant to California Water Code (Water Code) section 13385, which authorizes the imposition of Administrative Civil Liability (ACL) and Water Code section 13323 which authorizes the Executive Officer to issue this Order. This Order is based on findings that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Order R5-2013-0045 (NPDES CA0079529).

The Executive Officer of the California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board or Board), finds the following:

1. The Discharger owns and operates the City of Colfax Wastewater Treatment Plant (Facility), a publicly owned treatment works. Domestic wastewater is treated and discharged to an unnamed tributary to Smuthers Ravine, which is tributary to the North Fork of the American River via Bunch Canyon and Smuthers Ravine, within the Sacramento River Watershed.
2. On 30 May 2013, the Central Valley Water Board issued Waste Discharge Requirements (WDRs) Order R5-2013-0045, which rescinded Order R5-2007-0130 except for purposes of enforcement, and contained new effluent limitations and other requirements regarding the tertiary treated municipal wastewater discharge. WDRs Order R5-2013-0045 became effective on 19 July 2013.
3. On 30 May 2013, the Board issued Cease and Desist Order (CDO) R5-2013-0046. The CDO provided a time schedule until 30 May 2016 to comply with effluent limitations for arsenic. This Order considers the protection from mandatory minimum penalties (MMPs) provided by the CDO.
4. On 7 May 2014, the Executive Officer issued ACL Order R5-2014-0531 in the amount of \$9,000. The Order addressed MMPs for effluent limitation violations occurring between 1 June 2013 and 31 December 2013, and required payment of \$4,500 to the State Water Resources Control Board's Cleanup and Abatement Account. The remaining \$4,500 penalty was suspended pending completion of a private sewer lateral rehabilitation grant Supplemental Environmental Project (SEP). The Order required completion of work by 1 October 2014. The project has been completed and the Board considers the effluent violations specifically listed in Attachment A to Order R5-2014-0531 resolved.
5. This Order addresses violations which occurred between 1 January 2014 and 31 December 2014. On 5 January 2015, Central Valley Water Board staff issued the Discharger a Notice of Violation and draft Record of Violations (ROV) for effluent total coliform violations occurring between 1 January 2014 and 31 October 2014. On 22 January 2015, the Discharger agreed that the violations occurred and requested that the Board allow the total coliform violation penalties to be applied to a compliance project. In addition, the Discharger reported ammonia violations in its December 2014 self-monitoring report (SMR) and requested that the Board allow the ammonia violation penalties be applied to a compliance project. This Order extends the period of record to 31 December 2014 and allows the penalties to be applied to two compliance projects as allowed by Water Code section 13385(k).

6. Water Code section 13385 subdivisions (h) and (i) require assessment of mandatory minimum penalties and state, in relevant part, the following:

Water Code 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.

Water Code 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 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.

Water Code section 13385 subdivision (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.

7. WDRs Order R5-2013-0045 Effluent Limitations IV.A.1.a. include, in part, the following effluent limitations:

- a. The Discharger shall maintain compliance with the effluent limitations at Discharge Point No. 001 with compliance measured at Monitoring Location EFF-001 as described in the Monitoring and Reporting Program:

**Table 6. Effluent Limitations**

Parameter	Units	Average Monthly	Maximum Daily
Ammonia	mg/L	0.8	2.1

8. WDRs Order R5-2013-0045 Effluent Limitations IV.A.1.f. include, in part, the following effluent limitations:

- f. **Total Coliform Organisms.** Effluent total coliform organisms shall not exceed:
  - i. 2.2 most probable number (MPN) per 100 mL, as a 7-day median;
  - ii. 23 MPN/100mL, more than once in any 30-day period; and,
  - iii. 240 MPN/100mL, at any time.

