

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2013-0574

MANDATORY PENALTY
IN THE MATTER OF

RIVER HIGHLANDS COMMUNITY SERVICES DISTRICT, COUNTY OF YUBA, AND
GOLD VILLAGE LAND DEVELOPMENT, LLC
HAMMONTON GOLD VILLAGE WASTEWATER TREATMENT PLANT
YUBA COUNTY

This Order is issued to River Highlands Community Services District, County of Yuba, and Gold Village Land Development, LLC (hereafter Discharger) pursuant to Water Code section 13385, which authorizes the imposition of Administrative Civil Liability, and Water Code section 13323, which authorizes the Executive Officer to issue this Complaint. This Order is based on findings that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Order R5-2011-0086 (NPDES No. CA0081574).

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 Hammonton Gold Village Wastewater Treatment Plant (Facility). The property is owned by Gold Village Land Development LLC. The Facility serves a population of approximately 84 households. The package treatment system is a membrane biological reactor (MBR) system with a design flow of 50,000 gallons per day (gpd) and an average flow of 30,000 gpd. Treated wastewater is discharged to either a storage pond or an unnamed tributary to Sanford Creek, a water of the United States.
2. On 1 December 2011, the Central Valley Water Board issued WDRs Order R5-2011-0086 which contained new requirements and rescinded WDRs Order R5-2002-0101, except for enforcement purposes.
3. This Order addresses administrative civil liability for effluent violations that occurred during the period from 1 January 2008 through 30 May 2013. On 26 April 2013, the Executive Officer of the Central Valley Water Board issued Administrative Civil Liability Complaint (ACLC) R5-2013-0535 for Mandatory Minimum Penalties (MMPs) for effluent limitation violations from 1 January 2008 through 31 December 2012. On 17 May 2013, the Discharger waived its right to a hearing within 90 days and submitted a proposal to complete a compliance project in lieu of paying the penalty. Board staff has adjusted Attachment A to cover the period of 1 January 2008 through 31 May 2013.
4. Water Code section 13385 subdivisions (h) and (i) require assessment of mandatory penalties and state, in part, the following:

MANDATORY PENALTY

RIVER HIGHLANDS COMMUNITY SERVICES DISTRICT, COUNTY OF YUBA, AND
 GOLD VILLAGE LAND DEVELOPMENT, LLC
 HAMMONTON GOLD VILLAGE WASTEWATER TREATMENT PLANT
 YUBA COUNTY

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, 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.

5. Water Code 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.

6. WDRs Order R5-2002-0101 Effluent Limitations B.2., include, in part, the following effluent limitations:

Constituents	Units	Effluent Limitations				
		Average Monthly	Average Weekly	7-Day Median	Average Daily	Instantaneous Maximum
Total Coliform Organisms	MPN/100 ml	--	--	2.2	--	23 ⁴
Turbidity	NTU	--	--	--	2	5 ⁵
Ammonia	mg/L	Att. B ²	--	--	--	--

⁴ The total coliform organisms concentration shall not exceed 23 mpn/100ml more than once in any 30-day period. No sample shall exceed a concentration of 240 mpn/100ml.

- 5 The turbidity shall not exceed 5 NTU more than 5 percent of the time within a 24-hour period. At no time shall the turbidity exceed 10 NTU.
 - 2 The mass limit (lb/day) for ammonia shall be equal to the concentration limit (from Attachments) multiplied by the design flow of 0.026 mgd and the unit conversion factor of 8.345 (see footnote 1 for equation).
7. WDRs Order R5-2011-0086 Final Effluent Limitations IV.A.1.a., include, in part, the following effluent limitations:

a. The Discharger shall maintain compliance with the following effluent limitations...

Constituents	Units	Effluent Limitations		
		Average Monthly	Average Weekly	Maximum Daily
Settleable Solids	mg/L	--	--	0.2
Ammonia Nitrogen	mg/L	1.1	--	2.1

