

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2010-0531

MANDATORY PENALTY
IN THE MATTER OF

CITY OF JACKSON
WASTEWATER TREATMENT PLANT
AMADOR COUNTY

This Order is issued to the City of Jackson (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 R5-2007-0133 (NPDES No. CA0079391).

The Assistant 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 Jackson Wastewater Treatment Plant (WWTP), which provides sewerage service to the City of Jackson in Amador County. Treated domestic, commercial and industrial wastewater is discharged to Jackson Creek, a water of the United States, and tributary to Lake Amador.
2. On 25 October 2007, the Central Valley Water Board issued WDRs Order R5-2007-0133, effective 14 December 2007, which contained new requirements and rescinded Order 5-00-173.
3. On 5 May 2008, the Assistant Executive Officer of the Central Valley Water Board issued Administrative Civil Liability Complaint R5-2008-0523 for \$201,000 in mandatory minimum penalties for effluent violations from 1 January 2000 through 31 December 2007. The Discharger demonstrated that it had expended \$234,000 on a compliance project to correct the violations. The Board considers payment of the mandatory minimum penalties satisfied through completion of the compliance project.
4. On 16 October 2009, Central Valley Water Board staff issued the Discharger a draft Record of Violations and Notice of Violation for effluent limitation violations that occurred at the wastewater treatment plant from 1 January 2008 through 30 June 2009. On 17 November 2009, the Discharger requested that the Board allow the penalties to be applied to a compliance project related to turbidity and disinfection. This Order has been extended to cover the period of 1 January 2008 through 31 December 2009, and allows the majority of the penalties to be applied to the compliance project.
5. 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.

6. WDRs Order R5-2007-0133 Effluent Limitations IV.A.1.a. includes, 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
NON-CONVENTIONALS						
Nitrate (as NO ₃)	mg/L	45	--	--	--	--
Turbidity	NTU	--	--	--	--	10
Total Coliform Organisms	MPN/100 ml					240

7. WDRs Order R5-2007-0133 Effluent Limitations IV.A.1.h., Total Residual Chlorine, states:

Effluent total residual chlorine shall not exceed:

- i. 0.011 mg/L, as a 4-day average; and
- ii. 0.019 mg/L, as a 1-hour average.

8. WDRs Order R5-2007-0133 Effluent Limitations IV.A.1.j., Total Coliform Organisms, states:

Effluent total coliform organisms shall not exceed:

- i. 2.2 most probable number (MPN) per 100 mL, as a 7-day median; and
- ii. 23 MPN/100 mL, more than once in any 30-day period.

9. WDRs Order R5-2007-0133 Effluent Limitations IV.A.1.i., Turbidity, states:

Effluent turbidity shall not exceed:

- i. 2 NTU, as a daily average;
- ii. 5 NTU, more than 5% of the time within a 24-hour period; and
- iii. 10 NTU, at any time.

10. WDRs Order R5-2007-0133 Effluent Limitations IV.A.1.m., Electrical Conductivity, states:

The annual average electrical conductivity concentration in the effluent shall not exceed 500 µmhos/cm.

11. WDRs Order R5-2007-0133 Interim Effluent Limitations IV.A.2.a, states in part:

During the period beginning the effective date of this Order and ending on 17 May 2010, the Discharger shall maintain compliance with the following effluent limitations...

Table 7. Interim Effluent Limitations

Parameter	Units	Maximum Daily Effluent Limitations
Dichlorobromomethane	µg/L	4.67

12. WDRs Order R5-2007-0133 Interim Effluent Limitations IV.A.2.b., Aluminum, Total Recoverable, states:

During the period beginning the effective date of this Order and ending on the expiration date of this Order, the Discharger shall not exceed a maximum daily effluent limitation of 342.1 µg/L at Discharge Point No. 001.

13. According to the Discharger's self-monitoring reports, the Discharger committed thirty (30) serious Group I violations of the above effluent limitations contained in Order R5-2007-0133 during the period beginning 1 January 2008 and ending 31 December 2009. The violations are defined as serious because the measured concentrations of Group I constituents exceeded maximum prescribed levels by more than 40 percent on these occasions. The mandatory minimum penalty for these serious violations is **ninety thousand dollars (\$90,000)**.

