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JUN 09 2010

City of Nevada City



Council Action Advised by August 20, 2010

June 4, 2010

TO: Mayors, City Managers and City Clerks

**RE: DESIGNATION OF VOTING DELEGATES AND ALTERNATES
League of California Cities Annual Conference – September 15-17 – San Diego**

The League's 2010 Annual Conference is scheduled for September 15-17 in San Diego. An important part of the Annual Conference is the Annual Business Meeting (*at the closing General Assembly*), scheduled for 3:00 p.m., Friday, September 17, at the San Diego Convention Center. At this meeting, the League membership considers and takes action on resolutions that establish League policy.

In order to vote at the Annual Business Meeting, your city council must designate a voting delegate. Your city may also appoint up to two alternate voting delegates, one of whom may vote in the event that the designated voting delegate is unable to serve in that capacity. Please take care when selecting your city's delegates, as travel and attendance could be an issue for those who observe Yom Kippur.

Please complete the attached Voting Delegate form and return it to the League's office no later than Friday, August 20, 2010. This will allow us time to establish voting delegate/alternates' records prior to the conference.

Please note the following procedures that are intended to ensure the integrity of the voting process at the Annual Business Meeting.

- **Action by Council Required.** Consistent with League bylaws, a city's voting delegate and up to two alternates must be designated by the city council. When completing the attached Voting Delegate form, please attach either a copy of the council resolution that reflects the council action taken, or have your city clerk or mayor sign the form affirming that the names provided are those selected by the city council. Please note that designating the voting delegate and alternates must be done by city council action and cannot be accomplished by individual action of the mayor or city manager alone.
- **Conference Registration Required.** The voting delegate and alternates must be registered to attend the conference. They need not register for the entire conference; they may register for Friday only. In order to cast a vote, at least one person must be present at the Business Meeting and in possession of the voting delegate card. Voting delegates and alternates need to pick up their conference badges before signing in and picking up

-more-

the voting delegate card at the Voting Delegate Desk. This will enable them to receive the special sticker on their name badges that will admit them into the voting area during the Business Meeting.

- **Transferring Voting Card to Non-Designated Individuals Not Allowed.** The voting delegate card may be transferred freely between the voting delegate and alternates, but *only* between the voting delegate and alternates. If the voting delegate and alternates find themselves unable to attend the Business Meeting, they may *not* transfer the voting card to another city official.
- **Seating Protocol during General Assembly.** At the Business Meeting, individuals with the voting card will sit in a separate area. Admission to this area will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate. If the voting delegate and alternates wish to sit together, they must sign in at the Voting Delegate Desk and obtain the special sticker on their badges.

The Voting Delegate Desk, located in the conference registration area of the San Jose Convention Center, will be open at the following times: Wednesday, September 15, 9:00 a.m.; Thursday, September 16, 7:30 a.m.; and September 17, 7:30 a.m. The Voting Delegate Desk will also be open at the Business Meeting on Friday, but not during a roll call vote, should one be undertaken.

The voting procedures that will be used at the conference are attached to this memo. Please share these procedures and this memo with your council and especially with the individuals that your council designates as your city's voting delegate and alternates.

Once again, thank you for completing the voting delegate and alternate form and returning it to the League office by Friday, August 20th. If you have questions, please call Mary McCullough at (916) 658-8247.

Attachments:

- 2010 Annual Conference Voting Procedures
- Voting Delegate/Alternate Form



1400 K Street, Suite 400 • Sacramento, California 95814
Phone: 916.658.8200 Fax: 916.658.8240
www.cacities.org

Annual Conference Voting Procedures 2010 Annual Conference

1. **One City One Vote.** Each member city has a right to cast one vote on matters pertaining to League policy.
2. **Designating a City Voting Representative.** Prior to the Annual Conference, each city council may designate a voting delegate and up to two alternates; these individuals are identified on the Voting Delegate Form provided to the League Credentials Committee.
3. **Registering with the Credentials Committee.** The voting delegate, or alternates, may pick up the city's voting card at the Voting Delegate Desk in the conference registration area. Voting delegates and alternates must sign in at the Voting Delegate Desk. Here they will receive a special sticker on their name badge and thus be admitted to the voting area at the Business Meeting.
4. **Signing Initiated Resolution Petitions.** Only those individuals who are voting delegates (or alternates), and who have picked up their city's voting card by providing a signature to the Credentials Committee at the Voting Delegate Desk, may sign petitions to initiate a resolution.
5. **Voting.** To cast the city's vote, a city official must have in his or her possession the city's voting card and be registered with the Credentials Committee. The voting card may be transferred freely between the voting delegate and alternates, but may not be transferred to another city official who is neither a voting delegate or alternate.
6. **Voting Area at Business Meeting.** At the Business Meeting, individuals with a voting card will sit in a designated area. Admission will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate.
7. **Resolving Disputes.** In case of dispute, the Credentials Committee will determine the validity of signatures on petitioned resolutions and the right of a city official to vote at the Business Meeting.