8. According to the Discharger’s self-monitoring reports, the Discharger committed five (5) serious Group I violations of the above effluent limitations contained in WDRs Orders R5-2002-0101 and R5-2011-0086 during the period 1 January 2008 through 31 May 2013 as identified in Attachment A. These violations are defined as serious because the measured concentration of a Group I constituent exceeded the maximum prescribed level in WDRs Orders R5-2002-0101 and R5-2011-0086 by 40 percent or more. The mandatory minimum penalty for these serious violations is **fifteen thousand dollars (\$15,000)**.
9. According to the Discharger’s self-monitoring reports, the Discharger committed three (3) non-serious violations of the above effluent limitations contained in WDRs Order R5-2002-0101 during the period 1 January 2008 through 31 May 2013 as identified in Attachment A. These non-serious violations are not subject to mandatory penalties under Water Code section 13385(i)(1) because the violations were not preceded by three or more similar violations within a six-month period.
10. The total amount of the mandatory penalty assessed for the cited effluent violations is **fifteen thousand dollars (\$15,000)**. A detailed list of the cited effluent violations is included in Attachment A, a part of this Order.
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.

MANDATORY PENALTY

RIVER HIGHLANDS COMMUNITY SERVICES DISTRICT, COUNTY OF YUBA, AND

GOLD VILLAGE LAND DEVELOPMENT, LLC

HAMMONTON GOLD VILLAGE WASTEWATER TREATMENT PLANT

YUBA COUNTY

(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 11 February 2013, the Central Valley Water Board determined that the Hammonton Gold Village Wastewater Treatment Plant's service area meets the definition of a small community with a financial hardship.

Compliance Project #1 – Dissolved Oxygen Probe Relocation and Laboratory Analysis

13. In the 8 May 2013 ACLC response, the Discharger stated that the ammonia violations were likely caused by the factory-installed dissolved oxygen (DO) probe not sensing real time process parameters and providing a poor response to process changes, resulting in inadequate nitrification/de-nitrification and the effluent violations.

On 31 July 2013, the Discharger submitted information showing that it spent \$142 in materials and additional laboratory sampling costs to make temporary improvements to the nitrification/de-nitrification process. These improvements included: temporarily relocating the DO probe; conducting laboratory test to verify that the DO probe was impacting the nitrification process; adjusting the anoxic zone recycle rates; and fine tuning the blower speeds to help tighten DO swings. These temporary actions allowed the Discharger to meet the ammonia and settleable solids effluent limits.

Compliance Project #2 – Permanent Aeration Basin DO Control Upgrade

14. In the 8 May 2013 ACLC response, the Discharger stated that additional work is needed to permanently upgrade the DO system.
15. The Discharger has proposed a permanent upgrade to the aeration basin DO system. The project will consist of permanently mounting and supporting the relocated DO probe; purchasing a spare DO probe for emergencies; purchasing a spare aeration tank level

transmitter to prevent loss of process control; purchasing spare parts for the aeration blowers, including matching motors to use as standby; and purchasing laboratory equipment to run real-time total suspended solids analysis.

Board staff finds that the permanent changes to the DO control system qualifies as a compliance project within the meaning of Water Code section 13385(k) because it will prevent additional ammonia and settleable solids violations. Therefore, the Discharger may use the project expenses incurred to offset the ammonia and settleable solids violations in Attachment A.

Additional Findings

16. The Central Valley Water Board finds that the Compliance Projects will remedy the violations for ammonia and settleable solids. The Compliance Projects have been designed to correct these violations within one year, 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 13385(h) and (i) for the violations that are to be addressed by the Compliance Projects.
17. 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.
18. This Order settles ACLC R5-2013-0506 and 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. 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 section 21000 et seq.), in accordance with California Code of Regulations, title 14, section 15321(a)(2).

IT IS HEREBY ORDERED THAT:

1. The River Highlands Community Services District, County of Yuba, and Gold Village Land Development, LLC is hereby assessed an administrative civil liability in the amount

MANDATORY PENALTY

RIVER HIGHLANDS COMMUNITY SERVICES DISTRICT, COUNTY OF YUBA, AND
GOLD VILLAGE LAND DEVELOPMENT, LLC
HAMMONTON GOLD VILLAGE WASTEWATER TREATMENT PLANT
YUBA COUNTY

of **fifteen thousand dollars (\$15,000)**.