14. According to the Discharger's self-monitoring reports, the Discharger committed two (2) serious Group II violation of the above effluent limitations contained in Order R5-2007-0133 during the period beginning 1 January 2008 and ending 31 December 2009. These violations are defined as serious because the measured concentration of a Group II constituent exceeded the maximum prescribed level by more than 20 percent on these occasions. The mandatory minimum penalty for these serious violations is **six thousand dollars (\$6,000)**.
15. According to the Discharger's self-monitoring reports, the Discharger committed eighteen (18) non-serious violations of the effluent limitations contained in Order R5-2007-0133 during the period beginning 1 January 2008 and ending 31 December 2009. Seventeen (17) 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 these non-serious violations is **fifty-one thousand dollars (\$51,000)**.
16. The total amount of the mandatory penalties assessed for the cited effluent violations is **one hundred forty-seven thousand dollars (\$147,000)**. A detailed list of all the 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 Jackson Wastewater Treatment Plant is a publicly owned treatment works, depends primarily on residential fees to fund its wastewater treatment facility, and is serving a small community with financial hardship as defined by the Water Quality Enforcement Policy and within the meaning of CWC section 13385(k)(2).
20. On 15 March 2010, the Discharger proposed a \$157,000 Turbidity and Disinfection compliance project to upgrade the effluent filters and submitted the project outline and project schedule, as found in Attachment B to this Order. The project consist of evaluating the filters, installing a variable frequency drive on the filter backwash pump, upgrading the filter controls, upgrading the filter distribution, and construction

management. The Discharger proposes to complete the work by the winter of 2013.

21. The Discharger's Compliance Project will not remedy all of the violations described in this Order; implementation of the Compliance Project will not correct the violations of the effluent limitations for aluminum, nitrate, or electrical conductivity. For the remaining violations, the Central Valley Water Board finds that the Compliance Project has been designed to correct these violations within five years, that the timeline for the Compliance Project is as short as possible, and that the Compliance Project has been designed in accordance with the Enforcement Policy of the State Water Board. The amount that the Discharger plans to expend on the Compliance Project is in excess of the mandatory minimum penalty that the Board is required to assess under CWC sections 13385(h) and (i) for the violations that are to be addressed by the Compliance Project.
22. As stated above, the Turbidity and Disinfection Compliance Project will not remedy the conditions that led to the one aluminum, two nitrate, and one electrical conductivity effluent violations. Therefore, this Order requires the Discharger to pay \$12,000 in mandatory minimum penalties for these violations, and allows the remainder of the penalties to be applied to the Compliance Project.
23. 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.
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 C.F.R. § 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 § 21000 et seq.), in accordance with California Code of Regulations, title 14, section 15321(a)(2).

IT IS HEREBY ORDERED THAT:

1. The City of Jackson, its agents, successors and assigns, shall be assessed Administrative Civil Liability in the amount of **one hundred forty-seven thousand dollars (\$147,000)**.
2. By **30 July 2010**, the City of Jackson shall pay **twelve thousand dollars (\$12,000)** to the State Water Board's Cleanup and Abatement Account. Payment shall be in the form of a check made payable to the *Cleanup and Abatement Account* and shall have the number

of this ACL Order written upon it. The check shall be mailed to the Central Valley Water Board.

3. The remaining **one hundred thirty five thousand (\$135,000)** penalty shall be suspended if the Discharger complies with the following time schedule to complete its compliance project:

<u>Task</u>	<u>Compliance Date</u>
Complete facilities planning studies	1 September 2010
Complete facility pre-design	1 May 2011
Complete financial planning and environmental	1 September 2011
Complete design and bidding	1 May 2012
Complete construction	1 October 2013
Complete project and achieve full compliance	1 December 2013
Submit final project report describing whether the project goals, costs, milestones, and completion dates have been met. The final accounting shall detail describe the funds spent for this particular project.	1 February 2014

4. A progress report shall be submitted on or before each of the above compliance dates. The report shall describe the work undertaken to comply with this Order.
5. In addition, beginning with the third quarter of 2010, the Discharger shall submit quarterly progress reports detailing the progress toward compliance with the above schedule, the funds expended to date, and how those expenditures relate to the specific Turbidity and Disinfection project. Quarterly progress reports are due on the first day of the second month after the end of the quarter (i.e., 1 May, 1 August, 1 November, and 1 February) and shall be submitted through the fourth quarter of 2013.
6. 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.
7. 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 15 March 2010 Compliance Project proposal without obtaining Central Valley Water Board approval, the suspended mandatory minimum penalty (\$135,000) must be paid within 30 days of notification by the Assistant Executive Officer of such failure.

