

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
COLORADO RIVER BASIN REGION**

**ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R7-2006-0074
MANDATORY MINIMUM PENALTY
IN THE MATTER OF
NILAND SANITARY DISTRICT, OWNER/OPERATOR
MUNICIPAL WASTEWATER TREATMENT PLANT
IMPERIAL COUNTY**

This order to assess Administrative Civil Liability (ACL) pursuant to California Water Code Sections 13385(h)(1) and 13385(i), is issued to Niland Sanitary District (hereinafter Discharger), based on a finding of on-going violations of NPDES Waste Discharge Requirements (WDR) Board Order No. R7-2003-0049 (NPDES Permit No. CA0104451).

The Executive Officer of the Colorado River Basin Regional Water Quality Control Board (Regional Water Board) finds the following:

1. The Discharger owns and operates a sewage collection and treatment system that provides services to the community of Niland.
2. The Discharger's wastewater treatment plant (WWTP) is a publicly owned treatment works (POTW) and discharges its effluent into the "R" Drain, which is a tributary to the Salton Sea. The "R" Drain and Salton Sea are waters of the United States.
3. California Water Code Section 13385(i) requires the Regional Water Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each violation, not counting the first three violations, if the discharger does any of the following four or more times in a six-month period:
 - 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.
4. California Water Code Section 13385(i)(2) states:

"For the purpose of this Section [13385] a 'period of six consecutive months' means the period commencing on the date that one of the violations described in this subdivision occurs and ending 180 days after that date."
5. California Water Code Section 13385(k) states:

"In lieu of assessing all or a portion of the mandatory minimum penalties pursuant to subdivisions (h) and (i) against a POTW serving a small community, as defined by subdivision (b) of Section 79084, the State Water Board or the Regional Water Board may elect to require the POTW to spend an equivalent amount towards the completion of a compliance project proposed by the POTW, if the State or Regional Water Board finds all of the following:

- (1) The compliance project is designed to correct the violations within five years.
 - (2) The compliance project is in accordance with the enforcement policy of the State Water Board.
 - (3) The POTW has demonstrated that it has sufficient funding to complete the compliance project.”
6. On February 19, 2002, the State Water Resources Control Board adopted Resolution No. 2002-0040 amending the Water Quality Enforcement Policy (Policy). The Policy was approved by the Office of Administrative Law and became effective on July 30, 2002. In accordance with Section X of the Policy, among other requirements, Compliance Projects (CPs) proposed by the POTW must be designed to correct the violations in five years and also comply with the general conditions specified for CPs in the Policy.
 7. On February 14, 2003, the Regional Water Board adopted Waste Discharge Requirements Order No. R7-2003-0049 (NPDES Permit No. CA0104451) for the Discharger’s WWTP.
 8. Waste Discharge Requirements Board Order No. R7-2003-0049 includes the following effluent discharge limitations:
 - a. Effluent Limitation A.2:
 “The 30-day average percent removal of pollutant parameter BOD₅ and suspended solids shall not be less than 65 percent.”
 - b. Effluent Limitation A.4:
 “Wastewater effluent discharged to ‘R’ Drain shall not have an Escherichia coli (E. coli) concentration in excess of a log mean of Most Probable Number (MPN) of 126 MPN per 100 milliliters nor shall any sample exceed 400 MPN per 100 milliliters.”
 - c. Effluent Limitation A.8 :
 “Wastewater discharged to ‘R’ Drain shall not exceed these effluent limits. These limits are calculated based on monitoring results and using the California Toxic Rule and the Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays and Estuaries of California for water quality based effluent limit:”

Constituents	Unit	Date Effluent Limit Becomes Effective	Average Monthly Effluent Limit²	Maximum Daily Effluent Limit¹
Copper (interim)	µg/L	July 5, 2003	29.0	29.0
Copper (final)	µg/L	June 25, 2008	2.39	4.80

² Compliance with the Average Monthly Effluent Limit and Maximum Daily Effluent Limit shall be determined as described in Section 2.4.5 Compliance Determination (Policy for implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California)

