CALIFORNIA
Water Boards

EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIQUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

**Central Valley Regional Water Quality Control Board**

25 February 2015

Timothy Kiser, PE
Public Works Director
City of Grass Valley
125 East Main Street
Grass Valley, CA 95945

**CERTIFIED MAIL**
7012 2210 0002 1419 7247

***SETTLEMENT AGREEMENT AND STIPULATION FOR ENTRY OF ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2015-0505, CITY OF GRASS VALLEY, WASTEWATER TREATMENT PLANT, NEVADA COUNTY***

Enclosed is the Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order R5-2015-0505 (Order), issued to the City of Grass Valley (Discharger). This Order resolves violations of Waste Discharge Requirements (WDRs) Order R5-2009-0067 and the State Water Resources Control Board Order 2006-0003-DWQ, the *Statewide General Waste Discharge Requirements for Sanitary Sewer Systems*. The Order imposes an administrative civil liability in the amount of two hundred nine thousand dollars ($209,000).

The Order considers $104,500 of the liability suspended pending completion of a supplemental environmental project (SEP). The SEP is intended to reduce the number and volume of sanitary sewer spills from defective private sewer laterals, and reduce the inflow and infiltration (I/I) flows treated by the wastewater treatment plant. The reduction in I/I will benefit water quality by decreasing the potential for spills of untreated sewage from the collection system to surface waters during wet weather. The Discharger has agreed to submit the following deliverables, as outlined in Attachment C of the Stipulated Order:

| Deliverable | Due Date |
|---|---|
| Progress Reports on Public Outreach and Solicitation of Interested Customers | 30 April 2015 and 30 July 2015 |
| List of Replacement Projects | 30 October 2015 |
| Evidence of Awarded Construction Contract | 30 January 2016 |
| Progress Reports during Project Implementation | 30 April 2016 and 30 July 2016 |
| Final Project Report | 30 October 2016 |

The Order requires the Discharger to pay one hundred four thousand five hundred dollars ($104,500). The payment shall be made by check or money order and made payable to the *State Water Resources Control Board Cleanup and Abatement Account* and shall reference "Order R5-2015-0505." The payment shall be made by **27 March 2015**.

The check shall be submitted to the State Water Resources Control Accounting Office, Attn: ACL Payment, P.O. Box 1888, Sacramento, CA 95812-1888. A copy of the check shall be sent to Wendy Wyels, Supervisor, Compliance and Enforcement Section, Regional Water Quality Control Board, Central Valley Region, 11020 Sun Center Drive, Suite 200, Rancho Cordova, CA 95670.

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 Central Valley Water Board's Internet website at:

http://www.waterboards.ca.gov/centralvalley/board_decisions/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 or comments regarding this Order, please contact Kari Holmes at (916) 464-4623 or kari.holmes@waterboards.ca.gov.

Wendy Wyels

WENDY WYELS, Supervisor
Compliance and Enforcement Section

Enclosure: ACL Order R5-2015-0505

cc w/o encl: Kenneth Greenberg, USEPA, Region 9, San Francisco
Laura Drabandt, Office of Enforcement, SWRCB, Sacramento
Patrick Palupa, Office of Chief Counsel, SWRCB, Sacramento
Pamela Creedon, Central Valley Water Board Advisory Team, Ranch Cordova
Adam Laputz, Central Valley Water Board Advisory Team, Rancho Cordova
Carol Oz, Department of Fish and Game, Region 2, Rancho Cordova
Nevada County Environmental Management Agency, Grass Valley
Bill Jennings, California Sportfishing Protection Alliance, Stockton
Jae Kim, Tetra Tech, Fairfax, VA

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

SETTLEMENT AGREEMENT AND STIPULATION FOR ENTRY OF
CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD
ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2015-0505

IN THE MATTER OF
CITY OF GRASS VALLEY
GRASS VALLEY WASTEWATER TREATMENT PLANT
NEVADA COUNTY

## SECTION I: INTRODUCTION

This Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order (hereafter "Stipulated Order" or "Order") is entered into by and between the Assistant Executive Officer of the Central Valley Regional Water Quality Control Board ("Central Valley Water Board"), on behalf of the Central Valley Water Board Prosecution Team ("Prosecution Team") and the City of Grass Valley ("Discharger") (collectively "Parties") and is presented to the Central Valley Water Board for adoption as an Order by settlement pursuant to California Government Code section 11415.60.

## SECTION II: RECITALS

1. The Discharger owns and operates a municipal wastewater collection, treatment, and disposal system. The wastewater treatment plant provides sewerage service for the City of Grass Valley, and also treats water that discharges from an abandoned mine portal (Drew Tunnel) located within the Discharger's plant property. Treated wastewater is discharged to Wolf Creek, which is tributary to the Bear River.

2. The wastewater treatment plant is subject to a National Pollutant Discharge Elimination System ("NPDES") permit and waste discharge requirements set forth in Central Valley Water Board Order R5-2009-0067, as well as the State Water Resources Control Board Order 2006-0003-DWQ, the *Statewide General Waste Discharge Requirements for Sanitary Sewer Systems*, and the *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, Fourth Edition* (hereafter Basin Plan).

3. The Discharger is alleged to have violated Waste Discharge Requirements Order R5-2009-0067 on six occasions with spills from the wastewater treatment plant from unauthorized locations to waters of the United States from June 2009 to May 2013. The Central Valley Board is authorized to impose administrative civil liability for these six violations pursuant to California Water Code section 13385, subdivisions (a)(1) and (c). The Discharger is alleged to have violated State Water Resources Control Board Order 2006-0003-DWQ, the *Statewide General Waste Discharge Requirements for Sanitary Sewer Systems* on fifteen occasions with sanitary sewer overflows from December 2009 to January 2014. Because these discharges were not regulated under an NPDES permit, the Central Valley Board is authorized to impose administrative civil liability for these fifteen violations pursuant to California Water Code sections 13350, or 13385, subdivision (a)(4) and (c) if the activity subject to the prohibition is subject to

regulation under Chapter 5.5 of the Water Code. Attachment A contains a list of all alleged violations and is incorporated herein by reference.

4. On September 25, 2013, Central Valley Board issued a *Notice of Proposed Enforcement Action and Offer to Engage in Pre-filing Settlement Discussions* to the Discharger. To resolve by consent and without further administrative proceedings the alleged violations of the California Water Code, the Parties have agreed to the imposition of $209,000 against the Discharger.

5. The liability amount was determined using a factors analysis consistent with the Water Code and the State Water Resources Control Board Water Quality Enforcement Policy (May 2010) ("Enforcement Policy"). The Prosecution Team considered the methodology set forth in the Enforcement Policy for the alleged violations, as shown in Attachment B. Attachment B is incorporated herein by reference. The City does not concede that the factors were accurately determined or consistent with the Enforcement Policy, particularly the use of $10 per gallon for wastewater spills, but accepts the determination only for the purpose of settling this specific enforcement action.

6. The Parties have engaged in settlement negotiations and agree to settle the matter without administrative or civil litigation, and by presenting this Stipulation and proposing this Order to the Central Valley Board for adoption as an Order pursuant to Government Code section 11415.60. The Prosecution Team contends that the resolution of the alleged violations is fair and reasonable and fulfills its enforcement objectives, that no further action by the Central Valley Board is warranted concerning the specific alleged violations except as provided in this Stipulation and Order, and that this Stipulation and Order is in the best interest of the public.

## SECTION III: STIPULATIONS

NOW, THEREFORE, in consideration of the execution of this Agreement and the releases, satisfactions, and promises made herein, it is hereby agreed upon and stipulated by the Parties as follows:

7. **Recitals Incorporated:** The Preceding Recitals are incorporated herein.

8. **Administrative Civil Liability:** The Discharger hereby agrees to the imposition of an administrative civil liability totaling $209,000. Payment of $104,500 to the State Water Resources Control Board Cleanup and Abatement Account is due no later than 30 days following the Central Valley Board's execution of this Order. Further, the Discharger agrees that $104,500 of this administrative civil liability shall be suspended pending completion of a supplemental environmental project as set forth in Attachment C, which is incorporated herein by reference. The suspended liability will become due and payable if the initial required monetary assessment ($104,500) is not paid within the required 30 days.

9. **Supplemental Environmental Project ("SEP"):** The Parties agree that this resolution includes a SEP as provided for as follows:

a. **Definitions**

i. "Cleanup and Abatement Account" – the State Water Pollution Cleanup and Abatement Account.

ii. "Milestone Requirement" – A requirement with an established time schedule for meeting or ascertaining certain identified measurements of completed work.

iii. "SEP Completion Date" – The date in which the SEP will be completed in its entirety.

b. **Administrative Civil Liability and Costs of Enforcement**

i. Total Administrative Civil Liability

The Discharger shall be subject to administrative civil liability in the total amount of $209,000. The administrative civil liability also includes the cost of a SEP in the amount of $104,500. The cost of the SEP will be referred to as the SEP Amount and will be treated as a Suspended Administrative Civil Liability.

ii. Payment and Costs

**Payment of $104,500 shall be made within 30 days of receipt of the Stipulated Order** executed on behalf of the Central Valley Board to the *State Water Resources Control Board Cleanup and Abatement Account.* The check or money order shall reference Administrative Civil Liability Order R5-2015-0505 and be submitted to:

State Water Resources Control Board Accounting Office
Attn: ACL Payment
P.O. Box 1888
Sacramento, CA 95812-1888.