CITY: _____

2010 ANNUAL CONFERENCE
VOTING DELEGATE/ALTERNATE FORM

Please complete this form and return it to the League office by Friday, August 20, 2010. Forms not sent by this deadline may be submitted to the Voting Delegate Desk located in the Annual Conference Registration Area. Your city council may designate one voting delegate and up to two alternates.

In order to vote at the Annual Business Meeting (General Assembly), voting delegates and alternates must be designated by your city council. Please attach the council resolution as proof of designation. As an alternative, the Mayor or City Clerk may sign this form, affirming that the designation reflects the action taken by the council.

Please note: Voting delegates and alternates will be seated in a separate area at the Annual Business Meeting. Admission to this designated area will be limited to individuals (voting delegates and alternates) who are identified with a special sticker on their conference badge. This sticker can be obtained only at the Voting Delegate Desk.

1. VOTING DELEGATE

Name: _____

Title: _____

2. VOTING DELEGATE - ALTERNATE

Name: _____

Title: _____

3. VOTING DELEGATE - ALTERNATE

Name: _____

Title: _____

PLEASE ATTACH COUNCIL RESOLUTION DESIGNATING VOTING DELEGATE AND ALTERNATES.

OR

ATTEST: I affirm that the information provided reflects action by the city council to designate the voting delegate and alternate(s).

Name: _____ E-mail _____

Mayor or City Clerk _____ Phone: _____

(circle one) (signature)

Date: _____

Please complete and return by Friday, August 20 to:

League of California Cities
ATTN: Mary McCullough
1400 K Street
Sacramento, CA 95814

FAX: (916) 658-8240
E-mail: mccullom@cacities.org
(916) 658-8247

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JUN 02 2010

City of Nevada City

NEVADA COUNTY CONCERT BAND

Patricia Thompson
Secretary Nevada County Concert Band
PO Box 1444
Nevada City, CA 95959
nccband@yahoo.com

May 30, 2010

Mr. Vern Taylor
Director of Public Works
317 Broad Street
Nevada City, CA 95959

Dear Mr. Taylor,

All of us in the Nevada County Concert Band would like to thank you and your employees Chris Shack, Michael Highsmith and Don Sheldon for all the work they did to clean up the Pioneer Park band shell. We understand that there had been some vandalism of the back wall that required sand blasting and pressure washing as well as the painting of some new wood and doors. All of you went beyond our expectations in making the band shell a place for us to proudly perform. Thank you so much for taking the time during your preparation for the Amgen Tour to help us out. We do so appreciate your hard work. Thank you gentlemen.

Sincerely,

Pat Thompson



**California Regional Water Quality Control Board
Central Valley Region**

Katherine Hart, Chair



**Arnold
Schwarzenegger**
Governor

Linda S. Adams
Secretary for
Environmental
Protection

11020 Sun Center Drive #200, Rancho Cordova, California 95670-6114
Phone (916) 464-3291 • FAX (916) 464-4645
<http://www.waterboards.ca.gov/centralvalley>

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JUN 11 2010

City of Nevada City

10 June 2010

Gene Albaugh, City Manager
City of Nevada City
317 Broad Street
Nevada City, CA 95959

CERTIFIED MAIL
7010 0290 0000 8536 3875

**NOTICE OF APPROVAL
ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R5-2010-0519
for
CITY OF NEVADA CITY
WASTEWATER TREATMENT PLANT
NEVADA COUNTY**

Enclosed is Administrative Civil Liability Order No. R5-2010-0519 for the City of Nevada City Wastewater Treatment Plant, as approved by the Assistant Executive Officer of the California Regional Water Quality Control Board, Central Valley Region.