8. The Discharger must obtain explicit approval from the Assistant Executive Officer for any significant departures from the project outline submitted on 15 March 2010 (as found in Attachment B). Failure to obtain approval for any significant departures will result in the assessment of the full amount of the suspended mandatory minimum penalty.
9. 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
or will be provided upon request.

Original signed by

KENNETH D. LANDAU, Assistant Executive Officer

1 July 2010

DATE

**ATTACHMENT A
ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R5-2010-0531**

**City of Jackson
Wastewater Treatment Plant**

RECORD OF VIOLATIONS (1 January 2008 – 31 December 2009) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Program R5-2007-0133.)

	<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>
1	9-Apr-08	Turbidity	NTU	2	3	Daily Avg.	1	80592 0
2	11-Apr-08	Turbidity	NTU	2	3	Daily Avg.	1	80592 1
3	12-Apr-08	Turbidity	NTU	2	3	Daily Avg.	1	80592 2
4	13-Apr-08	Turbidity	NTU	2	3	Daily Avg.	1	80592 3
5	14-Apr-08	Turbidity	NTU	2	3	Daily Avg.	1	80592 4
6	15-Apr-08	Turbidity	NTU	2	4	Daily Avg.	1	80592 5
7	15-Apr-08	Aluminum	µg/L	342	360	Daily Avg.	4	80592 8
8	16-Apr-08	Turbidity	NTU	2	3	Daily Avg.	1	80592 6
9	18-Apr-08	Turbidity	NTU	2	3	Daily Avg.	1	80592 7
10	25-Sep-08	Chlorine	mg/L	0.019	0.167	1-hour	2	80592 9
11	31-Oct-08	Nitrate	mg/L	45	55	Monthly	3	80593 0
12	13-Feb-09	Turbidity	NTU	2	3	Daily Avg.	1	81660 2
13	14-Feb-09	Turbidity	NTU	2	3	Daily Avg.	1	81660 9
14	17-Feb-09	Coliform	MPN/100m L	2.2	17	7-Day Median	4	81661 0
15	18-Feb-09	Coliform	MPN/100m L	2.2	17	7-Day Median	4	81661 1
16	20-Feb-09	Coliform	MPN/100m L	2.2	13	7-Day Median	4	81661 2
17	23-Feb-09	Coliform	MPN/100m L	2.2	13	7-Day Median	4	81661 3
18	2-Mar-09	Turbidity	NTU	2	3	Daily Avg.	1	81661 4
19	3-Mar-09	Turbidity	NTU	2	3	Daily Avg.	1	81661 5
20	4-Mar-09	Coliform	MPN/100m L	23	900	30-day	4	82137 3
21	4-Mar-09	Coliform	MPN/100m L	240	900	Instantaneous	4	82137 5
22	6-Mar-09	Coliform	MPN/100m L	23	30	30-day	4	82137 6
23	9-Mar-09	Coliform	MPN/100m L	2.2	30	7-Day Median	4	82137 7
24	11-Mar-09	Coliform	MPN/100m L	2.2	8	7-Day Median	4	82137 8
25	8-Apr-09	Coliform	MPN/100m L	2.2	4	7-Day Median	4	82137 9

	<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>
26	10-Apr-09	Coliform	MPN/100m L	2.2	4	7-Day Median	4	82138 0
27	15-Sep-09	Dichlorobromomethane	µg/L	4.67	7.0	Daily Avg.	2	85627 3
28	22-Sep-09	Turbidity	NTU	2	3	Daily Avg.	1	85627 7
29	23-Sep-09	Turbidity	NTU	2	4	Daily Avg.	1	85627 8
30	24-Sep-09	Turbidity	NTU	2	4	Daily Avg.	1	85627 9
31	25-Sep-09	Turbidity	NTU	2	10	Daily Avg.	1	85628 0
32	25-Sep-09	Turbidity	NTU	5	10	95%	1	85628 1
33	26-Sep-09	Turbidity	NTU	2	12	Daily Avg.	1	85628 2
34	26-Sep-09	Turbidity	NTU	5	12	95%	1	85628 3
35	26-Sep-09	Turbidity	NTU	10	12	Inst Max	4	85628 4
36	27-Sep-09	Turbidity	NTU	2	12	Daily Avg.	1	85628 6
37	27-Sep-09	Turbidity	NTU	5	12	95%	1	85628 7
38	27-Sep-09	Turbidity	NTU	10	12	Inst Max	4	85628 8
39	28-Sep-09	Turbidity	NTU	2	14	Daily Avg.	1	85629 0
40	28-Sep-09	Turbidity	NTU	5	14	95%	1	85629 2
41	28-Sep-09	Turbidity	NTU	10	14	Inst Max	1	85629 3
42	29-Sep-09	Turbidity	NTU	2	13	Daily Avg.	1	85629 4
43	29-Sep-09	Turbidity	NTU	5	13	95%	1	85629 5
44	29-Sep-09	Turbidity	NTU	10	13	Inst Max	4	85629 6
45	30-Sep-09	Turbidity	NTU	2	7	Daily Avg.	1	85629 7
46	30-Sep-09	Turbidity	NTU	5	7	95%	1	85629 8
47	30-Sep-09	Nitrate	mg/L	45	62	Monthly	4	85629 9
48	13-Oct-09	Turbidity	NTU	2	4	Daily Avg.	1	85630 0
49	14-Oct-09	Turbidity	NTU	2	3	Daily Avg.	1	85630 1
50	31-Dec-09	Conductivity	µmhos/cm	500	517	Annual Avg.	4	87423 8

