

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2014-0532

MANDATORY PENALTY
IN THE MATTER OF

SAN ANDREAS SANITARY DISTRICT
WASTEWATER TREATMENT PLANT
CALAVERAS COUNTY

This Order is issued to the San Andreas Sanitary District (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 R5-2009-0007 (NPDES No. CA0079464).

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 a domestic wastewater collection, treatment, and disposal system, and provides sewerage service to the community of San Andreas, in Calaveras County. Secondary treated effluent is discharged solely to a designated land disposal area from 1 May through 31 October of each year. Between 1 November and 30 April each year, the secondary treated effluent is discharged to the land disposal area (to the extent feasible) or is discharged to the North Fork of the Calaveras River, a water of the United States.
2. On 5 February 2009, the Central Valley Water Board issued WDRs Order R5-2009-0007 and Time Schedule Order (TSO) R5-2009-0008 to regulate discharges of waste from the wastewater treatment plant. At the same time, the Board rescinded WDRs Order R5-2003-0151 and Cease and Desist Order R5-2003-0152, except for enforcement purposes.
3. On 15 January 2014, the Board issued TSO R5-2014-0900 and rescinded TSO R5-2008-0008. TSO R5-2014-0900 provides a time schedule until 30 November 2018 to comply with effluent limitations for cyanide, copper and zinc.
4. On 1 July 2010, the Assistant Executive Officer of the Central Valley Water Board issued Administrative Civil Liability (ACL) Order R5-2010-0530. The ACL Order charged the Discharger with civil liability in the amount of \$87,000, which represented the sum of the statutory Mandatory Minimum Penalties (MMPs) for effluent limitation violations that occurred at the facility from 1 January 2009 to 30 April 2010. The Discharger completed a compliance project to satisfy ALC Order R5-2010-0530 and the Board considers the effluent violations specifically listed in Attachment A to Order R5-2010-0530 resolved.
5. This Order addresses violations subject to MMPs which occurred during the period of 1 May 2010 through 31 December 2013. On 6 January 2014, Central Valley Water Board

staff issued the Discharger a Notice of Violation (NOV) and draft Record of Violations (ROV) for the period of 1 May 2010 through 31 October 2013. These violations are specifically identified in Attachment A, which is attached hereto and incorporated herein by this reference. On 6 February 2014, the Discharger responded to the ROV and requested that the MMPs be applied toward two compliance projects to offset the mandatory minimum penalties, 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. Water Code section 13385(j) exempts certain violations from 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...

8. WDRs Order R5-2009-0007 Effluent Limitations IV.A.1.e include, in part, the following effluent limitations:
 - e. Total Residual Chlorine. 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.
9. According to the Discharger's self-monitoring reports, the Discharger committed two (2) violations of the above effluent limitations during the period beginning 1 May 2010 through 31 October 2013. The violations are defined as serious because measured concentrations of Group II constituents exceeded maximum prescribed levels by twenty percent (20%) or more on these occasions. The mandatory minimum penalty for these serious violations is **six thousand dollars (\$6,000)**.
10. The total amount of the mandatory minimum penalties assessed for the cited effluent violations is **six thousand dollars (\$6,000)**. A detailed list of the cited 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.
11. Water Code section 13385 (k) 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.

12. 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 6 January 2014, the Central Valley Water Board determined that the San Andreas Sanitary District meets the definition of a small community with a financial hardship.

Compliance Project #1 – Power Transfer and Dechlorination System Upgrade

13. In a 6 February 2014 letter, the Discharger stated that the January 2013 total residual chlorine violations were the result of the speed of the sodium bisulfate pump being programmed too low, causing a high chlorine residual. The Discharger submitted documentation showing that it spent \$2,040 to reprogram the pump. The upgrade took place on 29 January 2013, which is after the date of the two effluent total residual chlorine violations.
14. Board staff finds that the reprogramming of sodium bisulfate pump qualifies as a compliance project within the meaning of Water Code section 13385 (k) because it will aid in preventing additional total residual chlorine effluent violations.

Compliance Project #2 – Backup Sodium Bisulfite Pump and Equipment Upgrade

15. In a 6 February 2014 letter, the Discharger proposed that the remaining \$3,960 in mandatory penalties be suspended upon completion of a second compliance project. The Discharger proposes to purchase a backup sodium bisulfite pump and related equipment upgrades. The Discharger states that this compliance project should correct any other issues related to dechlorination.
16. Board staff finds that a backup sodium bisulfite pump and related equipment upgrades qualifies as a compliance project within the meaning of Water Code section 13385 (k) because it will result in compliance with the total residual chlorine effluent limitation.

Additional Findings

17. The Central Valley Water Board finds that the two Compliance Projects will remedy the violations for total residual chlorine. The Compliance Projects have been designed to correct these violations within five years, the timeline for the Compliance Projects is as short as possible, and the Compliance Projects have 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 Projects 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.
18. 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.

19. 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 SAN ANDREAS SANITARY DISTRICT IS HEREBY GIVEN NOTICE THAT:

1. The Discharger shall be assessed an Administrative Civil Liability of **six thousand dollars (\$6,000)**.
2. In accordance with Water Code section 13385(k), \$2,040 of the penalty has been satisfied through the completion of Compliance Project #1.
3. In accordance with Water Code section 13385(k), the remainder of mandatory penalties (i.e., \$3,960) shall be permanently suspended if the Discharger submits evidence that it has spent at least \$3,960 and completes the compliance project described in Finding 15 according to the schedule below:

Task

Compliance Date

Purchase a backup sodium bisulfite pump and related equipment. Submit a final report documenting the costs and describing how the improvements comply with Finding 15 of this Order.

31 October 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. 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.
6. 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.
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 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 or will be provided upon request.

Original Signed By

PAMELA C. CREEDON, Executive Officer

8 May 2014

DATE

Attachment A: Record of Violations

ATTACHMENT A
ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2014-0532

San Andreas
San Andreas Wastewater Treatment Plant
RECORD OF VIOLATIONS (1 May 2010 - 31 December 2013) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Program R5-2009-0007)

	<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	17-Jan-13	Total Residual Chlorine	mg/L	0.019	0.035	1-hour Average	2	944457
2	28-Jan-13	Total Residual Chlorine	mg/L	0.019	0.026	1-hour Average	2	944456

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.
4. Non-serious violation subject to mandatory minimum penalties.

<u>VIOLATIONS AS OF:</u>	<u>12/31/13</u>
Group I Serious Violations:	0
Group II Serious Violations:	2
Non-Serious Violations Not Subject to MMPs:	0
Non-serious Violations Subject to MMPs:	0
<u>Total Violations Subject to MMPs:</u>	<u>2</u>

Mandatory Minimum Penalty = (2 Group II Serious Violations) x \$3,000 = \$6,000