

**ADMINISTRATIVE PENALTY DISCUSSION PURSUANT TO THE NOV ISSUED FOR,
SALT LAKE CITY WATER RECLAMATION FACILITY
SETTLEMENT AGREEMENT DOCKET NO. I14-02**

Infractions of the Utah Water Quality Act are penalized up to \$10,000/day/violation for civil penalties (\$25,000/day/violation for criminal) according to guidelines established in the penalty policy (*Utah Administrative Code R317-1-9*).

The principles that apply in the penalty policy are:

- 1) Penalties should be based on the nature and extent of the violation
- 2) Penalties should at a minimum, recover the economic benefit of noncompliance;
- 3) Penalties should be large enough to deter noncompliance;
- 4) Penalties should be consistent in an effort to provide fair and equitable treatment of the regulated community.

To determine a civil penalty the State will consider:

- 1). the magnitude of the violations;
- 2) the degree of actual environmental harm or the potential for such harm created by the violations;
- 3) response and/or investigative costs incurred by the State or others;
- 4) any economic advantage the violator may have gained through noncompliance;
- 5) recidivism of the violator
- 6) good faith efforts of the violator
- 7) ability of the violator to pay;
- 8) the possible deterrent effect of a penalty to prevent future violations.

In the case of negotiated adjustments to penalties, arguments must be based on the considerations above.

Civil penalties for settlement purposes should be calculated based on the following formula:

**CIVIL PENALTY = PENALTY + ADJUSTMENTS - ECONOMIC AND LEGAL
CONSIDERATIONS**

Penalties are grouped in four main categories:

- A. \$7,000 to \$10,000 per day. Violations with high impact on public health and the environment.
- B. \$2,000 to \$7,000 per day. Major violations of the Utah Water Quality Act, associated regulations, permits or orders.
- C. \$500 to \$2,000 per day. Significant violations of the Utah Water Quality Act, associated regulations, permits or orders.
- D. Up to \$500 per day. Minor violations of the Utah Water Quality Act, regulations, permits or orders.

Penalties are established within the penalty ranges shown above, based on the following criteria:

- History of compliance or non-compliance,
- Degree of willfulness or negligence, and
- Good faith efforts to comply.

Adjustments to the civil penalty include:

- The economic benefit gained as a result of non-compliance,
- Investigative costs incurred by the State and/or other governmental level,
- Documented monetary costs associated with environmental damage.

PENALTY - The penalty for FACILITY has been calculated as follows:

Gravity Component:

The gravity component of the penalty is based on an unauthorized discharge to the Oil Drain Canal due to operator error. The discharge of wastewater lasted for approximately 3.5 hours. Due to the fact that the overflow of approximately 8,800 gallons received primary treatment prior to discharge, and that the Oil Drain Canal receives inputs from other point sources before reaching Farmington Bay of Great Salt Lake, DWQ believes that a Category C penalty is appropriate.

No credit was given for degree of negligence. The overflow was entirely due to operator error.

Credit was given for history of compliance at 100% because SLCWRF has a perfect compliance history.

Credit was given for good faith efforts to comply at 100% since SLCWRF notified DWQ and other agencies promptly. In addition, SLCWRF immediately addressed the overflow and quickly implemented remedies to prevent a similar event from occurring in the future.

Economic Benefit Justification:

BEN is a program developed by EPA to determine the economic benefit a violator has gained by not complying with regulations. A BEN was not done for this SA because of the actions taken immediately in response to the event as well as actions taken to resolve the issues which caused the overflow to Waters of the State. There was no economic benefit gained by SLCWRF in this occurrence.