9. Monitoring reports submitted by the Discharger show that the wastewater discharged from the Discharger's WWTP has been in chronic violation of its waste discharge requirements effluent limitations cited in Finding No. 8 above.
10. A summary of each chronic violation of Board Order No. R7-2003-0049 is contained in Attachment "A," which is incorporated in and made a part of this ACL Order by reference.
11. The total amount of the mandatory minimum penalty for the violations cited in Attachment "A" is \$126,000.
12. On August 03, 2006, The Regional Board Executive Officer issued Administrative Civil Liability Complaint (ACLC) No. R7-2006-0056 proposing that the Discharger pay one hundred twenty-six thousand dollars (\$126,000) in administrative civil liability (MMP) for the violations.
13. On September 05, 2006 the Discharger proposed the implementation of a CP described in Attachment "B", which is made a part of this Board Order by reference. The Regional Board approves this CP as proposed. The ACLC was rescinded on September 06, 2006.
14. The Regional Board has notified the Discharger and the general public of its intent to hold a hearing on this matter within 90 days from the date the Complaint was issued unless the Discharger waives its right to a hearing under CWC Section 13323(b). The Discharger waived its right to a hearing on this matter as set forth in Attachment "B".
15. The Regional Board heard and considered all comments pertaining to this matter in a public meeting.
16. Issuance of this Order is exempt from the provision of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.), in accordance with Section 15321(a)(2), Title 14, California Code of Regulations.

IT IS HEREBY ORDERED, pursuant to CWC Section 13385, the Discharger is assessed one hundred twenty-six thousand dollars (\$126,000) in administrative civil liability (MMP) for the violations set forth in Attachment "A". In lieu of paying an administrative civil liability in the amount of \$126,000, the Discharger shall implement the propose CP described in Attachment "B" in accordance with the following:

1. The Discharger shall comply with the State Board Enforcement Policy relating to implementation of CPs.
2. The CP shall be implemented in accordance with the time schedule stipulated in Attachment "C", appended to and made a part of this Board Order by reference. The Regional Board Executive Officer may modify the stipulated completion date and approve an alternative completion date for each phase of the CP if he determines that a delay is necessary for a timely return of the Discharger to full and sustained compliance with its waste discharge requirements, and is beyond the reasonable control of the Discharger. Under no circumstances may the completion date extend beyond 5 years from the date of this Order.

3. If the Discharger completes a stipulated phase of the CP to the satisfaction of the Executive Officer by the approved date, the corresponding portion of the ACL indicated in Attachment "C" shall be permanently suspended. If, however, the Discharger fails to complete any stipulated phase of the CP to the satisfaction of the Executive Officer by the approved date and the Executive Officer has not approved an extension in the completion date, the corresponding amount of the ACL suspended shall become due and payable to the State Water Pollution Cleanup and Abatement Account within 30 days of being so informed in writing.
4. Previously suspended amounts do not relieve the Discharger of the independent obligation to take necessary actions to achieve compliance.
5. Completion of each stipulated phase of the CP and the entire CP shall be certified in writing by the Executive Officer. No portion of the ACL shall be suspended without a written certification issued by the Executive Officer.
6. The Discharger shall implement Monitoring and Reporting Program No. R7-2006-0074 and revisions thereto.
7. The Discharger shall submit all unspent ACL amounts to the State Water Pollution Cleanup and Abatement Account.

I, Robert Perdue, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Colorado River Basin Region, on September 20, 2006.



ROBERT PERDUE, Executive Officer

ATTACHMENT "A"

Summary of Violations of Board Order No. R7-2003-0049
And
Mandatory Minimum Penalties