9. According to the Discharger's self-monitoring reports, the Discharger committed seven (7) non-serious violations of the above effluent limitations contained in WDRs Order R5-2013-00045. Three (3) of these non-serious violations are subject to mandatory penalties under Water Code section 13385 subdivision (i)(1) because these violations were preceded by three or more similar violations within a 180-day period. The mandatory minimum penalty for these non-serious violations is **nine thousand dollars (\$9,000)**.
10. According to the Discharger's self-monitoring reports the Discharger committed one (1) serious violation of the above effluent limitations contained in WDRs Order R5-2013-0045 between 1 January 2014 and 31 December 2014. This violation is defined as serious because the measured concentration of a Group I constituent exceeded maximum prescribed levels in WDRs Order R5-2013-0045 by 40 percent or more. The mandatory minimum penalty for this serious violation is **three thousand dollars (\$3,000)**.
11. The total amount of the mandatory minimum penalties assessed for the cited effluent violations is **twelve thousand dollars (\$12,000)**. These violations are specifically identified in Attachment A to this Order as subject to mandatory minimum penalties. Attachment A to this Order is attached hereto and incorporated herein by reference.
12. Water Code section 13385(k) allows a discharger to complete a compliance project in lieu of paying the full amount of a mandatory penalty and states, in relevant part:
  - (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 country, 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.
13. The 2009 State Water Resources Control Board's *Water Quality Enforcement Policy* delegates to the Regional Boards the authority to determine whether a publicly owned treatment works serves a small community with financial hardship. On 27 February 2015, the Central Valley Water Board determined that the City of Colfax Wastewater Treatment Plant's service area meets the definition of a small community with a financial hardship.

Compliance Project 1 – Ultraviolet Disinfection System Enclosure

14. In the 22 January 2015 ROV response, the Discharger stated that the total coliform effluent violations were caused by waterfowl that are frequently found in the Facility's ponds. The waterfowl tend to perch themselves on the UV system's light ballasts on cold mornings, likely to warm themselves. Following the violations, the Discharger installed a temporary cover on the UV system equipment. Subsequently, there have not been any total coliform violations. The Discharger has proposed installing a permanent structure to enclose the UV system components to eliminate the potential for future total coliform violations caused by waterfowl. The total cost of this project is expected to be approximately \$10,200.

The Board finds that a permanent UV system enclosure project qualifies as a compliance project within the meaning of the Water Code section 13385 (k) because it will result in preventing additional effluent total coliform violations caused by waterfowl.

Compliance Project 2 – Mixer Conversion Project

15. The Discharger stated that the ammonia effluent violations were caused by high dissolved oxygen (DO) concentrations in the biological nutrient removal (BNR) portion of the treatment plant due to the method of mixing used in the equalization basin. The Discharger currently utilizes aerators for mixing in the equalization basin, which also increases the DO concentration. When the high DO-containing water enters the BNR process, the blowers associated with the BNR system automatically reduce output since the DO concentration in the wastewater is measured by the BNR system and determined to be sufficient for the treatment process. A side-effect of the reduced blower output was a malfunction of the air-lift pumps that move water and sludge through the process causing insufficient nitrification and eventually the ammonia violations. The Discharger proposes to modify the existing aerators into mixers to provide better mixing in the equalization basin without over-oxygenating the water prior to entering the BNR system. The total cost of this project is expected to be approximately \$4,500.

The Board finds that the mixer conversion project qualifies as a compliance project within the meaning of the Water Code section 13385 (k) because it will result in preventing additional ammonia violations by eliminating the over-oxygenation of the water entering the BNR system which caused the air-lift pumps to malfunction.

Additional Findings

16. 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 C.F.R. § 123.27) has expired. No comments were received.
17. Issuance of this Administrative Civil Liability Order to enforce Water Code Division 7, Chapter 5.5 is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code § 21000 et seq.), in accordance with California Code of Regulations, title 14, sections 15307, 15308 and 15321(a)(2).