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.

<u>VIOLATIONS AS OF:</u>	<u>12/31/2009</u>
Group I Serious Violations:	30
Group II Serious Violations:	2
Non-Serious Exempt from MPs:	1
Non-serious Violations Subject to MPs:	17
<u>Total Violations Subject to MPs:</u>	<u>49</u>

Mandatory Minimum Penalty = (32 serious Violation + 17 Non-Serious Violations) x \$3,000 = \$147,000

Attachment B
ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R5-2010-0531
City of Jackson WWTP.
Compliance Project Schedule



"Preserving Our Past, Enriching Our Present, Building Our Future"

33 Broadway, Jackson, California 95642-2301 • voice (209) 223-1646 • fax (209) 223-3141
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March 15, 2010

Barry Hilton, Ph.D., P.E.
Regional Water Quality Control Board
Central Valley Region
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670

Re: Response to Notification of Mandatory Minimum Penalties
City of Jackson NPDES Permit CA 0079391, WDR R5-2007-0133

Dear Dr. Hilton:

Over the past two years (1 January 2008 – 31 December 2009) the City has had a significant number of violations to its existing WDRs. The City's operations staff addressed violations as soon as recognized, and remedied them immediately when possible. In the case of the string of turbidity violations during September 2009, the City plant was hit by something in the influent that created a major upset in the biological process (oxidation ditch and clarifiers), which could not be remedied by operational changes. The result was a significant overload of the effluent filters, which the filters could not handle.

The ability of the City's 25-year-old facility to effectively eliminate the most prevalent violations in the two areas of effluent turbidity and effluent coliform limits cannot be accomplished without major upgrades to the effluent filtration and disinfection facilities. Over the last 10 years the City has invested hundreds of thousands of dollars in studies and planning to determine the most cost-effective solution to the dilemma of ever-increasing discharge requirement and a very sensitive stream discharge situation. The long-range solution, which is just now being detailed, includes the elimination of the stream discharge during times when there is insufficient stream dilution and the conversion to a land-discharge/reclamation system during those periods. This major change to the plant's disposal facilities will include major upgrades in the effluent, filtration and disinfection facilities.

A Filter Evaluation Study, which was initiated to address the specific issues regarding turbidity and disinfection violations, has identified several modifications and upgrades that can be implemented to minimize the violations related to disinfection and turbidity when discharging to Jackson Creek. The facilities and the estimate of cost to implement are summarized on the next page.

Barry Hilton
March 15, 2010
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<u>Improvement Description</u>	<u>Engineer's Estimate</u>
Effluent Filters Evaluation (under contract)	\$54,000
Variable Frequency Drive on Backwash Recycle Pump	\$21,000
Upgrade Filter Controls	\$57,000
Filter Distribution Upgrades	\$15,000
Bid & Specification Prep., Construction Mgmt.	\$10,000
	<u>Total \$157,000</u>

The City plans to move ahead with these and other improvements to comply with its current WDRs and NPDES Permit. The City anticipates the following implementation schedule.

<u>Activity Description</u>	<u>Estimated Completion</u>
Complete facilities planning studies	Summer 2010
Complete facilities predesign	Spring 2011
Complete financial planning and environmental	Summer 2011
Complete design and Bidding	Spring 2012
Construction (15 to 18 months)	Fall 2013
Project Completion and Compliance	Winter 2013

If you have any questions or require additional information please contact Harold Welborn at ECO:LOGIC Engineering or me.

Sincerely



Michael Daly
City Manager

cc: Wastewater Treatment Plant
Harold Welborn, ECO:LOGIC Engineering