Assessed Violation ¹ No.	Description of Violation	Date Occurred	Amount Assessed Dollars (\$)
298481	Exceeded daily maximum limit of 400 MPN/100mL for E. coli Reported = 1,100 MPN/100mL	05/09/2005	0 ²
298482	Exceeded daily maximum limit of 400 MPN/100mL for E. coli Reported = 1,700 MPN/100mL	05/23/2005	0
298483	Exceeded 30-day geometric mean limit of 126 MPN/100mL for E. coli Reported = 438 MPN/100mL	05/31/2005	0
298484	Exceeded daily maximum limit of 400 MPN/100mL for E. coli. Reported = 500 MPN/100mL	06/07/2005	3,000.00
298485	Exceeded daily maximum limit of 400 MPN/100mL for E. coli Reported = 5,000 MPN/100mL	06/27/2005	3,000.00
298486	Exceeded 30-day geometric mean limit of 126 MPN/100mL for E. coli Reported = 348 MPN/100mL	06/30/2005	3,000.00
365956	Exceeded daily maximum limit of 400 MPN/100mL for E. coli Reported = 1,100 MPN/100mL	07/11/2005	3,000.00
365959	Exceeded daily maximum limit of 400 MPN/100mL for E. coli Reported = 500 MPN/100mL	07/19/2005	3,000.00
365962	Exceeded 30-day geometric mean limit of 126 MPN/100mL for E. coli Reported = 283 MPN/100mL	07/31/2005	3,000.00
365964	Exceeded 30-day Effluent Limit of 95 mg/L for Total Suspended Solids (TSS) Reported value = 103 mg/L	07/31/2005	3,000.00
365933	Did not meet 30-Day average percent removal for BOD ₅ . Minimum removal value = 65% Reported value = 46%	08/31/2005	3,000.00

¹ California Integrated Water Quality System (CIWQS)

² This is a supporting violation

Assessed Violation ¹ No.	Description of Violation	Date Occurred	Amount Assessed Dollars (\$)
365342	Exceeded daily maximum limit of 400 MPN/100mL for E. coli Reported = 800 MPN/100mL	09/13/2005	3,000.00
365345	Exceeded 30-day geometric mean limit of 126 MPN/100mL for E. coli Reported = 276 MPN/100mL	09/30/2005	3,000.00
364402	Exceeded daily maximum limit of 400 MPN/100mL for E. coli Reported = 500 MPN/100mL	10/24/2005	3,000.00
364403	Exceeded daily maximum limit of 400 MPN/100mL for E. coli Reported = 500 MPN/100mL	10/31/2005	3,000.00
365035	Exceeded daily maximum limit of 400MPN/100mL for E. coli Reported = 9,000 MPN/100mL	11/07/2005	3,000.00
365071	Exceeded daily maximum limit of 400MPN/100mL for E. coli Reported = 1,700 MPN/100mL	11/08/2005	3,000.00
365077	Exceeded Maximum Daily Effluent Limit of 29 µg/L for Copper Reported value = 32 µg/L	11/08/2005	3,000.00
365072	Exceeded daily maximum Limit of 400MPN/100mL for E. coli Reported = 1,700 MPN/100mL	11/14/2005	3,000.00
365073	Exceeded daily maximum limit of 400MPN/100mL for E. coli Reported = 5,000 MPN/100mL	11/21/2005	3,000.00
365074	Exceeded daily maximum limit of 400MPN/100mL for E. coli Reported= 5,000 MPN/100mL	11/28/2005	3,000.00
365075	Exceeded 30-day geometric mean limit of 126 MPN/100m for E. coli Reported = 3,653 MPN/100mL	11/30/2005	3,000.00
365078	Exceeded Average Monthly Effluent Limit of 29 µg/L for Copper Reported value = 32 µg/L	11/30/2005	3,000.00
365628	Exceeded daily maximum limit of 400MPN/100mL for E. coli Reported= 2,400 MPN/100mL	12/05/2005	3,000.00
365631	Exceeded daily maximum limit of 400MPN/100mL for E. coli Reported = 800 MPN/100mL	12/06/2005	3,000.00

¹ California Integrated Water Quality System (CIWQS)