**THE CITY OF COLFAX IS HEREBY GIVEN NOTICE THAT:**

1. The Discharger shall be assessed an Administrative Civil Liability of **twelve thousand dollars (\$12,000)**.
2. In accordance with Water Code section 13385(k), \$9,000 of the penalty for the effluent total coliform violations shall be permanently suspended if the Discharger submits evidence that it has spent at least \$9,000 and completed Compliance Project 1, described in Finding 14. By **15 October 2015**, the Discharger shall submit a final report documenting completion of the installation of a permanent structure to enclose the UV system. The report shall also provide the final accounting Compliance Project 1, detailing the work that was undertaken to comply with this Order and the funds spent.
3. In accordance with Water Code section 13385(k), \$3,000 of the penalty for the effluent ammonia violation shall be permanently suspended if the Discharger submits evidence that it has spent at least \$3,000 and completed Compliance Project 2, described in Finding 15. By **15 October 2015**, the Discharger shall submit a final report documenting completion of the mixer conversion project. The report shall also provide the final accounting Compliance Project 2, detailing the work that was undertaken to comply with this Order and the funds spent.
4. The Executive Officer may extend the deadlines contained in this Order 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 at least 30 days prior to the deadline. Under no circumstances may the completion of any of the approved compliance projects extend past five (5) years from the issuance of this Order.
5. The Discharger must obtain written approval from the Executive Officer for any significant departures from the project outlines and the time schedules shown above. Failure to obtain written approval for any significant departures may result in the assessment of the full amount of the suspended mandatory minimum penalty.
6. If, in the judgment of the Executive Officer, the Discharger fails to complete the compliance projects in accordance with the due dates listed above (including any extensions approved by the Executive Officer), the Executive Officer may demand payment of the suspended liability that reflects the portion of the compliance project that has not been satisfactorily completed. Payment must be made within 30 days of such a demand.
7. Should the Discharger fail to take any of the above actions, the Executive Officer may refer the matter to the State Attorney General for enforcement of the terms of this Order. The Board reserves the right to take any enforcement action authorized by law.
8. This Order is final upon signature.

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 Water Code 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, 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 Adam Laputz for*

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PAMELA C. CREEDON, Executive Officer

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11 June 2015

DATE

Attachment A: Record of Violations

**ATTACHMENT A  
ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2015-0529**

**City of Colfax  
Wastewater Treatment Plant**

RECORD OF VIOLATIONS (1 January 2014 - 31 December 2014) MANDATORY PENALTIES  
(Data reported under Monitoring and Reporting Program R5-2013-0045)

	<u>Date</u>	<u>Parameter</u>	<u>Units</u>	<u>Limit</u>	<u>Measured</u>	<u>Period</u>	<u>Remarks</u>	<u>CIWQS</u>
*	9/24/2013	Total Coliform	MPN/100mL	2.2	23	7-day Median	4*	959566
1	5/27/2014	Total Coliform	MPN/100mL	240	>1,600	Instantaneous Maximum	3	973984
2	5/27/2014	Total Coliform	MPN/100mL	2.2	>801	7-day Median	3	973985
3	5/28/2014	Total Coliform	MPN/100mL	240	>1,600	Instantaneous Maximum	3	973986
4	5/28/2014	Total Coliform	MPN/100mL	2.2	>1,600	7-day Median	4	973987
5	5/28/2014	Total Coliform	MPN/100mL	23	>1,600	More than once in any 30-day period	4	973989
6	5/30/2014	Total Coliform	MPN/100mL	2.2	>1,600	7-day Median	4	973991
7	12/31/2014	Ammonia	mg/L	2.1	3.86	Maximum Daily	1	986933
8	12/31/2014	Ammonia	mg/L	0.8	0.91	Average Monthly	3	986934

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 180-day period, thus is not subject to mandatory minimum penalties. Penalties that may be assessed for this violation are discretionary. This violation is not addressed or resolved in this ROV.
4. Non-serious violation subject to mandatory minimum penalties.

<u>VIOLATIONS AS OF:</u>	<u>12/31/14</u>
Group I Serious Violations:	1
Group II Serious Violations:	0
Non-Serious Violations Not Subject to MMPs:	4
<u>Non-serious Violations Subject to MMPs:</u>	<u>3</u>
<b>Total Violations Subject to MMPs:</b>	<b>4</b>

**Mandatory Minimum Penalty = (3 Non-Serious Violations + 1 Serious Violation) x \$3,000 = \$12,000**

\* Previous violation addressed by ACLO R5-2014-0531. Violation occurred more than 180-days prior to 27 May 2014 total coliform violations; therefore, 27 May 2014 violations fall within the first three violations in a 180-day period.