A copy of the check shall be also be submitted to:
Wendy Wyels, Supervisor
Compliance and Enforcement Section
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670
wwyels@waterboards.ca.gov

iii. Funding of Supplemental Environmental Project

The Discharger agrees to fund the SEP, which is described in Section III, Paragraph 9.c., and Attachment C of this Order.

c. **Description of the SEP**

The goal of this project is to reduce infiltration and inflow into the Discharger's collection system due to defective private sewer laterals. A reduction in infiltration and inflow will benefit water quality by decreasing the potential for spills of untreated sewage from the collection system to surface waters during wet weather. In addition, the project is intended to reduce the number and volume of spills from defective private laterals, and to reduce the inflow and infiltration flows treated by the wastewater treatment plant. The Discharger will implement this SEP in

accordance with the schedule contained in Attachment C, and will provide a final project report by 30 October 2016.

d. **Representations and Agreements Regarding the SEP**

i. Private Lateral Replacement Program

As a material consideration for the Regional Water Board's acceptance of this Stipulated Order, the City represents that it will utilize $104,500 outlined in Paragraph 9.b.ii to implement the SEP in accordance with the Tasks, Budget, and Deliverables set forth in Attachment C. The City understands that its promise to implement the SEP, in its entirety and in accordance with the schedule for implementation, is a material condition of this settlement of liability between the Discharger and the Regional Water Board.

ii. Discharger Agrees to Implement Project

The Discharger represents that: 1) it will spend the SEP amount as described in this Stipulated Order; 2) it will provide a certified, written report to the Regional Water Board consistent with the terms of this Stipulated Order detailing the implementation of the SEP, and 3) within 30 days of the completion of the SEP, it will provide written certification, under penalty of perjury of the laws of the state, that the Discharger followed all applicable environmental laws and regulations in the implementation of the SEP, including but not limited to the California Environmental Quality Act ("CEQA"), the federal Clean Water Act and the Porter-Cologne Act. The Discharger agrees that the Central Valley Board has the right to require an audit of the funds expended to implement the SEP. The Discharger understands that it bears ultimate responsibility for meeting all deadlines specified in Attachment C.

e. **Publicity Associated with SEP**

Whenever the Discharger or its agents or subcontractors publicize one or more elements of the SEP, they shall state in a **prominent manner** that the project is being undertaken as part of the settlement of an enforcement action by the Regional Water Board against the Discharger.

f. **Progress Reports and Inspection Authority**

The Discharger shall provide reports of progress to the Central Valley Board as described in Attachment C. The Discharger shall permit inspection of the SEP by the Board staff at any reasonable time during normal business hours without notice.

g. **Audits and Certification of SEP**

i. Certification of Expenditures

On or before **30 October 2016**, the Discharger shall submit a certified statement by a responsible city official representing the Discharger documenting the expenditures by the Discharger during the completion period for the SEP. The expenditures may include external payments to outside vendors or contractors implementing the SEP, but may not include the normal, routine work undertaken by Discharger staff. In making such certification, the signatories may rely upon normal organizational project tracking systems that capture employee time expenditures and external payments to outside vendors, such as environmental and

information technology contractors or consultants. The Discharger shall provide any additional information requested by the Central Valley Board staff that is reasonably necessary to verify the Discharger's SEP expenditures.

ii. Certification of Performance of Work

On or before **30 October 2016**, the Discharger shall submit a report, submitted under penalty of perjury of the laws of the state, stating that the SEP has been completed in accordance with the terms of this Stipulated Order. The certification shall be submitted, under penalty of perjury of the laws of the state, to the Central Valley Water Board representative and to the State Water Board's Division of Financial Assistance. Such documentation may include photographs, invoices, receipts, certifications, and other materials reasonably necessary for the Central Valley Board to evaluate the completion of the SEP and the costs incurred by the Discharger.

iii. Certification that Work Performed on SEP Met or Exceeded Requirements of CEQA and Other Environmental Laws

Within two months of this Stipulation and Order becoming effective, the Discharger shall submit documentation, under penalty of perjury of the laws of the state, stating that the SEP meets the requirements of CEQA or other environmental laws, if applicable. The Discharger shall, before the SEP implementation date, consult with other interested state and federal agencies regarding potential impacts of the SEP. To ensure compliance with CEQA where necessary, the Discharger shall provide the Central Valley Board with the following documents from the lead agency:

1. Categorical or statutory exemptions;
2. Negative Declaration if there are no "significant" impacts;
3. Mitigated Negative Declaration if there are potential "significant" impacts, but revisions to the project have been made or may be made to avoid or mitigate those potential significant impacts;
4. Environmental Impact Report (EIR) if there are "significant" impacts.

iv. Third Party Audit

If Central Valley Board staff obtains information that reasonably indicates that the Discharger has not expended money in the amounts claimed by the Discharger, or has not adequately completed any of the work in the SEP work plan, the Assistant Executive Officer may require the Discharger to submit, at its sole cost, a report prepared by an independent third party acceptable to the Central Valley Board Assistant Executive Officer. The report is to provide such party's professional opinion that the Discharger has expended money in the amounts claimed by the Discharger. In the event of such an audit, the Discharger agrees that it will provide the third party auditor with access to all documents related to the SEP that the auditor requests. Such information shall be provided to the Prosecution Staff not later than three months after the completion date of the Discharger's SEP obligations. The audit need not address any costs incurred by the Central Valley Board for oversight.

h. **Extension**

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 and makes the extension request in advance of the expiration of the deadline. The Discharger shall make any deadline extension request in writing at least 30-days prior to the deadline to the extent possible. Any request for an extension not responded to in writing by the Board shall be deemed denied. The Discharger must obtain explicit approval from the Assistant Executive Officer for any significant departures from the project described in Attachment C. Failure to obtain written approval for any significant departures will result in the assessment of the actual cost difference between the portion of the project completed in conformity with the SEP described in Attachment C and the total amount of the suspended penalty.

i. **Regional Board Acceptance of Completed SEP**

Upon the Discharger's satisfaction of its obligations under this Stipulated Order, the completion of the SEP and any audits, the Assistant Executive Officer shall issue a letter stating that all obligations have been completed. The issuance of this letter shall terminate any further obligations of the Discharger and/or the Implementing Party under this Stipulated Order and permanently suspend the remaining penalty amount.

j. **Failure to Expend All Suspended Administrative Civil Liability Funds on the Approved SEP**

In the event that the Discharger is not able to demonstrate to the reasonable satisfaction of the Central Valley Board staff that the entire Suspended Liability has been spent to complete the SEP, the Discharger shall pay the difference between the Suspended Liability and the amount that the Discharger can demonstrate was actually spent on the SEP, as an administrative civil liability. The Discharger shall pay the additional administrative liability within 30 days of its receipt of notice of the Central Valley Water Board Assistant Executive Officer's determination that the Discharger has failed to demonstrate that the entire Suspended Liability has been spent to complete the SEP components. In the event that payment is due pursuant to this paragraph, the Discharger shall send the original signed check referencing Administrative Civil Liability Order R5-2015-0505 to the State Water Resources Control Board Accounting Office, Attn: SEP Differential, and send a copy to Wendy Wyels, Central Valley Water Board Contact, to the addresses indicated in Paragraph 9.b.ii., above.

k. **Failure to Complete the SEP**

If the SEP is not fully implemented by the SEP Completion Date required by this Stipulated Order, the Central Valley Water Board Executive Officer shall issue a Notice of Violation. As a consequence, the Discharger shall be liable to pay the entire Suspended Liability or, if shown by the Discharger, some portion thereof less the value of the completion of any milestone requirements as stipulated by the Parties in writing, or as determined by the Motion for Payment of Suspended Liability, as described below. Unless otherwise agreed to or determined by a Motion for Payment of Suspended Liability, the Discharger shall not be entitled to any credit, offset, or reimbursement from the Central Valley Water Board for expenditures made on the SEP prior to the date of receipt of the Notice of Violation. The amount of the Suspended Liability owed shall be determined by a written, stipulated agreement of the Parties or, if the Parties cannot reach agreement, via a "Motion for Payment of Suspended Liability" before the Central Valley Water Board, or its delegate. Upon a determination by the Central Valley Water Board, or its delegate, of the amount of the Suspended Liability assessed, the amount shall be paid to the *State Water Board Cleanup and Abatement Account* within thirty (30) days after the

service of the Central Valley Water Board's determination. In addition, the Discharger may be liable for the Central Valley Water Board's reasonable costs of enforcement, including but not limited to reasonable legal costs and reasonable expert witness fees. Payment of the assessed amount will satisfy the Discharger's obligations to implement the SEP. In the event that payment is made pursuant to this paragraph, the Discharger shall send the original signed check or money order referencing Administrative Civil Liability Order R5-2015-0505 to the State Water Resources Control Board Accounting Office, Attn: ACL Payment/SEP Failure, and send a copy to Wendy Wyels, Central Valley Water Board Contact, to the addresses indicated in Paragraph 9.b.ii., above.

10. **Regional Water Board is Not Liable:** Neither the Regional Water Board members nor the Regional Water Board staff, attorneys, or representatives shall be liable for any injury or damage to persons or property resulting from acts or omissions by the Discharger's directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Stipulated Order, nor shall the Central Valley Board, its members or staff be held as parties to or guarantors of any contract entered into by the Discharger, its directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Stipulated Order.

11. **Compliance with Applicable Laws:** The Discharger understands that the assessment or payment of administrative civil liability in accordance with the terms of this Stipulated Order and or compliance with the terms of this Stipulated Order is not a substitute for compliance with applicable laws, and that continuing violations of the type alleged herein may subject it to further enforcement, including additional administrative civil liability.