Assessed Violation ¹ No.	Description of Violation	Date Occurred	Amount Assessed Dollars (\$)
365632	Exceeded daily maximum limit of 400MPN/100mL for E. coli Reported = 1,100 MPN/100mL	12/12/2005	3,000.00
365633	Exceeded daily maximum limit of 400 MPN/100mL for E. coli Reported = 9,000 MPN/100mL	12/19/2005	3,000.00
365635	Exceeded daily maximum limit of 400 MPN/100mL for E. coli Reported =16,000 MPN/100mL	12/27/2005	3,000.00
365636	Exceeded 30-day geometric mean limit of 126 MPN/100m for E. coli Reported = 3,143 MPN/100mL	12/31/2005	3,000.00
363887	Exceeded daily maximum limit of 400 MPN/100mL for E. coli Reported = 16,000 MPN/100mL	01/03/2006	3,000.00
365886	Exceeded daily maximum limit of 400 MPN/100mL for E. coli Reported = 16,000 MPN/100mL	01/09/2006	3,000.00
365887	Exceeded daily maximum limit of 400 MPN/100mL for E. coli Reported = 16,000 MPN/100mL	01/17/2006	3,000.00
365892	Exceeded daily maximum limit of 400MPN/100mL for E. coli Reported = 2,400 MPN/100mL	01/23/2006	3,000.00
365893	Exceeded daily maximum limit of 400 MPN/100mL for E. coli Reported= 2,400 MPN/100mL	01/30/2006	3,000.00
365894	Exceeded 30-day geometric mean limit of 126 MPN/100m for E. coli Reported =5,360 MPN/100mL	01/31/2006	3,000.00
369015	Exceeded daily maximum limit of 400 MPN/100mL for E. coli Reported = 500 MPN/100mL	02/06/2006	3,000.00
369019	Exceeded daily maximum limit of 400 MPN/100mL for E. coli Reported = 2,200 MPN/100mL	02/13/2006	3,000.00
369020	Exceeded daily maximum limit of 400 MPN/100mL for E. coli Reported = 2,400 MPN/100mL	02/14/2006	3,000.00
369021	Exceeded daily maximum limit of 400 MPN/100mL for E. coli Reported = 16,000 MPN/100mL	02/21/2006	3,000.00

¹ California Integrated Water Quality System (CIWQS)

Assessed Violation ¹ No.	Description of Violation	Date Occurred	Amount Assessed Dollars (\$)
369022	Exceeded daily maximum limit of 400 MPN/100mL for E. coli Reported= 1,700 MPN/100mL	02/27/2006	3,000.00
369023	Exceeded 30-day geometric mean limit of 126 MPN/100m for E. coli Reported = 2,350 MPN/100mL	02/28/2006	3,000.00
369398	Exceeded daily maximum limit of 400 MPN/100mL for E. coli Reported = 500 MPN/100mL	03/06/2006	3,000.00
369399	Exceeded daily maximum limit of 400 MPN/100mL for E. coli Reported = 900 MPN/100mL	03/13/2006	3,000.00
369400	Exceeded daily maximum limit of 400 MPN/100mL for E. coli Reported = 800 MPN/100mL	03/14/2006	3,000.00
369401	Exceeded 30-day geometric mean limit of 126 MPN/100m for E. coli Reported = 170 MPN/100mL	03/31/2006	3,000.00

Accrued Mandatory Minimum Penalties: \$126,000.00

Total: \$126,000.00

¹ California Integrated Water Quality System (CIWQS)

ATTACHMENT "B"

09/05/2006 13:38

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GSWCCALIPAT

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NILAND SANITARY DISTRICT

P.O. Box 40
Niland, CA 92257
760-359-0454

September 2, 2006

California Regional Water Quality Control Board
Colorado River Basin, Region 7
73-720 Fred Waring Drive, Suite 100
Palm Desert, CA 92260

Attention: Doug Wylie

RE: Administrative Civil Liability Complaint No. R7-2006-0056

At this time the Niland Sanitary District asks the Regional Water Quality Control Board to waive the \$126,000 civil liability imposed and allow the District to incorporate this amount into the compliance project that was previously submitted. The District is in the final stages of receiving a grant from the United States Department Agriculture (USDA) and has awarded a contract in the amount of \$324,431.50 for the rehabilitation of the gravity sewer mains with additional bid items in the amount of \$133,543.75 for rehabilitation of several manholes through out the collection system if the funds are available to Wesco Infrastructure Technologies, L.P.
If you have any questions contact me 760-455-3439.

Sincerely,



David K. Godsey
General Manager
Niland Sanitary District

