

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2016-0534

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 (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) Orders R5-2013-0146-01 (NPDES CA0079391).

The Executive Officer of the Central Valley Regional Wastewater Quality Control Board (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 5 December 2013, the Central Valley Water Board issued WDRs Order R5-R5-2013-0146, effective 24 January 2014, which contained new requirements and rescinded Order R5-2007-0133-01, except for enforcement purposes. The WDRs include effluent limitations and other requirements. On 6 February 2015, the Board issued amended WDRs R5-2013-0146-01 removing effluent limitation for copper contained in WDRs R5-2013-0146.
3. On 3 November 2011, the Central Valley Water Board issued Time Schedule Order (TSO) R5-2011-0909. The TSO provides interim effluent limitations for aluminum, ammonia, copper, cyanide, dichlorobromomethane, nitrate, total coliform organisms, turbidity, and zinc. Compliance with the TSO exempts the Discharger from mandatory minimum penalties (MMPs) for these constituents. On 13 November 2013, the Central Valley Water Board issued amended TSO R5-2011-0909-1 deleting interim effluent limitations for aluminum and turbidity, and modifying the interim ammonia effluent limitations.
4. On 5 December 2013, the Central Valley Water Board issued amended TSO R5-2011-0909-02. The amended TSO reflects the new WDRs adopted on 5 December 2013 and maintains the compliance schedules for ammonia, copper, cyanide, dichlorobromomethane, nitrate, total coliform organisms, and zinc contained in TSO R5-2011-0909-01 with compliance expected by 1 March 2015.
5. On 5 December 2013, the Central Valley Water Board issued TSO R5-2013-0147. The TSO provides interim effluent limitations for chlorodibromomethane and total trihalomethanes. This Order considers the protection from MMPs provided by TSOs R5-2011-0909-01, R5-2011-0909-02, and R5-2013-0147.
6. On 6 May 2014, the Executive Officer of the Central Valley Water Board issued Administrative Civil Liability (ACL) Order R5-2014-0533. The ACL Order charged the Discharger with civil liability in the amount of \$18,000, which represented the sum of the statutory MMPs for effluent limitation

violations that occurred at the Facility from 1 June 2012 to 31 December 2013. The Discharger completed a compliance project to satisfy ALC Order R5-2014-0533 and the Board considers the effluent violations specifically listed in Attachment A to Order R5-2014-0533 resolved.

7. This Order addresses violations subject to MMPs which occurred during the period of 1 January 2014 through 31 December 2015. On 14 January 2016, Central Valley Water Board staff issued the Discharger a Notice of Violation and draft Record of Violation (ROV) for the period of 1 January 2014 through 30 November 2015. On 11 February 2016, the Discharger responded to the ROV and requested that the MMPs be applied toward a compliance project to offset the MMPs, as allowed by Water Code section 13385(k). This Order extends the period of violations through 31 December 2015, no additional violations were found other than those cited in the ROV.
8. Water Code Sections 13385(h) and (i) require assessment of mandatory penalties and state, in part, the following:

Water Code 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.

Water Code 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.

Water Code 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.

9. Water Code section 13385(j) exempts certain violations from the mandatory minimum penalties, and states, in relevant part:

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 either a cease and desist order issued pursuant to Section 13301 or a time schedule order issued pursuant to Section 13300 or 13308 if all of the following requirements are met:
 - C) The regional board establishes a time schedule for bringing the waste discharge into compliance with the effluent limitation that is as short as possible....For the purposes of this subdivision, the time schedule may not exceed five years in length The interim requirements shall include both of the following:
 - i) Effluent limitations for the pollutant or pollutants of concern.
 - ii) Actions and milestones leading to compliance with the effluent limitation.

10. WDRs Order R5-2013-0146-01 Effluent Limitations section IV.A.1.a, states in part, the following:

- a. The Discharger shall maintain compliance with the following effluent limitations at Discharge Point No. 001.