12. **Party Contacts for Communications Related to Stipulated Order:**

**For the Central Valley Water Board:**
Wendy Wyels, Supervisor
Compliance and Enforcement Section
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670
wwyels@waterboards.ca.gov

**For the Discharger:**
Tim Kiser, P.E.
City of Grass Valley
Public Works Department
125 E. Main Street
Grass Valley, CA 95945
timk@cityofgrassvalley.com

13. **Attorneys' Fees and Costs:** Except as otherwise provided herein, each Party shall bear all attorneys' fees and costs arising from the Party's own counsel in connection with the matters set forth herein.

14. **Matters Addressed by Stipulations:** Upon adoption by the Central Valley Water Board, or its delegate, this Stipulated Order represents a final and binding resolution and settlement of all claims, violations or causes of action alleged in this Order as of the effective date of this

Stipulated Order. The provisions of this paragraph are expressly conditioned on the Discharger's payment of administrative civil liability by the deadline specified in Section III, Paragraph 8, and the Discharger's full satisfaction of the obligations described in Section III, Paragraphs 8 and 9.

15. **Public Notice:** The Discharger understands that this Stipulated Order must be noticed for a 30-day public review and comment period prior to consideration by the Central Valley Water Board or its delegate. If the Central Valley Water Board Assistant Executive Officer receives significant new information that reasonably affects the propriety of presenting this Stipulated Order to the Central Valley Water Board, or its delegate, for adoption, the Assistant Executive Officer may unilaterally declare this Stipulated Order void and decide not to present it to the Central Valley Water Board, or its delegate. The Discharger agrees that it may not rescind or otherwise withdraw its approval of this proposed Stipulated Order, except as set forth herein.

16. **Addressing Objections Raised During Public Comment Period:** The Parties agree that the procedure contemplated for the Central Valley Water Board's adoption of the settlement by the Parties and review by the public as reflected in this Stipulated Order will be adequate. In the event procedural objections are raised prior to the Stipulated Order becoming effective, the Parties agree to meet and confer concerning any such objections, and may agree to revise or adjust the procedure as necessary or advisable under the circumstances.

17. **No Waiver of Right to Enforce:** The failure of Central Valley Water Board to enforce any provision of this Stipulated Order shall in no way be deemed a waiver of such provision, or in any way affect the validity of the Order. The failure of the Central Valley Water Board to enforce any such provision shall not preclude it from later enforcing the same or any other provision of this Stipulated Order. Should the Discharger fail to comply with this Order, the Assistant Executive Officer may refer the matter to the State Attorney General for enforcement of the terms of this Order.

18. **Effect of Stipulated Order:** Except as expressly provided in this Stipulated Order, nothing in this Stipulated Order is intended nor shall it be construed to preclude the Prosecution Team or any state agency, department, board or any local agency from exercising its authority under any law, statute, or regulation.

19. **Interpretation:** This Stipulated Order shall be construed as if the Parties prepared it jointly. Any uncertainty or ambiguity shall not be interpreted against any one Party.

20. **Modification:** This Stipulated Order shall not be modified by any of the Parties by oral representation made before or after its execution. All modifications must be in writing, signed by all Parties, and approved by the Central Valley Water Board, or its delegate.

21. **If Order does Not Take Effect:** In the event that this Stipulated Order does not take effect because it is not approved by the Central Valley Water Board, or its delegate, or is vacated in whole or in part by the State Water Board or a court, the Parties acknowledge that they expect to proceed to a contested evidentiary hearing before the Central Valley Water Board to determine whether to assess administrative civil liabilities for the underlying alleged violations, unless the Parties agree otherwise. For that hearing, the Parties agree that all oral and written statements and agreements made during the course of settlement discussions will

not be admissible as evidence, and the Parties agree to waive the following objections based on settlement communications in this matter, including, but not limited to:

a. Objections related to prejudice or bias of any of the Regional Water Board members or their advisors and any other objections that are premised in whole or in part on the fact that the Regional Water Board members or their advisors were exposed to some of the material facts and the Parties' settlement positions as a consequence of reviewing the Stipulation and/or the Order, and therefore may have formed impressions or conclusions prior to any contested evidentiary hearing on the Complaint in this matter; or

b. Laches or delay or other time-related equitable defenses based on the time period for administrative or judicial review to the extent this period has been extended by these settlement proceedings.

22. **No Admission of Liability/No Waiver of Defenses**: In settling this matter, the Discharger does not admit to liability or to the truth of the findings or allegations made by the Prosecution Team, and does not admit to any of the findings in this Stipulated Order or its attachments, and does not admit to any violation of the Water Code, any Central Valley Water Board Order, or any other federal, state, or local laws or ordinances, but recognizes that this Stipulated Order may be used as evidence of resolution of a prior enforcement action consistent with Water Code section 13327 and the Enforcement Policy. By entering into this agreement, the Discharger does not waive any defenses or arguments related to any new enforcement action that may be brought by the Central Valley Water Board, including any brought under its reserved discretionary enforcement authority in Section III, Stipulations, Paragraphs 9, 17 and 21 above.

23. **Waiver of Hearing:** The Discharger has been informed of the rights provided by Water Code section 13323, subdivision (b) and, if the settlement is adopted by the Central Valley Board, hereby waives its right to a hearing before the Central Valley Board prior to the adoption of the Order. However, should the settlement not be adopted, and should the matter proceed to the Central Valley Water Board or State Water Resources Control Board for hearing, the Discharger does not waive the right to a hearing before an order is imposed.

24. **Waiver of Right to Petition:** Except in the instance where the settlement is not adopted by the Central Valley Board, the Discharger hereby waives its right to petition the Central Valley Board's adoption of the Order for review by the State Water Resources Control Board, and further waives its rights, if any, to appeal the same to a California Superior Court and/or any California appellate level court.

25. **Covenant Not to Sue:** The Discharger covenants not to sue or affirmatively pursue any administrative or civil claim(s) against any state agency or the State of California, their officers, Central Valley Water Board Members, employees, representatives, agents, or attorneys arising out of or relating to this Stipulation, except that this covenant is not intended to, and does not limit the Discharger's rights to sue over other Central Valley Water Board orders (e.g., permits, cease and desist orders, etc.) or limit the Discharger's rights to defend against any additional enforcement or other actions taken by the Central Valley Water Board or its employees, representatives, agents, or attorneys, and shall not release any claims or complaints against any state agency or the State of California, their officers, Central Valley Water Board Members, employees, representatives, agents, or attorneys to the extent such covenant would be

prohibited by California Business and Professions Code Section 6090.5 or by any other statute, rule, regulation or legal principle of similar effect.

26. **Authority to Bind:** Each person executing this Stipulation in a representative capacity represents and warrants that he or she is authorized to execute this Stipulation on behalf of and to bind the entity on whose behalf he or she executes the Stipulation.

27. **No Third Party Beneficiaries:** This Stipulated Order is not intended to confer any rights or obligations on any third party or parties, and no third party or parties shall have any right of action under this Stipulated Order for any cause whatsoever.

28. **Effective Date**: This Stipulated Order shall be effective and binding on the Parties upon the date the Central Valley Water Board or its delegate enters the Order.

29. **Severability:** This Stipulation and Order are severable; should any provision be found invalid, the remainder shall remain in full force and effect.

30. **Counterpart Signatures:** This Stipulation may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterparts shall together constitute one document.

**IT IS SO STIPULATED.**
Central Valley Water Board Prosecution Team

By: Andrew Altevogt
For Pamela Creedon, Executive Officer

Date: 1/20/14, 2015

City of Grass Valley

By: [signature]
Tim Kiser, Public Works Director/City Engineer

Date: 1/20, 2015

## Order of the Central Valley Water Board

1. The Central Valley Water Board incorporates Sections I through III, Paragraphs 1 through 30 by this reference as if set forth fully herein.

2. In adopting this Stipulated Order, the Central Valley Water Board or its delegate has considered, where applicable, each of the factors prescribed in Water Code sections 13385, subdivision (e), and 13327. The consideration of these factors is based upon information and comments obtained by the Central Valley Water Board's staff in investigating the allegations described in Section II in this Settlement Agreement and

Stipulation for Entry of Order and Order, above, or otherwise provided to the Central Valley Water Board or its delegate by the Parties and members of the public.

3. This is an action to enforce the laws and regulations administered by the Central Valley Water Board. The Central Valley Water Board finds that issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, sections 21000 et seq.), in accordance with section 15321(a)(2), Title 14, of the California Code of Regulations.

4. The Assistant Executive Officer is authorized to refer this matter directly to the Attorney General for enforcement if the Discharger fails to perform any of its obligations under the Order.

Pursuant to Water Code section 13323 and Government Code section 11415.60, **IT IS HEREBY ORDERED** on behalf of the Central Valley Regional Water Quality Control Board.