In order to conserve resources, this letter transmits paper copies of the documents to the Discharger only. Interested persons may download the documents from the Regional Water Board's Internet website at http://www.waterboards.ca.gov/centralvalley/adopted_orders/. Copies of these documents can also be obtained by contacting or visiting the Central Valley Water Board's office weekdays between 8:00 AM and 5:00 PM.

If you have any questions regarding the Order, please contact Barry Hilton at (916) 464-4762 or at bhilton@waterboards.ca.gov.

VICTOR VASQUEZ
Senior Engineer
NPDES Compliance and Enforcement Unit

Enclosure: ACL Order (Discharger Only)

cc w/o enc: Mr. Kenneth Greenberg, USEPA, Region 9, San Francisco
Mr. Reed Sato, Office of Enforcement, SWRCB, Sacramento
Mr. Patrick Pulupa, Office of Chief Counsel, SWRCB, Sacramento
Ms. Carol Oz, Department of Fish and Game, Region 2, Rancho Cordova
Nevada County Department of Environmental Health, Nevada City
Mr. Bill Jennings, California Sportfishing Protection Alliance, Stockton

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2010-0519

MANDATORY PENALTY
IN THE MATTER OF

CITY OF NEVADA CITY
WASTEWATER TREATMENT PLANT
NEVADA COUNTY

This Order is issued to the City of Nevada City (hereafter Discharger) pursuant to California Water Code (CWC) section 13385, which authorizes the imposition of Administrative Civil Liability. This Order is based on findings that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Orders R5-2002-0050 and R5-2008-0177 (NPDES No. CA0079901).

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 a wastewater collection, treatment, and disposal system, and provides sewerage service to the City of Nevada City. Treated municipal wastewater is discharged to Deer Creek, a water of the United States and a tributary to the Yuba River.
2. On 26 April 2002, the Central Valley Water Board adopted Waste Discharge Requirements (WDRs) Order R5-2002-0050 to regulate discharges of waste from the wastewater treatment plant (WWTP). On 4 December 2008, effective 23 January 2009, the Board adopted WDRs Order R5-2008-0177, which contained new requirements and rescinded WDRs Order R5-2002-0050.
3. On 10 November 2008, the Assistant Executive Officer of the Central Valley Water Board issued Administrative Civil Liability Complaint (ACLC) R5-2008-0607. The ACLC charged the Discharger with civil liability in the amount of \$69,000 which represented Mandatory Minimum Penalties for effluent violations that occurred at the WWTP from 1 January 2000 through 30 April 2008. The ACLC allowed the Discharger to apply the \$69,000 towards a compliance project, pursuant to CWC section 13395(k). The Board considers payment of the mandatory minimum penalties satisfied through completion of the compliance project.
4. On 14 September 2009, the Executive Officer of the Central Valley Water Board issued ACLC R5-2009-0560. The ACLC charged the Discharger with civil liability in the amount of \$3,000 which represented Mandatory Minimum Penalties for effluent violations that occurred at the WWTP from 1 May 2008 through 30 June 2009. The Discharger responded and asked that it be allowed to apply the penalty toward a compliance project.
5. This Order allows the \$3,000 penalty to be applied toward a compliance project, and extends the period of record from the original date of 30 June 2009 to 28 February 2010. There were no additional violations between 30 June 2009 and 28 February 2010.

6. CWC section 13385(h) and (i) require assessment of mandatory penalties and state, in part, the following:

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.”

7. CWC 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.

8. WDRs Order R5-2002-0050 Effluent Limitations No. B.2. states, in part: *“Effluent shall not exceed the following limitations (from 1 April 2007 forward):”*

<u>Constituents</u>	<u>Units</u>	<u>Average Monthly</u>	<u>Average Weekly</u>	<u>7-Day Median</u>	<u>Average Daily</u>	<u>Instantaneous Maximum</u>
Total Coliform Organisms	MPN/100 mL		--	2.2	--	23 ⁴

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

9. According to the Discharger’s self-monitoring reports, the Discharger committed two (2) non-serious violations of the above effluent limitations contained in Orders R5-2002-0050 and R5-2008-0177 during the period beginning 1 May 2008 and ending 28 February 2010. One (1) of the non-serious violations is subject to mandatory penalties under CWC section 13385(i)(1) because this violation was preceded by three or more similar violations within a six-month period. The mandatory minimum penalty for the one (1) non-serious violation is **three thousand dollars (\$3,000)**.
10. The total amount of the mandatory penalties assessed for the cited effluent violation is **three thousand dollars (\$3,000)**. A detailed list of the cited effluent violations is included in Attachment A, a part of this Order.