Parameter	Units	Instantaneous Minimum	Instantaneous Maximum
pH	Standard Unis	6.5	8.5

11. WDRs Order R5-2013-0146-01 Effluent Limitations section IV.A.1.e, states in part, the following:

- e. **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/100 mL, more than once in any 30-day period; and
 - iii. 240 MPN/100 mL, at any time

12. According to the Discharger’s self-monitoring reports, the Discharger committed eight (8) non-serious violations of the above effluent limitation contained in Order R5-2013-0146-01, as shown in Attachment A. Five (5) 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 violations within a 180-day period. The mandatory minimum penalty for these non-serious violations is **fifteen thousand dollars (\$15,000)**.

13. The total amount of the mandatory penalties assessed for the cited effluent violations is **fifteen thousand dollars (\$15,000)**. A detailed list of all effluent violations is included in Attachment A, a part of this Order. This Order addresses administrative civil liability for violations that are specifically listed in Attachment A as subject to mandatory minimum penalties.

14. Water Code section 13385 (k)(2) states:

(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 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.

15. The 2009 State Water Resources Control Board's *Water Quality Enforcement Policy* delegates the Regional Boards the authority to determine whether a publicly owned treatment works serves a small community with financial hardship. On 11 February 2016, the Central Valley Water Board determined that the City of Jackson Wastewater Treatment Plant is a publicly owned treatment works and is serving a small community with financial hardship as defined by the Water Quality Enforcement Policy and within the meaning of Water Code section 13385(k)(2).

Compliance Project — Chlorine Dosing System Improvements

16. In a 11 February 2016 letter to the Board, the Discharger proposed a Compliance Project to improve the existing chlorinator by improving a programmable logic controller (PLC), rotameter, associated mechanical control, replace broken vacuum gages, and refurbish automatic switch over vacuum regulators. With these improvements the Discharger will provide a more reliable disinfection system, which will eliminate total coliform organism violations and reduce pH spikes due to over chlorination. The Discharger stated that the Compliance Project will cost more than \$15,000. The Discharger submitted documentation showing that it spent \$3,492 to troubleshoot and repair one of the two chlorinators. The upgrade took place on 16 December 2015, which is after the date of the total coliform and pH violations.
17. Board staff finds that the proposed Compliance Project qualifies as a compliance project within the meaning of Water Code Section 13385(k) because it will result in compliance with the total coliform organism and pH effluent limitations.

Additional Findings

18. The Central Valley Water Board finds that the Compliance Project will remedy future violations for total coliform organisms and pH. As discussed with the Discharger on 7 March 2016, the Board will not authorize additional compliance projects for total coliform organism or pH violations, except under unusual circumstances. The Compliance Project has been designed to correct these violations within five years, the timeline for the Compliance Project is as short as possible, and the Compliance Project has been designed in accordance with the State Water Board's Water Quality Enforcement Policy. The amount that the Discharger has expended or plans to expend on the Compliance Project is in excess of the mandatory minimum penalty that the Board is required to assess under Water Code sections 13385(h) and (i) for the violations that are to be addressed by the Compliance Projects.

19. 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.
20. 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.
21. 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, section 15321(a)(2).

THE CITY OF JACKSON IS HEREBY GIVEN NOTICE THAT:

1. The City of Jackson, its agents, successors and assigns, shall be assessed Administrative Civil Liability in the amount of **fifteen thousand dollars (\$15,000)**.
2. In accordance with Water Code section 13385(k), \$3,492 of the penalty has been satisfied because the Discharger has submitted information showing that it spent approximately \$3,492 to correct the total coliform organism and pH violations.
3. The remaining \$11,508 penalty shall be considered satisfied through the expenditure of an equivalent or greater amount on the completion of the Compliance Project described in Finding 16, if the Discharger complies with the time schedule and deliverables listed in Attachment B to this order.
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. The 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 at least 30 days prior to the deadline. Under no circumstances may the completion of the Compliance Project extend past five years from the issuance of this Order.
6. The Discharger must obtain written approval from the Executive Officer for any significant departures from the project outlines and the time schedules shown in Attachment B to this Order. Failure to obtain written approval for any significant departures may result in the assessment of the full amount of the suspended mandatory minimum penalty.
7. If, in the judgment of the Executive Officer, the Discharger fails to complete the compliance project 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.