Adam Laputz, Assistant Executive Officer
Central Valley Water Board

2-27, 2015
Date

Attachment A: Table of Violations
Attachment B: Enforcement Policy Liability Methodology
Attachment C: Supplemental Environmental Project

ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2015-0505 ATTACHMENT A: WASTEWATER DISCHARGES AND MAXIMUM PENALTY[1]

| | Spill | Start Date | End Date | Location | Days | Gallons Discharged | Gallons Recovered | Gallons Entering Surface Water | Gallons Entering Surface Water Less 1,000 gallons | Cause | Maximum Penalty |
|---|---|---|---|---|---|---|---|---|---|---|---|
| WWTP | 1 | 6/21/2009 | 6/21/2009 | Wastewater Treatment Plant | 1 | 15,000 | 4,000 | 11,000 | 10,000 | Other: digester valve failure | $ 110,000 |
| | 2 | 7/5/2011 | 7/5/2011 | Wastewater Treatment Plant | 1 | 200 | | 200 | - | Other: digester valve failure | $ 10,000 |
| | 3 | 10/2/2011 | 10/2/2011 | Wastewater Treatment Plant | 1 | 250 | 20 | 230 | - | Other: line plug failure | $ 10,000 |
| | 4 | 3/16/2012 | 3/16/2012 | Wastewater Treatment Plant | 1 | 20,000[2] | - | 20,000 | 19,000 | Other: significant rainfall | $ 200,000 |
| | 5 | 12/2/2012 | 12/2/2012 | Wastewater Treatment Plant | 1 | 63,500[2] | - | 63,500 | 62,500 | Other: significant rainfall | $ 635,000 |
| | 6 | 5/4/2013 | 5/4/2013 | Wastewater Treatment Plant | 1 | 6,600 | 600 | 6,000 | 5,000 | Other: rags in digester pump | $ 60,000 |
| SSOs | 7 | 12/4/2009 | 12/4/2009 | 819 Whispering Pines Ln | 1 | 200 | - | 200 | - | Root intrusion | $ 10,000 |
| | 8 | 11/9/2011 | 11/9/2011 | 200 Scotia Pines Circle | 1 | 104 | - | 104 | - | Debris-rags | $ 10,000 |
| | 9 | 1/21/2012 | 1/21/2012 | 315 Richardson Street | 1 | 900 | 20 | 880 | - | Debris-rags | $ 10,000 |
| | 10 | 1/21/2012 | 1/21/2012 | 225 Auburn Street** | 1 | 1,500 | 884 | 156 | - | Debris-rags | $ 10,000 |
| | 11 | 5/27/2012 | 5/27/2012 | 303 Richardson Street | 1 | 390 | 340 | 50 | - | Debris-rags | $ 10,000 |
| | 12 | 6/1/2012 | 7/31/2012 | 217 Colfax Street | 61 | 159 | - | 159 | - | Pipe structural problem/failure | $ 610,000 |
| | 13 | 12/9/2012 | 12/9/2012 | 412 Brunswick Road | 1 | 8,250 | 300 | 7,950 | 6,950 | Grease deposition (FOG) | $ 79,500 |
| | 14 | 12/12/2012 | 12/12/2012 | 108 Scotia Pines Circle | 1 | 50 | - | 50 | - | Debris-rags | $ 10,000 |
| | 15 | 12/2/2012 | 12/2/2012 | 450 Mill Street | 1 | 1,800 | - | 1,800 | 800 | Other: significant rainfall | $ 18,000 |
| | 16 | 12/16/2012 | 12/16/2012 | 534 Butler Street | 1 | 1,200 | 10 | 1,190 | 190 | Debris-general | $ 11,900 |
| | 17 | 1/7/2013 | 1/10/2013 | 875 West Main Street | 3 | 550 | 30 | - | - | Debris-rags | $ 30,000 |
| | 18 | 5/10/2013 | 5/10/2013 | 988 Plaza Drive | 1 | 5 | - | 5 | - | Debris-rags | $ 10,000 |
| | 19 | 12/17/2013 | 12/17/2013 | Hwy 49 at Hwy 20 WB off-ramp | 1 | 2,400 | 2,000 | 200 | - | Debris-general | $ 10,000 |
| | 20 | 1/3/2014 | 1/3/2014 | Dorsey Dr at East Main Street | 1 | 1,950 | 600 | 1,350 | 350 | Debris from Construction | $ 13,500 |
| | 21 | 11/4/2012 | 11/5/2012 | 11442 Slate Creek | 1 | 13,440 | 150 | 13,290 | 12,290 | Debris-general | $ 132,900 |

Maximum P $2,000,800

[1] All spills were to waters of the U.S. The maximum penalty under Water Code 13385 is $10,000 per day and $10 per gallon not cleaned up over 1,000 gallons.

[2] Does not include spill volumes caused by Drew Tunnel discharge.

Reviewed 1 October 2014

** Volumes do not add up because former employee submitted inaccurate report

**ATTACHMENT B TO STIPULATED ORDER R5-2015-0505**
**SPECIFIC FACTORS CONSIDERED FOR ADMINISTRATIVE CIVIL LIABILITY**
**CITY OF GRASS VALLEY WASTEWATER TREATMENT PLANT AND COLLECTION SYSTEM**

The State Water Board's *Water Quality Enforcement Policy* (Enforcement Policy) establishes a methodology for determining administrative civil liability by addressing the factors that are required to be considered under California Water Code section 13385(e). Each factor of the nine-step approach is discussed below, as is the basis for assessing the corresponding score. The Enforcement Policy can be found at:
http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf.

Attachment A of the Settlement Agreement and Stipulation for Entry of Central Valley Regional Water Quality Control Board Administrative Civil Liability Order R5-2015-0505 (Stipulated Order R5-2015-0505) lists the 21 spills for which liability has been assessed. For purposes of the penalty calculation methodology, these have been grouped into seven sets of violations.

The City of Grass Valley does not concede that the below facts are accurate or that the factors were accurately determined or consistent with the Enforcement Policy, particularly the use of $10 per gallon for wastewater spills, but accepts the determination only for the purpose of settling this specific enforcement action.

## *Violation #1: June 2009 Spill from the Wastewater Plant*

On 21 June 2009, the City of Grass Valley (Discharger) notified Central Valley Water Board staff of a spill that occurred at the wastewater treatment plant (WWTP). The Discharger reported that up to 15,000 gallons of supernatant overflowed from a storage basin over the course of one day or less. The Discharger was able to recover 4,000 gallons of the spill; however, up to 11,000 gallons reached Wolf Creek. According to phone conversations between the Discharger and Board staff, the spill was due to a clogged valve that prevented supernatant from draining from the basin.

**Step 1 – Potential for Harm for Discharge Violations**
The "potential harm to beneficial uses" factor considers the harm that may result from exposure to the pollutants in the illegal discharge, while evaluating the nature, circumstances, extent, and gravity of the violation(s). A three-factor scoring system is used for each violation or group of violations: (1) the potential for harm to beneficial uses; (2) the degree of toxicity of the discharge; and (3) whether the discharge is susceptible to cleanup or abatement.

Factor 1: Harm or Potential Harm to Beneficial Uses.
This factor evaluates direct or indirect harm or potential for harm from the violation. A score between 0 and 5 is assigned based on a determination of whether the harm or potential for harm to beneficial uses ranges from negligible (0) to major (5). As described in the *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, Fourth Edition*, the designated beneficial uses of Wolf Creek and the Bear River that could be impacted by the unauthorized discharge include municipal and domestic supply; agricultural supply; hydropower generation; water contact recreation; noncontact water recreation; warm freshwater habitat; cold freshwater habitat; ground water recharge; freshwater replenishment;

migration of aquatic organisms; spawning, reproduction and/or early development of warm freshwater aquatic organisms; and wildlife habitat.

Authorized discharges to surface water typically must be treated to a higher standard to prevent discharges from being harmful or toxic to aquatic life. Toxicity is the degree to which a substance can damage a living or non-living organism. Toxicity can refer to the effect on a whole organism, such as an animal, bacterium, or plant, as well as the effect on a substructure of the organism, such as a cell or an organ. Partially treated wastewater spilled from the wastewater treatment plant and flowed directly into Wolf Creek. The potential harm to beneficial uses was determined to be "moderate," which is defined as "impacts are observed or reasonably expected and impacts to beneficial uses are moderate and likely to attenuate without appreciable acute or chronic effects. Therefore, a score of 3 is assigned for this factor.

Factor 2: The Physical, Chemical, Biological or Thermal Characteristics of the Discharge.
A score between 0 and 4 is assigned based on a determination of the risk or threat of the discharged material. "Potential receptors" are those identified considering human, environmental, and ecosystem exposure pathways. Partially treated sewage contains elevated concentrations of coliform organisms and other substances which are known to cause disease to humans. Because the discharged material possessed "an above moderate risk or a direct threat to potential receptors", a score of 3 was assigned for this factor.

Factor 3: Susceptibility to Cleanup or Abatement.
A score of 0 is assigned for this factor if 50% or more of the discharge is susceptible to cleanup or abatement. A score of 1 is assigned if less than 50% of the discharge is susceptible to cleanup or abatement. This factor is evaluated regardless of whether the discharge was actually cleaned up or abated by the discharger. In this case, less than 50% of the discharge was susceptible to cleanup or abatement as the wastewater entered Wolf Creek. Therefore, a factor of 1 is assigned.

Final Score – "Potential for Harm"
The scores of the three factors are added to provide a Potential for Harm score for each violation or group of violations. In this case, a final score of 7 was calculated. The total score is then used in Step 2, below.

**Step 2 – Assessment for Discharge Violations**
This step addresses administrative civil liabilities for the spills based on both a per-gallon and a per-day basis.

1. Per Gallon Assessments for Discharge Violations
When there is a discharge, the Central Valley Water Board is to determine an initial liability amount on a per gallon basis using on the Potential for Harm score and the Deviation from Requirement of the violation.