11. CWC 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. On 22 September 2008, the Executive Director of the State Water Resources Control Board determined that the service area of the Nevada City Wastewater Treatment Plant meets the definition of a small community with a financial hardship.
13. On 21 March 2010, the Discharger submitted information showing that it spent \$7,209 to install a sulfur dioxide analyzer at its effluent monitoring station. The analyzer allows the Discharger to provide a "tighter control" on the chlorination/dechlorination process, and will therefore correct the coliform violations which are the subject of this Order. The invoice shows that payment for the project was made on 18 May 2008, which is after the date of the last violation.
14. With the completion of the Compliance Project, the Discharger has expended in excess of the mandatory minimum penalty that is required by CWC Sections 13385(h) and (i). The Compliance Project has been designed to correct the violations that have led to this Administrative Civil Liability Order within five years. The completed project is in accordance with the State Water Board *Water Quality Enforcement Policy*.
15. 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.

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 CFR 123.27) has expired.
17. 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 section 21000 et seq.), in accordance with California Code of Regulations, title 14, section 15321(a)(2).

NEVADA CITY IS HEREBY GIVEN NOTICE THAT:

1. The Discharger shall be assessed an Administrative Civil Liability in the amount of **three thousand dollars (\$3,000)**.
2. The entire \$3,000 penalty is satisfied through the completion of the compliance project described above, in accordance with CWC section 13385(k).
3. 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, state holiday, or furlough day, 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.



KENNETH D. LANDAU, Assistant Executive Officer

10 June 2010
DATE

**ATTACHMENT A
ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R5-2010-0519**

**City of Nevada City
Wastewater Treatment Plant**

RECORD OF VIOLATIONS (1 May 2008 – 28 February 2010) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Programs R5-2002-0050 and R5-2008-0177)

#	Date	Violation Type	Units	Limit	Measured	Period Type	Remarks	CIWQS
*	2-Feb-08	Coliform	MPN/100 mL	2.2	2.5	7-Day Median	*	773332
*	9-Feb-08	Coliform	MPN/100 mL	2.2	4	7-Day Median	*	773333
1	10-May-08	Coliform	MPN/100 mL	2.2	112	7-Day Median	3	807514
2	17-May-08	Coliform	MPN/100 mL	2.2	9	7-Day Median	4	807516

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 violations falls within the first three violations in a six-month period, thus is exempt.
 4. Non-serious violation subject to mandatory penalties.
- * Violations previously addressed in ACLC R5-2008-0607

VIOLATIONS FROM 5/1/2008 THROUGH 2/28/2010

Group I Serious Violations:	0
Group II Serious Violations:	0
Non-Serious Exempt from MPs:	1
Non-serious Violations Subject to MPs:	1
<u>Total Additional Violations Subject to MPs:</u>	<u>1</u>

Mandatory Minimum Penalty = (0 Serious Violations + 1 Non-Serious Violations) x \$3,000 = \$3,000



**California Regional Water Quality Control Board
Central Valley Region**

Katherine Hart, Chair



**Arnold
Schwarzenegger
Governor**

Linda S. Adams
Secretary for
Environmental
Protection

11020 Sun Center Drive #200, Rancho Cordova, California 95670-6114
Phone (916) 464-3291 • FAX (916) 464-4645
<http://www.waterboards.ca.gov/centralvalley>

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JUN 11 2010

City of Nevada City

10 June 2010

Gene Albaugh, City Manager
City of Nevada City
317 Broad Street
Nevada City, CA 95959

CERTIFIED MAIL
7010 0290 0000 8536 3882

**NOTICE OF APPROVAL
ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R5-2010-0520
for
CITY OF NEVADA CITY
WASTEWATER TREATMENT PLANT
NEVADA COUNTY**

Enclosed is Administrative Civil Liability Order No. R5-2010-0520 for the City of Nevada City Wastewater Treatment Plant, as approved by the Assistant Executive Officer of the California Regional Water Quality Control Board, Central Valley Region.

In order to conserve resources, this letter transmits paper copies of the documents to the Discharger only. Interested persons may download the documents from the Regional Water Board's Internet website at http://www.waterboards.ca.gov/centralvalley/adopted_orders/. Copies of these documents can also be obtained by contacting or visiting the Central Valley Water Board's office weekdays between 8:00 AM and 5:00 PM.