2. In accordance with Water Code section 13385(k), \$142 of the penalty has been satisfied through the completion of the compliance project described in Finding 13.
3. Of the \$15,000 assessed penalty, **fourteen thousand eight hundred fifty-eight dollars (14,858)** shall be suspended, pursuant to Water Code section 13385(k), pending completion of the second Compliance Project described in Finding 15. A summary of the Compliance Project and deliverables that will be submitted to the Central Valley Water Board can be found in Attachment B of this Order incorporated herein by reference.
4. If the final cost of the successfully completed Compliance Project is less than the suspended amount of \$14,858, the Discharger must remit the difference to the State Water Pollution Cleanup and Abatement Account by **30 May 2014**, or within 30 days of project completion, whichever comes first.
5. The Assistant 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.
6. The Discharger must obtain written approval from the Assistant 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 Assistant Executive Officer, the Discharger fails to complete the compliance project in accordance with the due dates listed above (including any extensions approved by the Assistant Executive Officer), the Assistant 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 Assistant 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

MANDATORY PENALTY

RIVER HIGHLANDS COMMUNITY SERVICES DISTRICT, COUNTY OF YUBA, AND

GOLD VILLAGE LAND DEVELOPMENT, LLC

HAMMONTON GOLD VILLAGE WASTEWATER TREATMENT PLANT

YUBA COUNTY

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

KENNETH D. LANDAU, Assistant Executive Officer

DATE

Attachment A: Record of Violations

Attachment B: Compliance Project Description

**ATTACHMENT A
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2013-0574**

**Hammonton Gold Village
Wastewater Treatment Plant**

RECORD OF VIOLATIONS (1 January 2008 – 31 May 2013) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Programs R5-2002-0101 and R5-2011-0086)

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>WDRs</u>		<u>Period Type</u>	<u>Remarks</u>	<u>CIWQS</u>
				<u>Limit</u>	<u>Measured</u>			
Violations under R5-2002-0101								
1	3/4/2010	Turbidity	NTU	2	5	Daily Average	3	882517
2	3/4/2010	Coliform	MPN/100mL	240	4900	Instantaneous Maximum	3	882518
3	3/4/2010	Coliform	MPN/100mL	2.2	4900	7-day Median	3	882519
4	2/28/2011	Ammonia	mg/L	5.08	9	Monthly Average	1	943155
Violations under R5-2011-0086								
5	12/27/2011	Ammonia	mg/L	2.1	3.4	Daily Maximum	1	923955
6	12/31/2011	Ammonia	mg/L	1.1	1.75	Monthly Average	1	923956
7	12/27/2011	Settleable Solids	mg/L	0.2	0.5	Daily Maximum	1	923957
8	1/3/2012	Ammonia	mg/L	2.1	3.8	Daily Maximum	1	923966

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>05/31/2013</u>
Group I Serious Violations:	5
Group II Serious Violations:	0
Non-Serious Exempt from MMPs:	3
Non-serious Violations Subject to MMPs:	0
<u>Total Violations Subject to MMPs:</u>	<u>5</u>

Mandatory Minimum Penalty = (5 Serious Violations + 0 Non-Serious Violation) x \$3,000 = \$15,000

ATTACHMENT B
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2013-0574

**River Highlands Community Services District, County of Yuba, and Gold Village Land
Development, LLC (Discharger)**

Compliance Project Description

Project Name: Permanent Upgrades to the Aeration Basin

Project Schedule, Budget, and Deliverables:

The Discharger will be responsible for completing and providing all deliverables described below:

Phase 1-Dissolved Oxygen Probe and Standby Level Transmitter

The Discharger shall:

- Permanently mount and support the relocated aeration system dissolved oxygen probe.
- Purchase a spare dissolved oxygen probe to have on standby.
- Purchase a spare aeration tank level transmitter to have on standby.

Estimated Cost: \$3,579

Deliverable: A technical report documenting that the above actions were completed.

Report due date: **30 November 2013**

Phase 2-Aeration Blowers and Real Time Monitoring

The Discharger shall:

- Purchase and maintain spare parts for aeration blowers with matching motors.
- Purchase laboratory equipment for real time monitoring.

Estimated Cost: \$11,956

Deliverable: A technical report documenting that the above actions were completed.

Report due date: **31 March 2014**

Final Report

River Highlands Community Services District, County of Yuba, and Gold Village Land Development, LLC will submit a final report including a summary of the completed tasks; a summary the project expenditures; and certification that all applicable environmental laws and regulations have been followed during the implementation of the project. The accounting must clearly show whether the final cost of the successfully completed Compliance Project is less than, equal to, or more than the suspended liability of \$14,858. This serves as the final report required under the Compliance Project and the following statement must be included above the signature line of the report: "I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct."

Report Due Date: **30 April 2014**