The Potential for Harm Score was determined in Step 1, and is 7. The Deviation is considered "moderate" because Waste Discharge Requirements (WDRs) Order R5-2009-0067 prohibits any discharge of wastewater that is not tertiary treated, and only permits a discharge at one specific location in Wolf Creek. Therefore, the spills have partially compromised the

Prohibition. Table 1 of the Enforcement Policy (p. 14) is used to determine a "per gallon factor" based on the total score from Step 1 and the level of Deviation from Requirement. For this particular case, the factor is 0.2. This value is multiplied by the volume of discharge and the per gallon civil liability, as described below.

For Spill #1, 11,000 gallons of supernatant entered Wolf Creek. Water Code section 13385(c)(2) states that the civil liability amount is to be based on the number of gallons discharged but not cleaned up over 1,000 gallons. The maximum civil liability allowed under Water Code section 13385 on a per gallon basis is $10/gallon.

The Per Gallon Assessment is calculated as (0.2 factor from Table 1) x (10,000 gallons) x ($10 per gallon). The value is $20,000.

2. Per Day Assessments for Discharge Volumes

When there is a discharge, the Central Valley Water Board is to determine an initial liability amount on a per day basis using the same Potential for Harm and the Extent of Deviation from Requirement that were used in the per-gallon analysis. The "per day" factor (determined from Table 2 of the Enforcement Policy) is 0.2. The spill took place over one day. Therefore, the Per Day Assessment is calculated as (0.2 factor) x (1 day) x ($10,000 per day). The value is $2,000.

**Initial Liability Amount:** The value is determined by adding together the per gallon assessment and the per day assessment. For this spill, the total is $22,000.

**Step 3 – Per Day Assessment for Non-Discharge Violation**

The Enforcement Policy states that the Central Valley Water Board shall calculate an initial liability for each non-discharge violation. In this case, this factor does not apply because all of the violations are related to the discharge of wastewater, and the liability was determined in Step 2.

**Step 4 – Adjustment Factors**

There are three additional factors to be considered for modification of the amount of initial liability: the violator's culpability, efforts to clean up or cooperate with regulatory authority, and the violator's compliance history. After each of these factors is considered for the violations involved, the applicable factor should be multiplied by the proposed amount for each violation to determine the revised amount for that violation.

Culpability

Higher liabilities should result from intentional or negligent violations as opposed to accidental violations. A multiplier between 0.5 and 1.5 is to be used, with a higher multiplier for negligent behavior. The spill resulted from a clogged valve. The Discharger could have inspected the valve more frequently and potentially avoided the spill. A multiplier of 1 is appropriate.

Cleanup and Cooperation
This factor reflects the extent to which a discharger voluntarily cooperated in returning to compliance and correcting environmental damage. A multiplier between 0.75 and 1.5 is to be used, with a higher multiplier when there is a lack of cooperation. Although the Discharger was not able to clean up any of the sewage once it reached Wolf Creek, the Discharger cooperated by providing prompt notification of the discharge and taking steps to minimize the effects of the spill. Therefore, the Discharger was assigned a multiplier value of 0.9.

History of Violation
When there is a history of repeat violations, the Enforcement Policy requires a minimum multiplier of 1.1 to be used. For this spill, the Discharger was assigned a multiplier value of 1.

**Step 5 - Determination of Total Base Liability Amount**
The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Initial Liability Amount determined in Step 2.

**Total Base Liability Amount for Spill #1 (June 2009 spill):** This value is calculated as the Initial Liability Amount ($22,000) X Adjustment Factors (1) (0.9) (1) and is equal to $19,800.

## *Violation #2: July 2011 Spill from the Wastewater Plant*

On 5 July 2011, the Discharger notified Board staff of a spill that occurred at the WWTP. The Discharger reported that up to 200 gallons of digested sludge overflowed from the digester and reached Wolf Creek. The spill took place for one day or less, and was due to a failed valve.

**Step 1 – Potential for Harm for Discharge Violations**
The "Harm to Beneficial Uses factor, the Physical Characteristics of the Discharge factor, and the "Susceptibility to Cleanup" factors are the same as for Violation #1 (i.e., 3, 3, and 1). The final Potential for Harm score is 7.

**Step 2 – Assessment for Discharge Violations**
This step addresses administrative civil liabilities for the spills based on both a per-gallon and a per-day basis.

1. Per Gallon Assessments for Discharge Violations
Water Code section 13385(c)(2) states that the civil liability amount is to be based on the number of gallons discharged but not cleaned up over 1,000 gallons. For this spill, it was estimated that 200 gallons entered Wolf Creek. Because less than 1,000 gallons entered surface water, no penalty is assess for this factor.

2. Per Day Assessments for Discharge Volumes
When there is a discharge, the Central Valley Water Board is to determine an initial liability amount on a per day basis using the same Potential for Harm and the Deviation from Requirement that were used in the per-gallon analysis. The "per day" factor (determined from Table 2 of the Enforcement Policy using a Potential for Harm factor of 7 and a moderate

deviation) is 0.2. The spill took place over one day. Therefore, the Per Day Assessment is calculated as (0.2 factor) x (1 day) x ($10,000 per day). The value is $2,000.

**Initial Liability Amount:** The value is determined by adding together the per gallon assessment and the per day assessment, resulting in a total initial liability amount of $2,000.

**Step 3 – Per Day Assessment for Non-Discharge Violation**
The Enforcement Policy states that the Central Valley Water Board shall calculate an initial liability for each non-discharge violation. In this case, this factor does not apply because all of the violations are related to the discharge of wastewater, and the liability was determined in Step 2.

**Step 4 – Adjustment Factors**
The three adjustment factors are culpability, cleanup/cooperation, and history of violation. The same factors and rationale were used for this violation as were used for violation #1.

**Step 5 - Determination of Total Base Liability Amount**
The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Initial Liability Amount determined in Step 2.

**Total Base Liability Amount for Spill #2 (July 2011 plant spill):** This value is calculated as the Initial Liability Amount ($2,000) X Adjustment Factors (1) (0.9) (1) and is equal to $1,800.

## *Violation #3: October 2011 Spill from the Wastewater Plant*

On 2 October 2011, the Discharger reported that 250 gallons of digested sludge was released from a storage basin line. The Discharger was able to recover 20 gallons of the spill; however, 230 gallons reached Wolf Creek. The spill took place for less than one day and was due to a failed plug from a storage basin line.

**Step 1 – Potential for Harm for Discharge Violations**
The "Harm to Beneficial Uses factor, the Physical Characteristics of the Discharge factor, and the "Susceptibility to Cleanup" factors are the same as for Violation #1 (i.e., 3, 3, and 1). The final Potential for Harm score is 7.

**Step 2 – Assessment for Discharge Violations**
This step addresses administrative civil liabilities for the spills based on both a per-gallon and a per-day basis.

1. Per Gallon Assessments for Discharge Violations
Water Code section 13385(c)(2) states that the civil liability amount is to be based on the number of gallons discharged but not cleaned up over 1,000 gallons. For this spill, it was estimated that 230 gallons entered Wolf Creek. Because less than 1,000 gallons entered surface water, no penalty is assess for this factor.

2. Per Day Assessments for Discharge Volumes
When there is a discharge, the Central Valley Water Board is to determine an initial liability amount on a per day basis using the same Potential for Harm and the Deviation from Requirement that were used in the per-gallon analysis. The "per day" factor (determined from Table 2 of the Enforcement Policy using a Potential for Harm factor of 7 and a moderate deviation) is 0.2. The spill took place over one day. Therefore, the Per Day Assessment is calculated as (0.2 factor ) x (1 day) x ($10,000 per day). The value is $2,000.

**Initial Liability Amount:** The value is determined by adding together the per gallon assessment and the per day assessment, resulting in a total initial liability amount of $2,000.

**Step 3 – Per Day Assessment for Non-Discharge Violation**
The Enforcement Policy states that the Central Valley Water Board shall calculate an initial liability for each non-discharge violation. In this case, this factor does not apply because all of the violations are related to the discharge of wastewater, and the liability was determined in Step 2.

**Step 4 – Adjustment Factors**
The three adjustment factors are culpability, cleanup/cooperation, and history of violation. The same factors and rationale were used for this violation as were used for violation #1.

**Step 5 - Determination of Total Base Liability Amount**
The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Initial Liability Amount determined in Step 2.

**Total Base Liability Amount for Spill #3 (October 2011 plant spill):** This value is calculated as the Initial Liability Amount ($2,000) X Adjustment Factors (1) (0.9) (1) and is equal to $1,800.

## *Violation #4: March 2012 Spill from the Wastewater Plant*

After a series of storm events, on 16 March 2012, the Discharger reported that 20,000 gallons overflowed from the primary clarifier between 13:30 and 18:30. In addition, 1,200,000 gallons overflowed from the equalization basin between 17:00 on 16 March 2012 and 05:00 on 17 March 2012. After reviewing technical documents submitted by the Discharger, Board staff have determined that the flows from Drew Tunnel stored in the equalization basin in the days leading up to the spill event contributed to the equalization basin overflow. This Order does not assess liability for spills due to the Drew Tunnel. However, the Prosecution Team alleges that the 20,000 gallons that overflowed from the primary clarifier was due to high inflow/infiltration within in the collection system and/or "bottlenecks" within the WWTP piping and therefore this Order assesses liability for that discharge to Wolf Creek.

**Step 1 – Potential for Harm for Discharge Violations**
The "Harm to Beneficial Uses factor, the Physical Characteristics of the Discharge factor, and the "Susceptibility to Cleanup" factors are the same as for Violation #1 (i.e., 3, 3, and 1). The final Potential for Harm score is 7.