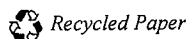
If you have any questions regarding the Order, please contact Barry Hilton at (916) 464-4762 or at bhilton@waterboards.ca.gov.

VICTOR VASQUEZ
Senior Engineer
NPDES Compliance and Enforcement Unit

Enclosure: ACL Order (Discharger Only)

cc w/o enc: Mr. Kenneth Greenberg, USEPA, Region 9, San Francisco
Mr. Reed Sato, Office of Enforcement, SWRCB, Sacramento
Mr. Patrick Pulupa, Office of Chief Counsel, SWRCB, Sacramento
Ms. Carol Oz, Department of Fish and Game, Region 2, Rancho Cordova
Nevada County Department of Environmental Health, Nevada City
Mr. Bill Jennings, California Sportfishing Protection Alliance, Stockton

California Environmental Protection Agency



CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2010-0520

MANDATORY PENALTY
IN THE MATTER OF

CITY OF NEVADA CITY
WASTEWATER TREATMENT PLANT
NEVADA COUNTY

This Order is issued to the City of Nevada City (hereafter Discharger) pursuant to California Water Code (CWC) Section 13385, which authorizes the imposition of Administrative Civil Liability. This Order is based on findings that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Order R5-2002-0050 (NPDES No. CA0079901).

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 a wastewater collection, treatment, and disposal system, and provides sewerage service to the City of Nevada City. Treated municipal wastewater is discharged to Deer Creek, a water of the United States and a tributary to the Yuba River.
2. On 26 April 2002, the Central Valley Water Board adopted Waste Discharge Requirements (WDRs) Order R5-2002-0050 to regulate discharges of waste from the wastewater treatment plant (WWTP). The Board also adopted Cease and Desist Order (CDO) R5-2002-0051. CDO R5-2002-0051 established a time schedule until 15 April 2003 to comply with final effluent limitations for pH. It also provided a time schedule until 30 April 2007 to comply with final effluent limitations for ammonia, nitrate plus nitrite, and nitrite. On 4 December 2008, effective 23 January 2009, the Board adopted WDRs Order R5-2008-0177, which contained new requirements and rescinded WDRs Order R5-2002-0050.
3. On 10 November 2008, the Assistant Executive Officer of the Central Valley Water Board issued Administrative Civil Liability Complaint (ACLC) R5-2008-0607. The ACLC charged the Discharger with civil liability in the amount of \$69,000 which represented statutory Mandatory Minimum Penalties for effluent violations that occurred at the WWTP from 1 January 2000 through 30 April 2008. The ACLC allowed the Discharger to apply the \$69,000 penalty towards a compliance project described in Finding 15 below, pursuant to CWC section 13395(k). The Board considers payment of the mandatory minimum penalties satisfied through completion of the compliance project.
4. On 14 September 2009, the Executive Officer of the Central Valley Water Board issued ACLC R5-2009-0560. The ACLC charged the Discharger with civil liability in the amount of \$3,000 which represented statutory Mandatory Minimum Penalties for effluent violations that occurred at the WWTP from 1 May 2008 through 30 June 2009. This Complaint will be settled through completion of a new compliance project.
5. This Order covers the period of 1 December 2002 through 30 April 2008, and assesses penalties for five violations that were overlooked in ACLC R5-2008-0607.

6. CWC Section 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.

7. CWC 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.

8. WDRs Order R5-2002-0050 Effluent Limitations No. B.1. states, in part,

Effluent shall not exceed the following limitations (from adoption until 31 March 2007):

<u>Constituents</u>	<u>Units</u>	<u>Average Monthly</u>	<u>Median Monthly</u>	<u>Average Weekly</u>	<u>Average Daily</u>	<u>Instantaneous Maximum</u>
BOD ₅ ¹	mg/L	10 ²	--	15 ²	30 ²	--
Total Suspended Solids	mg/L	10 ²	--	15 ²	30 ²	--
	lbs/day ³	58	--	86	170	--
Settleable Solids	mL/L	0.1	--	--	0.2	--
Total Coliform Organisms	MPN/100 mL	--	2.2	--	--	23

¹ 5-day, 20°C biochemical oxygen demand (BOD)

² To be ascertained by a 24-hour composite.

