

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2014-0533

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 R5-2007-0133, R5-2007-0133-01, and R5-2013-0146 (NPDES No. CA0079391).

The Executive Officer of the Central Valley Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board or Board) finds the following:

1. The Discharger owns and operates the City of Jackson Wastewater Treatment Plant (WWTP), which provides sewerage service to the City of Jackson in Amador County. Treated domestic, commercial and industrial wastewater is discharged to Jackson Creek, a water of the United States, and tributary to Lake Amador.
2. On 25 October 2007, the Central Valley Water Board issued WDRs Order R5-2007-0133, effective 14 December 2007, which contained new requirements and rescinded Order 5-00-173, except for enforcement purposes. The WDRs include effluent limitations and other requirements. On 4 October 2012, the Central Valley Water Board issued amended Order R5-2007-0133-01. On 5 December 2013, the Central Valley Water Board issued WDRs Order R5-2013-0146, effective 24 January 2014, which contained new requirements and rescinded Order R5-2007-0133-01, except for enforcement purposes.
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 MMPs for these constituents.
4. 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.
5. 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 for compliance with the final effluent limits by 1 March 2015.

6. 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.
7. On 10 September 2013, the Executive Officer issued the Discharger Administrative Civil Liability Complaint R5-2013-0553 for effluent limitation violations that occurred at the wastewater treatment plant from 1 June 2012 through 30 June 2013. The Discharger agreed with the violations and on 19 November 2013, requested that the Board allow the penalties to be applied toward compliance projects as allowed by Water Code section 13385(k). The final listing of violations has been extended through 31 December 2013.
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 R5-2007-0133-01 Effluent Limitations IV.A.1.a., states, in part, the following:

The Discharger shall maintain compliance with the effluent limitations specified in Table 6:

**Table 6. Effluent Limitations**

Parameter	Units	Effluent Limitations				
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
Copper, Total Recoverable	µg/L	3.22	--	6.46	--	--

11. WDRs Order R5-2007-0133-01 Effluent Limitations IV.A.1.h., states, in part, the following:

h. 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.

12. TSO Order R5-2011-0909 Provision No. 2 includes in part, the following effluent limitations:

Parameter	Units	Maximum Daily	Average Monthly
Copper	µg/L	10	8

13. According to the Discharger's self-monitoring reports, the Discharger committed six (6) serious Group II violations of the above effluent limitations contained in WDRs Order R5-2007-0133-01 during the period beginning 1 June 2012 and ending 31 December 2013. These violations are defined as serious because the measured concentration of a Group II constituent exceeded the maximum prescribed levels by more than 20 percent on these occasions. The mandatory minimum penalty for these serious violations is **eighteen thousand dollars (\$18,000)**.

14. The total amount of the mandatory penalties assessed for the cited effluent violations is **eighteen thousand dollars (\$18,000)**. 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.
15. 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.
16. 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 #1 — New and Refurbished Sulfonators and Chlorination System Repairs

17. In the self-monitoring report for February 2013, the Discharger stated that the chlorine violations resulted from instrumentation errors with the desulfonators. On 19 March 2014, the Discharger provided copies of invoices totaling \$14,345 showing that it had replaced the sulfonators, included new PLCs, and repaired and updated the chlorination system. The repairs and upgrades took place on 6 March 2014, which is after the date of the four effluent total residual chlorine violations.
18. Board staff finds that the replaced sulfonators, new PLCs, and repaired and updated chlorination system 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 – Water Effects Ratio Study

19. On 19 February 2014, the Discharger submitted a Copper Water-Effect Ratio (WER) Study Work Plan. The objective of the WER is to demonstrate that the effluent copper concentration does not have a reasonable potential to cause toxicity in the receiving water. Upon that showing, the City would request a modification of effluent limitations for copper. The Discharger's budget for the WER is \$59,000.
20. Board staff finds that the WER qualifies as a compliance project within the meaning of Water Code section 13385(k) because it will aid in preventing additional copper effluent violations.

Additional Findings

21. The Central Valley Water Board finds that the two Compliance Projects will remedy the violations for total residual chlorine and total copper. 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.
22. 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.
23. 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.
24. 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 eighteen **thousand dollars (\$18,000)**.
2. In accordance with Water Code section 13385(k), \$12,000 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., \$6,000) shall be permanently suspended if the Discharger submits evidence that it has spent at least \$6,000 and completes the compliance project described in Finding 19 according to the schedule below:

<u>Task</u>	<u>Compliance Date</u>
Submit results of Water Effects Ratio Study for copper	1 October 2014
Submit final project report describing whether the project goals, costs, milestones, and completion dates have been met. The final accounting shall detail the funds spent for this particular project.	1 November 2014

4. A progress report shall be submitted on or before each of the above compliance dates. The reports shall detail the steps taken 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 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 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](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

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PAMELA C. CREEDON, Executive Officer

6 May 2014

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DATE

Attachment A: Record of Violations

**ATTACHMENT A  
ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2014-0533**

**City of Jackson  
Wastewater Treatment Plant**

RECORD OF VIOLATIONS (1 June 2012 – 31 December 2013) MANDATORY PENALTIES  
(Data reported under Monitoring and Reporting Programs R5-2007-0133, R5-2007-0133-01 and R5-2013-0146)

	<u>Date</u>	<u>Parameter</u>	<u>Units</u>	<u>WDR Limit</u>	<u>Measured</u>	<u>Period Type</u>	<u>TSO Limit</u>	<u>Remarks</u>	<u>CIWQS</u>
1	26-Feb-13	Chlorine	mg/L	0.019	2	1-Hour	--	2	945739
2	26-Feb-13	Chlorine	mg/L	0.011	0.1	4-Day	--	2	945734
3	27-Feb-13	Chlorine	mg/L	0.019	0.9	1-Hour	--	2	945740
4	27-Feb-13	Chlorine	mg/L	0.011	0.045	4-Day	--	2	945733
5	30-Sep-13	Copper	µg/L	3.22	9.1*	Monthly	8	2	961795
6	31-Oct-13	Copper	µg/L	3.22	9.1*	Monthly	8	2	959015

\* Measured concentration exceeded the TSO effluent limitation; therefore the WDRs effluent violation is subject to MMPs.

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 minimum penalties.

<u>VIOLATIONS AS OF:</u>	<u>12/31/2013</u>
Group I Serious Violations:	0
Group II Serious Violations:	6
Non-Serious Violations Exempt from MMPs:	0
<u>Non-serious Violations Subject to MMPs:</u>	<u>0</u>
<b>Total Violations Subject to MMPs:</b>	<b>6</b>

**Mandatory Minimum Penalty = (6 serious Violations + 0 Non-Serious Violations) x \$3,000 = \$18,000**