**Step 2 – Assessment for Discharge Violations**
This step addresses administrative civil liabilities for the spills based on both a per-gallon and a per-day basis.

1. Per Gallon Assessments for Discharge Violations
The Potential for Harm Score was determined in Step 1, and is 7. The Deviation is considered "moderate" because the WDRs prohibit any discharge of wastewater that is not tertiary treated, and only allows the discharge to one specific location in Wolf Creek. Table 1 of the Enforcement Policy is used to determine a "per gallon factor" based on the total score from Step 1 and the level of Deviation from Requirement. For this particular case, the factor is 0.2. This value is multiplied by the volume of discharge and the per gallon civil liability, as described below.

For Spill #4, 20,000 gallons of sewage overflowed from the primary clarifier and entered Wolf Creek. Water Code section 13385(c)(2) states that the civil liability amount is to be based on the number of gallons discharged but not cleaned up over 1,000 gallons. The maximum civil liability allowed under Water Code section 13385 on a per gallon basis is $10/gallon.

The Per Gallon Assessment is calculated as (0.2 factor from Table 1) x (19,000 gallons) x ($10 per gallon). The value is $38,000.

2. Per Day Assessments for Discharge Volumes
When there is a discharge, the Central Valley Water Board is to determine an initial liability amount on a per day basis using the same Potential for Harm and the Extent of Deviation from Requirement that were used in the per-gallon analysis. The "per day" factor (determined from Table 2 of the Enforcement Policy) is 0.2. The spill took place over one day. Therefore, the Per Day Assessment is calculated as (0.2 factor) x (1 day) x ($10,000 per day). The value is $2,000.

**Initial Liability Amount:** The value is determined by adding together the per gallon assessment and the per day assessment. For this spill, the total is $40,000.

**Step 3 – Per Day Assessment for Non-Discharge Violation**
The Enforcement Policy states that the Central Valley Water Board shall calculate an initial liability for each non-discharge violation. In this case, this factor does not apply because all of the violations are related to the discharge of wastewater, and the liability was determined in Step 2.

**Step 4 – Adjustment Factors**
There are three additional factors to be considered for modification of the amount of initial liability: the violator's culpability, efforts to clean up or cooperate, and the violator's compliance history. After each of these factors is considered for the violations involved, the applicable

factors are multiplied by the proposed amount for each violation to determine the revised amount for that violation.

Culpability

Higher liabilities should result from intentional or negligent violations as opposed to accidental violations. A multiplier between 0.5 and 1.5 should be used, with a higher multiplier for negligent behavior. The spill resulted from a 5-year rain event[1] that overwhelmed the wastewater treatment plant with excess infiltration and inflow (I/I). There are two issues that Board staff contemplated in determining the culpability factor. First, the Discharger states that high flows are bypassed around the secondary treatment units by conveying wastewater from the primary clarifiers to the equalization basin for temporary storage. These high flows are conveyed through a 24-inch line that downsizes to a 12-inch flow meter, causing a backup in the bypass line and resulting in spills. Per the Discharger's technical documents "*The theoretical capacity of the equalization pipe is 9.69 million gallons per day (MGD)... The reason that less flow capacity was observed during the two spill events is unknown, but may have to do with air binding, which may vary with each event...*". Therefore, Board staff finds that the excess flows that entered the wastewater treatment plant during the storm event was the cause of the overflow from the primary clarifier and improvements are necessary to ensure the bypass line operates as designed during future rain events. Secondly during the 17/18 June 2013 compliance audit the Discharger reported to Board staff that although City staff was routinely cleaning the sanitary sewer system, roots were not being properly cleaned from the system. Root intrusion in the sanitary sewer system contributes to I/I problems and blockages in the sewer system which both can lead to excess flows entering the wastewater treatment plant and SSOs. It is appropriate to expect the wastewater treatment plant and associated sewer collection system to be designed and maintained properly to convey and treat 5-year rain events. A multiplier of 1 is appropriate.

Cleanup and Cooperation

This factor reflects the extent to which a discharger voluntarily cooperated in returning to compliance and correcting environmental damage. A multiplier between 0.75 and 1.5 is to be used, with a higher multiplier when there is a lack of cooperation. Although the Discharger was not able to clean up any of the sewage once it reached Wolf Creek, the Discharger cooperated by providing prompt notification of the discharge events and taking steps to minimize the effect of the spills. The Discharger reduced the potential spill volume by diverting a significant volume of the wastewater into temporary storage basins including the second primary clarifier, second secondary clarifier, equalization basin, and the aeration basin. Therefore, the Discharger was given a multiplier value of 0.9.

History of Violation

When there is a history of repeat violations, the Enforcement Policy requires a minimum multiplier of 1.1 to be used. For this spill, the Discharger was given a multiplier value of 1.

---

[1] http://hdsc.nws.noaa.gov/hdsc/pfds/pfds_printpage.html?st=ca&sta=04-3573&data=depth&units=english&series=pds

**Step 5 - Determination of Total Base Liability Amount**
The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Initial Liability Amount determined in Step 2.

**Total Base Liability Amount for Spill #4 (March 2012 plant spill):** This value is calculated as the Initial Liability Amount ($40,000) X Adjustment Factors (1) (0.9) (1) and is equal to $36,000.

## *Violation #5: December 2012 Spill from the Wastewater Plant*

On 2 December 2012, 450,000 gallons of partially treated wastewater overtopped and spilled from the primary clarifiers and entered Wolf Creek. The spill took place over a 2.5 hour period during or after a storm event. A portion of the spill was due to the fact that the Facility was continuing to accept flows from the Drew Tunnel; this Order does not assess liability for spills due to the Drew Tunnel. The Discharger has concluded that even without the impact of the Drew Tunnel flows, there may have still been an overflow from the primary clarifier. The Prosecution Team alleges that 63,500 gallons of the discharge from the primary clarifier to Wolf Creek was not due to the acceptance of Drew Tunnel flows.

**Step 1 – Potential for Harm for Discharge Violations**
The "Harm to Beneficial Uses factor, and the Physical Characteristics of the Discharge factor are the same as for Violation #1 (i.e., 3 and 3). The Susceptibility to Cleanup Factor is 0 because as the overflow began, the Discharger hired septic pumper trucks to pump wastewater from the primary clarifier, and in doing so, prevented approximately 136,000 gallons from spilling. The final Potential for Harm score is 6.

**Step 2 – Assessment for Discharge Violations**
This step addresses administrative civil liabilities for the spills based on both a per-gallon and a per-day basis.

1. Per Gallon Assessments for Discharge Violations
The Potential for Harm Score was determined in Step 1, and is 6. The Deviation is considered "moderate" because the WDRs prohibit the discharge of wastewater that is not partially treated and only allow the discharge to one location in Wolf Creek. Table 1 of the Enforcement Policy is used to determine a "per gallon factor" based on the total score from Step 1 and the level of Deviation from Requirement. For this particular case, the factor is 0.15. This value is multiplied by the volume of discharge and the per gallon civil liability, as described below.

For Spill #5, 63,500 gallons of sewage overflowed from the primary clarifier and entered Wolf Creek. Water Code section 13385(c)(2) states that the civil liability amount is to be based on the number of gallons discharged but not cleaned up over 1,000 gallons. The maximum civil liability allowed under Water Code section 13385 on a per gallon basis is $10/gallon.

The Per Gallon Assessment is calculated as (0.15 factor from Table 1) x (62,500 gallons) x ($10 per gallon). The value is $93,750.

2. Per Day Assessments for Discharge Volumes
When there is a discharge, the Central Valley Water Board is to determine an initial liability amount on a per day basis using the same Potential for Harm and the Extent of Deviation from Requirement that were used in the per-gallon analysis. The "per day" factor (determined from Table 2 of the Enforcement Policy) is 0.15. The spill took place over one day. Therefore, the Per Day Assessment is calculated as (0.15 factor) x (1 day) x ($10,000 per day). The value is $1,500.

**Initial Liability Amount:** The value is determined by adding together the per gallon assessment and the per day assessment. For this spill, the total is $95,250.

**Step 3 – Per Day Assessment for Non-Discharge Violation**
The Enforcement Policy states that the Central Valley Water Board shall calculate an initial liability for each non-discharge violation. In this case, this factor does not apply because all of the violations are related to the discharge of wastewater, and the liability was determined in Step 2.

**Step 4 – Adjustment Factors**
There are three additional factors to be considered for modification of the amount of initial liability: the violator's culpability, efforts to clean up or cooperate, and the violator's compliance history. After each of these factors is considered for the violations involved, the applicable factor is multiplied by the proposed amount for each violation to determine the revised amount for that violation.