³ Based upon a design treatment capacity of 0.69 mgd ($x \text{ mg/L} \times 8.345 \times 0.69 \text{ mgd} = y \text{ lbs/day}$)

9. WDRs Order R5-2002-0050 Effluent Limitations No. B.3. states:

The arithmetic mean of 20°C BOD (5-day) and of total suspended solids in effluent samples collected over a calendar month shall not exceed 5 percent of the arithmetic mean of the values for influent samples collected at approximately the same times during the same period (95 percent removal).

10. According to the Discharger's self-monitoring reports, the Discharger committed twelve (12) serious Group I violations of the above effluent limitations contained in Order R5-2002-0050 during the period beginning 1 December 2002 and ending 30 April 2008. The violations are defined as serious because measured concentrations of Group I constituents exceeded maximum prescribed levels by more than 40 percent on these occasions. Eight (8) of the violations were assessed mandatory minimum penalties in ACLC R5-2008-0607. The mandatory minimum penalty for the four additional serious violations is **twelve thousand dollars (\$12,000)**.
11. According to the Discharger's self-monitoring reports, the Discharger committed twenty-four (24) non-serious violations of the above effluent limitations contained in Order R5-2002-0050 during the period beginning 1 December 2002 and ending 30 April 2008. Fifteen (15) 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. Fourteen (14) of these violations were assessed mandatory minimum penalties in ACLC R5-2008-0607. The mandatory minimum penalty for the additional one (1) non-serious violation is **three thousand dollars (\$3,000)**.
12. The total amount of the mandatory penalties 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.
13. CWC 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.

14. On 22 September 2008, the Executive Director of the State Water Resources Control Board determined that the service area of the Nevada City Wastewater Treatment Plant meets the definition of a small community with a financial hardship.
15. The Discharger has spent \$5.59 million for engineering design and construction of an expansion and upgrade project to the WWTP. Of this amount, \$1,602,000 is from a grant and cannot be used to offset the mandatory minimum penalties. The City opened the project bid on 8 June 2005. The Compliance Project was completed on 30 June 2008, when the City submitted the final cost accounting. The project included conversion of sequencing batch reactors to continuous flow activated sludge selector basins; construction of new secondary clarifiers; installation of a new effluent filter; and improvements to the chlorination/dechlorination system. Components of the completed compliance project cumulatively eliminated effluent limitation violations for BOD, total coliform organisms, and total suspended solids. With the completed Compliance Project, the Discharger has expended in excess of the mandatory minimum penalty that is required by CWC Sections 13385(h) and (i). The Compliance Project was designed to correct the violations that have led to the issuance of this Administrative Civil Liability Order within five years. The completed project is in accordance with the State Water Board *Water Quality Enforcement Policy*.
16. As described in Finding No. 3, the Discharger was allowed to apply its previous \$69,000 in mandatory penalties toward the Compliance Project. This Order allows \$15,000 in mandatory penalties to be applied to the same Compliance Project. Because the Project cost approximately \$3.99 million in non-grant funds, applying a total of \$84,000 in mandatory penalties toward the cost of the project complies with CWC 13385(k) and the Enforcement Policy. The violations took place prior to completion of the Compliance Project on 30 June 2008.
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 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.
19. 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 Section 21000 et seq.), in accordance with California Code of Regulations, Title 14, Section 15321(a)(2).

NEVADA CITY IS HEREBY GIVEN NOTICE THAT:

1. The Discharger shall be assessed an Administrative Civil Liability in the amount of **fifteen thousand dollars (\$15,000)**.
2. The entire \$15,000 penalty has been satisfied through the completion of the compliance project described above, in accordance with CWC Section 13385(k).
3. 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, state holiday, or furlough day, 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.



KENNETH D. LANDAU, Assistant Executive Officer

10 June 2010
DATE



ATTACHMENT A
ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R5-2010-0520

City of Nevada City
Wastewater Treatment Plant

RECORD OF VIOLATIONS (1 December 2002 – 30 April 2008) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Programs R5-2002-0050 and R5-2008-0177)
Additional violations are in **boldface** type