8. 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.
9. 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 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, 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 ADAM LAPUTZ FOR

PAMELA C. CREEDON, Executive Officer

9 June 2016

DATE

Attachment A: Record of Violations

Attachment B: Compliance Project Description and Schedule

**ATTACHMENT A
ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2016-0534**

**City of Jackson
Wastewater Treatment Plant**

RECORD OF VIOLATIONS (1 January 2014 – 31 December 2015) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Program R5-2013-0146-01)

	<u>Date</u>	<u>Parameter</u>	<u>Units</u>	<u>Limit</u>	<u>Measured</u>	<u>Period</u>	<u>Remarks</u>	<u>CIWQS</u>
1	22-Jul-15	Total Coliform Organisms	MPN/100 mL	240	350	Instantaneous Max	3	995339
2	24-Jul-15	Total Coliform Organisms	MPN/100 mL	2.2	4	7-day Median	3	995344
3	27-Jul-15	Total Coliform Organisms	MPN/100 mL	2.2	4	7-day Median	3	995342
4	21-Sep-15	Total Coliform Organisms	MPN/100 mL	2.2	4.5	7-day Median	4	998312
5	2-Nov-15	Total Coliform Organisms	MPN/100 mL	2.2	4.5	7-day Median	4	1001213
6	4-Nov-15	Total Coliform Organisms	MPN/100 mL	2.2	4.5	7-day Median	4	1001210
7	28-Nov-15	pH	SU	6.5 – 8.5	4.5	Instantaneous Min	4	1001208
8	29-Nov-15	pH	SU	6.5 – 8.5	4.5	Instantaneous Min	4	1001209

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>12/31/2015</u>
Group I Serious Violations:	0
Group II Serious Violations:	0
Non-Serious Violations Not Subject to MMPs:	3
<u>Non-serious Violations Subject to MMPs:</u>	<u>5</u>
Total Violations Subject to MMPs:	5

Mandatory Minimum Penalty = (5 Non-serious Violations Subject to MMPs) x \$3,000 = \$15,000

**ATTACHMENT B
ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2016-0534**

Compliance Project Description and Schedule

Project Description:

The purpose of the proposed compliance project is to improve the City of Jackson Wastewater Treatment Plant's chlorine dosing system to eliminate future pH and total coliform organism violations.

Proposed Improvements

- I. Upgrade Existing Second/Backup Chlorinator: New programmable logic controller, rotameter, and associated mechanical controls. With these improvements, the second chlorinator will mirror the performance of the first (recently upgraded) chlorinator. A steady chlorine residual (elimination of high or low extremes) will improve disinfection and reduce pH violations (high chlorine residual levels depress effluent pH values).
- II. Replace Broken Vacuum Gauges: This will ensure that the operator can quickly determine if enough vacuum is present to pull chlorine gas from the chlorine ton tanks.
- III. Refurbish Automatic Switch Over Vacuum Regulators (Regulators): When a chlorine ton tank becomes empty, the chlorine Regulators do not automatically switch over from one ton tank to another as designed; operators are manually switching over from one chlorine ton tank to another as they near an empty state, allowing for the possibility of operator error and the absence of chlorine addition to the effluent.

Project Tasks and Budget:

The goals of the Compliance Project are to prevent future total coliform organism and pH violations, as previously described. The Compliance Project, in total, is expected to cost in excess of \$15,000 and will be carried out by Borges and Mahoney. \$3,492 has already been spent towards this Compliance Project to remedy the coliform bacteria and pH violations.

The project construction is expected to be completed by 31 July 2016; start-up will commence immediately thereafter.

Deliverables:

Progress Report – Chlorine Disinfection Improvements: The Discharger will submit a progress report summarizing the status of the chlorination improvements.

Due Date: 31 July 2016

Final Report: The final report will document that the compliance project has been completed and include a summary of all completed tasks and a post project accounting of all expenditures. The accounting must clearly show whether the final cost of the successfully completed compliance project is less than, equal to, or more than the liability suspended amount of \$11,508. The following statement must be included above the signature line of the report:

"I certify under penalty of perjury that the foregoing is true and correct."

Due Date: 1 September 2016