Culpability
Higher liabilities should result from intentional or negligent violations as opposed to accidental violations. A multiplier between 0.5 and 1.5 is to be used, with a higher multiplier for negligent behavior. The spill resulted from a 5-year rain event[2] that overwhelmed the wastewater treatment plant with excess infiltration and inflow (I/I). There are two issues that Board staff contemplated in assigning a culpability. First, the Discharger states that high flows are bypassed around the secondary treatment units by conveying wastewater from the primary clarifiers to the equalization basin for temporary storage. These high flows are conveyed through a 24-inch line that downsizes to a 12-inch flow meter, , causing a backup in the bypass line and spills. Per the Discharger's technical documents "*The Plant is designed to handle a peak hourly flow rate of 16 MGD with 7 MGD conveyed through the treatment process and 9 MGD conveyed through the overflow bypass pipe to the equalization basins for storage. The design capacity of the overflow bypass pipe, which did not include the mine drainage, is 9MGD, and demonstrated the ability to convey at least 8.1 MGD during the March 2012 spill event. However according to SCADA data collected, the overflow bypass pipe appeared to only convey a maximum flow of 6.5 MGD during the December 2012 spill event.*" Therefore,

[2] http://hdsc.nws.noaa.gov/hdsc/pfds/pfds_printpage.html?st=ca&sta=04-3573&data=depth&units=english&series=pds

Board staff finds that the Discharger was aware that the bypass line did not operate as it was designed for prior to the December 2012 spill event and did not take appropriate actions to ensure the bypass line was capable of conveying the necessary flows during a rain event. However, Board staff did take into account that the bypass line was able to convey up to 8.1 MGD during the March 2012 spill event while flows from Drew Tunnel were being diverted. Seeing that during the December 2012 spill event the Discharger did not divert flows from Drew Tunnel, Board staff assumed that the bypass line would have had an additional 1.6 MGD during the spill event and concluded that this volume was due to the wastewater treatment plant taking on flows from Drew Tunnel; this Order does not assess liability for spills due to the Drew Tunnel. Secondly during the 17/18 June 2013 compliance audit the Discharger reported to Board staff that although City staff was routinely cleaning the sanitary sewer system, roots were not being properly cleaned from the system. Root intrusion in the sanitary sewer system contributes to I/I problems and blockages in the sewer system which both can lead to excess flows entering the wastewater treatment plant and SSOs. It is appropriate to expect the wastewater treatment plant and associated sewer collection system to be designed and maintained properly to convey and treat 5-year rain events. Therefore, a multiplier of 1 is appropriate.

Cleanup and Cooperation
This factor reflects the extent to which a discharger voluntarily cooperated in returning to compliance and correcting environmental damage. A multiplier between 0.75 and 1.5 is to be used, with a higher multiplier when there is a lack of cooperation. A value of 0.9 is appropriate.

History of Violation
When there is a history of repeat violations, the Enforcement Policy requires a minimum multiplier of 1.1 to be used. For this spill, the Discharger was assigned a multiplier value of 1.

**Step 5 - Determination of Total Base Liability Amount**
The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Initial Liability Amount determined in Step 2.

**Total Base Liability Amount for Spill #5 (December 2012 plant spill):** This value is calculated as the Initial Liability Amount ($95,250) X Adjustment Factors (1) (0.9) (1) and is equal to $85,725.

## *Violation #6: May 2013 Spill from the Wastewater Plant*

On 4 May 2013, approximately 6,600 gallons of supernatant and activated sludge spilled from the anaerobic digester in less than a one-day period. The Discharger was able to recover approximately 600 gallons of the spill; however, up to 6,000 gallons reached Wolf Creek. According to the Discharger's spill report, the spill was a due to an accumulation of "disposable" wipes obstructing the outlet of the anaerobic digester.

**Step 1 – Potential for Harm for Discharge Violations**
The Harm to Beneficial Uses factor, the Physical Characteristics of the Discharge factor, and the "Susceptibility to Cleanup" factors are the same as for Violation #1 (i.e., 3, 3, and 1). The final Potential for Harm score is 7.

**Step 2 – Assessment for Discharge Violations**
This step addresses administrative civil liabilities for the spills based on both a per-gallon and a per-day basis.

1. Per Gallon Assessments for Discharge Violations
The Potential for Harm Score was determined in Step 1, and is 7. The Deviation is considered "moderate" because the WDRs prohibit the discharge of wastewater which is not tertiary treated, and only allow a discharge to one location in Wolf Creek. Table 1 of the Enforcement Policy is used to determine a "per gallon factor" based on the total score from Step 1 and the level of Deviation from Requirement. For this particular case, the factor is 0.2. This value is multiplied by the volume of discharge and the per gallon civil liability, as described below.

For Spill #6, 6,000 gallons of sewage overflowed from the primary clarifier and entered Wolf Creek. Water Code section 13385(c)(2) states that the civil liability amount is to be based on the number of gallons discharged but not cleaned up over 1,000 gallons. The maximum civil liability allowed under Water Code section 13385 on a per gallon basis is $10/gallon.

The Per Gallon Assessment is calculated as (0.2 factor from Table 1) x (5,000 gallons) x ($10 per gallon). The value is $10,000.

2. Per Day Assessments for Discharge Volumes
When there is a discharge, the Central Valley Water Board is to determine an initial liability amount on a per day basis using the same Potential for Harm and the Extent of Deviation from Requirement that were used in the per-gallon analysis. The "per day" factor (determined from Table 2 of the Enforcement Policy) is 0.2. The spill took place over one day. Therefore, the Per Day Assessment is calculated as (0.2 factor) x (1 day) x ($10,000 per day). The value is $2,000.

**Initial Liability Amount:** The value is determined by adding together the per gallon assessment and the per day assessment. For this spill, the total is $12,000.

**Step 3 – Per Day Assessment for Non-Discharge Violation**
The Enforcement Policy states that the Central Valley Water Board shall calculate an initial liability for each non-discharge violation. In this case, this factor does not apply because all of the violations are related to the discharge of wastewater, and the liability was determined in Step 2.

**Step 4 – Adjustment Factors**
The three adjustment factors are culpability, cleanup/cooperation, and history of violation.

Culpability

Higher liabilities should result from intentional or negligent violations as opposed to accidental violations. A multiplier between 0.5 and 1.5 is to be used, with a higher multiplier for negligent behavior. The spill resulted from an accumulation of disposable wipes being flushed into the sewer collection system, which obstructed the outlet of the anaerobic digester. Although manufacturers advertise that baby wipes are "disposable" and can be flushed down a toilet, in reality they do not break down in the same manner as toilet paper. There is general knowledge within the wastewater industry that these wipes are becoming a problem and are obstructions within collection systems and at treatment plants. Although the Discharger is not culpable for the misleading advertising or the public's use of these wipes, the Discharger could have conducted outreach and education to inform its customers that the wipes should not be flushed down toilets. The Discharger could have also inspected the digester more frequently. It is appropriate to use a culpability multiplier of 0.9 for this adjustment factor.

Cleanup and Cooperation
This factor reflects the extent to which a discharger voluntarily cooperated in returning to compliance and correcting environmental damage. A multiplier between 0.75 and 1.5 is to be used, with a higher multiplier when there is a lack of cooperation. Although the Discharger was not able to clean up any of the discharge to Wolf Creek from the spill, the Discharger cooperated by providing prompt notification of the discharge events and taking steps to minimize the effects of the spill. The Discharger has also committed to perform more frequent cleaning of the digester to prevent future spills. Therefore, the Discharger was given a multiplier value of 0.9.

History of Violation
When there is a history of repeat violations, the Enforcement Policy requires a minimum multiplier of 1.1 to be used. The Discharger does not have a history of reoccurring spills due to disposable wipes. Therefore, the Discharger was given a neutral multiplier value of 1.

**Step 5 - Determination of Total Base Liability Amount**
The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Initial Liability Amount determined in Step 2.

**Total Base Liability Amount for Spill #6 (May 2013 plant spill):** This value is calculated as the Initial Liability Amount ($12,000) X Adjustment Factors (0.9) (0.9) (1) and is equal to $9,720.

## *Violation #7: 15 Separate Sanitary Sewer Overflows (SSOs)*

Attachment A to this Settlement Order lists 15 SSOs that spilled from the Discharger's sanitary sewer system between December 2009 and January 2014. These SSOs entered waters of the US. There were other SSOs from the Discharger's sanitary sewer collection system during this time period, but they are not a part of this Settlement Agreement. According to the Discharger, the spills were caused by such factors as root intrusion, debris in the line, grease

deposition, pipe failure, or significant rainfall. The Discharger was able to recover all or a portion of each SSO. However, for the 15 SSO violations covered in this Settlement Agreement, a total of 27,154 gallons of raw sewage entered surface waters over a period of 77 days.

**Step 1 – Potential for Harm for Discharge Violations**

The Harm to Beneficial Uses factor and the Physical Characteristics of the Discharge factor are the same as for Violation #1 (i.e., 3 and 3). The Susceptibility to Cleanup Factor is 0 because the Discharger was able to recover more than 50% of the volume of the combined SSOs. The final Potential for Harm score is 6.

**Step 2 – Assessment for Discharge Violations**

This step addresses administrative civil liabilities for the spills based on both a per-gallon and a per-day basis.

1. Per Gallon Assessments for Discharge Violations

When there is a discharge, the Central Valley Water Board is to determine an initial liability amount on a per gallon basis using on the Potential for Harm score and the Extent of Deviation from Requirement of the violation.

The Potential for Harm Score was determined in Step 1, and is 6. The Extent of Deviation is considered "moderate" because the WDRs prohibit the discharge of discharge of wastewater that is not tertiary treated, and only allows the discharge at one point in Wolf Creek. Table 1 of the Enforcement Policy (p. 14) is used to determine a "per gallon factor" based on the total score from Step 1 and the level of Deviation from Requirement. For this particular case, the factor is 0.15. This value is multiplied by the volume of discharge and the per gallon civil liability, as described below.

A total of 27,154 gallons was discharged to surface waters. Water Code section 13385(c)(2) states that the civil liability amount is to be based on the number of gallons discharged but not cleaned up over 1,000 gallons. As shown in Table A, spills #13, 15, 16, and 21 were over 1,000 gallons; the aggregate amount of these four spills, minus 1,000 gallons each, is 20,230 gallons. The maximum civil liability allowed under Water Code section 13385 on a per gallon basis is $10/gallon.