#	Date	Violation Type	Units	Limit	Measured	Period Type	Flow*	Remarks	CIWQS
1	16-Dec-02	TSS	lbs/day	170	203	Daily Avg	0.84*	5**	368074
2	16-Dec-02	Coliform	MPN/100 mL	23	50	Instant Max		3**	773301
3	16-Dec-02	Sett Sol.	mL/L	0.2	5	Daily		1	773300
4	17-Dec-02	Sett Sol	mL/L	0.2	0.5	Daily Avg		1**	773302
5	21-Dec-02	TSS	lbs/day	86	104	Weekly	0.59*	4**	368075
6	31-Dec-02	Sett Sol.	mL/L	0.1	0.2	Monthly		1	773304
7	29-Dec-03	TSS	mg/L	30	55	Daily Avg		1**	368093
8	29-Dec-03	Sett Sol	mL/L	0.2	0.4	Daily Avg		1**	773305
9	29-Dec-03	TSS	lbs/day	170	454	Daily Avg	0.99*	5**	368091
10	3-Jan-04	TSS	mg/L	15	34	Weekly		1**	368095
11	3-Jan-04	TSS	lbs/day	86	281	Weekly	1.04*	5**	368094
12	8-May-05	pH	pH Units	8.5	8.8	Instant Max		3**	764486
13	10-May-05	Coliform	MPN/100 mL	23	900	Instant Max		3**	773306
14	6-Jul-05	pH	pH Units	8.5	8.8	Instant Max		3**	764493
15	26-Sep-05	pH	pH Units	6.5	6	Instant Max		4**	764496
16	23-Nov-05	Coliform	MPN/100 mL	23	220	Instant Max		3**	773307
17	27-Nov-05	BOD	mg/L	30	34	Daily Avg		4**	773308
18	28-Nov-05	Coliform	MPN/100 mL	23	1600	Instant Max		4**	773309
19	30-Nov-05	BOD	mg/L	30	48	Daily Avg		1**	773321
20	30-Nov-05	BOD	mg/L	10	12	Monthly		4**	773319
21	30-Nov-05	TSS	mg/L	30	50	Daily Avg		1**	773315
22	30-Nov-05	BOD	mg/L	15	41	Weekly		1	773317
23	30-Nov-05	TSS	mg/L	15	39	Weekly		1	773312
24	30-Nov-05	TSS	lbs/day	86	110	Weekly	0.34*	4	773310
25	30-Nov-05	BOD	% Removal	95%	94%	Calendar Month		4**	773322
26	1-Dec-05	pH	pH Units	8.5	8.6	Instant Max		4**	764505
27	2-Dec-05	pH	pH Units	6.5	6.3	Instant Max		4**	764509
28	3-Dec-05	BOD	mg/L	15	41	Weekly		1**	793803
29	3-Dec-05	TSS	mg/L	15	39	Weekly		1**	793802
30	3-Dec-05	TSS	lbs/day	86	118	Weekly	0.36*	4**	793801
31	15-May-06	Coliform	MPN/100 mL	23	1600	Instant Max		4**	773323
32	18-May-06	Coliform	MPN/100 mL	23	1600	Instant Max		4**	773324
33	31-May-06	Coliform	MPN/100 mL	2.2	12	Median Monthly		4**	773325
34	29-Nov-06	pH	pH Units	8.5	9	Instant Max		3**	764567
35	13-Oct-07	Coliform	MPN/100 mL	2.2	4.5	7-Day Median		3**	793814
36	20-Oct-07	Coliform	MPN/100 mL	2.2	2.5	7-Day Median		3**	793816
37	3-Nov-07	Coliform	MPN/100 mL	2.2	2.5	7-Day Median		3**	793817
38	2-Feb-08	Coliform	MPN/100 mL	2.2	2.5	7-Day Median		4**	773332
39	9-Feb-08	Coliform	MPN/100 mL	2.2	4	7-Day Median		4**	773333

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.
5. Violations of mass rate limitation that are due only to wet weather not assessed MMPs because the permit limitation is based on dry weather treatment capacity.

ADDITIONAL VIOLATIONS FROM 12/1/2002 THROUGH 4/30/2008

Group I Serious Violations:	4
Group II Serious Violations:	0
Non-Serious Exempt from MMPs:	0
Non-serious Violations Subject to MMPs:	1
<u>Total Additional Violations Subject to MMPs:</u>	<u>5</u>

Mandatory Minimum Penalty = (4 Serious Violations + 1 Non-Serious Violations) x \$3,000 = \$15,000

* Arithmetic mean of all 1-day flow rates in MGD of effluent while discharging to surface waters. Values greater than 0.69 MGD are considered wet weather flows.

** Violations previously addressed in ACLC R5-2008-0607.