The Per Gallon Assessment is calculated as (0.15 factor from Table 1) x (20,230 gallons) x ($10 per gallon). The value is $30,345.

2. Per Day Assessments for Discharge Volumes

When there is a discharge, the Central Valley Water Board is to determine an initial liability amount on a per day basis using the same Potential for Harm and the Extent of Deviation from Requirement that were used in the per-gallon analysis. The "per day" factor (determined from Table 2 of the Enforcement Policy) is 0.15.

The sanitary sewer overflows that are the subject of this enforcement action occurred for a total of five days. Therefore, the Per Day Assessment is calculated as (0.15 factor from Table 2) x (77 days) x ($10,000 per day). The value is $115,500.

**Initial Liability Amount:** The value is determined by adding together the per gallon assessment and the per day assessment. For this violation, the total is $145,845.

**Step 3 – Per Day Assessment for Non-Discharge Violation**
The Enforcement Policy states that the Central Valley Water Board shall calculate an initial liability for each non-discharge violation. In this case, this factor does not apply because all of the violations are related to the discharge of wastewater, and the liability was determined in Step 2.

**Step 4 – Adjustment Factors**
There are three additional factors to be considered for modification of the amount of initial liability: the violator's culpability, efforts to clean up or cooperate with regulatory authority, and the violator's compliance history.

Culpability
Higher liabilities should result from intentional or negligent violations as opposed to accidental violations. The spills were due to a lack of preventative maintenance or to high I/I. The Discharger acknowledges the ongoing I/I problems and the need to maintain the collection system, as can be seen in the Capital Improvement Project Program (CIP). The Discharger also recently received a $500,000 grant from the State Water Board to study its I/I problem. A multiplier of 1 is appropriate.

Cleanup and Cooperation
This factor reflects the extent to which a discharger voluntarily cooperated in returning to compliance and correcting environmental damage. A multiplier between 0.75 and 1.5 is to be used, with a higher multiplier when there is a lack of cooperation. The Discharger was able to clean up a majority of the volume of the spills, and the Discharger cooperated by providing prompt notification of the discharge events. Therefore, the Discharger was given a multiplier value of 0.8.

History of Violation
When there is a history of repeat violations, the Enforcement Policy requires a minimum multiplier of 1.1 to be used. The Discharger has a history of sanitary sewer overflows relating to storm events, although for the most part not in the exact locations, and has been assessed a civil liability for reoccurring overflows at 450 Mill Street. Therefore, the Discharger was given a multiplier value of 1.1.

**Step 5 - Determination of Total Base Liability Amount**
The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Initial Liability Amount determined in Step 2.

**Total Base Liability Amount for Sanitary Sewer Overflows:** This value is calculated as the Initial Liability Amount ($145,845) X Adjustment Factors (1) (0.8) (1.1) and is equal to $128,343.

## COMBINED TOTAL BASE LIABILITY AND FACTORS APPLIED TO ALL VIOLATIONS

The combined base liability for all seven violations is $283,188.

**Step 6 - Ability to Pay and Ability to Continue in Business**
The ability to pay and to continue in business factor must be considered when assessing administrative civil liabilities. In 2012, the U.S.EPA's model MUNIPAY was used to analyze the economic and financial condition of Grass Valley, and to quantify the City's ability to pay a penalty. The analysis determined that the City has an ability to pay the proposed $209,000 penalty.

**Step 7 – Other Factors as Justice May Require**
If the Central Valley Water Board believes that the amount determined using the above factors is inappropriate, the amount may be adjusted under the provision for "other factors as justice may require," but only if express findings are made to justify this.

**Step 8 – Economic Benefit**
Pursuant to Water Code section 13385(e), civil liability, at a minimum, must be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation.

The U.S.EPA's model BEN was used to evaluate the economic benefit derived from delaying or avoiding compliance with existing environmental regulations. Using the model, the economic benefit of noncompliance is calculated to be $109,610.

**Final adjusted liability**
The final adjusted liability is $283,000.

**Step 9 – Maximum and Minimum Liability Amounts**
The maximum and minimum amounts for discharge violation must be determined for comparison to the amounts being proposed. These values are calculated in the ACL Complaint, and the values are repeated here.

Water Code maximum liability amount: $1,997,300

Water Code minimum liability amount: $109,610 (economic benefit)

Enforcement Policy minimum liability amount: $120,571 (economic benefit plus 10%)

**Step 10 – Final Liability Amount**
The final liability amount consists of the added amounts for each violation, with any allowed adjustments, provided amounts are within the statutory minimum and maximum amounts. Using the Penalty Calculation Methodology, as described above, the penalty amount should be $283,000. However, in the interest of settlement, and in recognition of the staff resources needed if this matter were to proceed to hearing, the proposed Administrative Civil Liability is **$209,000**.

ATTACHMENT C
ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2015-0505

**Supplemental Environmental Project ("SEP") Description**

**Project Title:** Private Lateral Repair/Replacement Project ("PLRP")

**Geographic Area of Interest:** City of Grass Valley; Wolf Creek watershed

**Name and Contact Information for Responsible Entity:**

Timothy M. Kiser, Public Works Director/City Engineer
City of Grass Valley
125 East Main Street
Grass Valley, CA 94945
Tel: (530) 274-4351; Fax: (530) 274-4399
email: timk@cityofgrassvalley.com

**Estimated Cost of Project:** The City will spend at least $104,500 for the direct cost of replacing/ repairing private laterals. Other costs to implement this project will be borne by the City and are not considered part of this SEP.

**Project Description:** The PLRP is intended to reduce infiltration and inflow ("I/I") into the City's collection system due to defective private sewer laterals. A reduction in I/I will benefit water quality by decreasing the potential for spills of untreated sewage from the City's collection system to surface waters. In addition, the program is intended to reduce the number and volume of spills from defective private laterals, and to also reduce the I/I flows treated by the City's wastewater treatment plant. The two goals of the PLRP are to (a) provide an opportunity for property owners to repair or replace private laterals and thereby reduce I/I entering the City's collection system, and (b) to focus private laterals repairs or replacements in the older or problematic areas of the City's collection system. The City will achieve these goals by inspecting, repairing, and/or replacing private sewer laterals in a single project. The project will be a voluntary first-come, first-served program.

**Water Body, Beneficial Use, or Pollutant Addressed by the Project:** The project will help to reduce the amount of I/I entering the City's collection system from private laterals, thereby reducing flows in the collection system and decreasing the likelihood of future spills from the City's collection system and wastewater treatment plant. In addition, repair or replacement of defective private laterals is expected to reduce the number of private lateral spills, thus protecting and enhancing the beneficial uses of Wolf Creek.

**Project Tasks, Budget, and Deliverables:**

1. Progress Reports on Public Outreach and Solicitation of Interested Customers. The City will prepare and conduct a public outreach program to inform residents within its service area about the importance of repairing and replacing defective private sewer laterals. The City will identify target areas (i.e., older or more problematic areas of the collection system) that will benefit most from this program. Although all residents will receive the general public outreach materials, residents in the target areas will be given highest priority if there is a large demand for this program.
   *Estimated Cost:* The cost of this task is not part of this SEP.

*Deliverable*: The first Progress Report should include a copy of the public outreach documents, and a listing of the target areas. The second progress report in July shall describe any updates since the first progress report.

*Due Dates:* **30 April 2015** and **30 July 2015.**

2. Develop List of Replacement Projects. The City will implement its outreach program and prepare a list of residents who have volunteered to have their private laterals repaired or replaced.
   *Estimated Cost*: The cost of this task is not part of this SEP.
   *Deliverable*: A list (by address) of the residents who have volunteered for the project.
   *Due Date:* **30 October 2015**

3. Competitively Bid and Award a Construction Contract, Begin Project.
   *Estimated Cost*: The cost of this task is not part of this SEP.
   *Deliverables*: Provide evidence that the construction contract has been awarded.

   *Due Date:* **30 January 2016**

4. Implement Project. For each private sewer lateral that is part of the project, the contractor will clean and conduct closed circuit television ("CCTV") inspections, smoke tests, or other tests to determine the condition of the lateral. If the private lateral is found to be in good condition, then the resident will receive a copy of the inspection report and a clearance certificate. If the lateral is determined to qualify for repair or replacement, then the contractor will repair the defects in the most cost efficient manner, up to a cost of $3,000 (any additional cost is to be borne by the lateral owner). For low- or fixed-income residents, construction costs above this amount may be split 50/50 between the City and the residents.
   *Estimated Cost*: At least $104,500.
   *Deliverables*:
   (1) Provide a list of the laterals inspected to date
   (2) Provide the results of the inspections,
   (3) Provide a description of the repairs (if applicable).
   (4) Provide a summary of the funds expended to date.
   *Due Dates:* **30 April 2016** and **30 July 2016**

   Final Project Report. The final report is to include a summary of all funds expended for the project, a listing (by address) of all private laterals inspected, and a description of the repairs/replacements that were completed. The report must include the contractor's invoices and documentation showing that the invoices were paid by the City. The accounting shall clearly show whether the final cost of the SEP is less than, equal to, or more than the suspended liability amount of the Stipulated Order. The following statement must be included above the signature line of the report: "I certify under penalty of perjury that the foregoing is true and correct."
   *Due Date:* **30 October 2016**