

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2011-0598  
For

MANDATORY PENALTY  
IN THE MATTER OF

BELL-CARTER OLIVE CO. INC. AND  
THE CITY OF CORNING  
BELL-CARTER INDUSTRIAL WASTEWATER TREATMENT PLANT  
TEHAMA COUNTY

WDID NO. 5A520303002

This Administrative Civil Liability Complaint (Complaint) is issued to Bell-Carter Olive Co. Inc. and the City of Corning, (hereafter Discharger) pursuant to California Water Code (CWC) section 13385, which authorizes the imposition of Administrative Civil Liability, CWC section 13323, which authorizes the Executive Officer to issue this Complaint, and CWC section 7, which authorizes the delegation of the Executive Officer's authority to a deputy, in this case the Assistant Executive Officer. This Complaint is based on findings that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Order R5-2007-0166 (NPDES No. CA0083721).

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

1. Bell-Carter Olive Co. Inc. is the owner/operator of the Bell-Carter Industrial Wastewater Treatment Plant (hereinafter Facility), which treats olive processing wastewater prior to discharge to the Sacramento River. The City of Corning owns the property on which the Facility is located.
2. On 6 December 2007, the Central Valley Water Board adopted Waste Discharge Requirements Order R5-2007-0166 (NPDES No. CA0083721), to regulate discharges of industrial wastewater generated from the processing of olives. Both Bell-Carter Olive Co., Inc. and The City of Corning are listed as the Discharger on Order R5-2007-0166.
3. This Complaint covers the period of 1 July 2010 through 30 April 2011. On 19 July 2011, Central Valley Water Board staff issued the Discharger a draft Record of Violations (ROV) for the above time period. Staff has discussed the ROV with Bell-Carter Olive Co. Inc.; none of the violations are being contested.
4. CWC section 13385(h) and (i) require assessment of mandatory penalties and state, in part, the following:

CWC section 13385(h)(1) states:

Notwithstanding any other provision of this division, and except as provided in subdivisions (j), (k), and (l), a mandatory minimum penalty of three thousand dollars (\$3,000) shall be assessed for each serious violation.

CWC section 13385 (h)(2) states:

For the purposes of this section, a 'serious violation' means any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 20 percent or more or for a Group I pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 40 percent or more.

5. CWC section 13358 (i) requires the assessment of mandatory penalties and states in part, the following:

Notwithstanding any other provision Notwithstanding any other provision of this division, and except as provided in subdivisions (j), (k), and (l), a mandatory minimum penalty of three thousand dollars (\$3,000) shall be assessed for each violation whenever the person does any of the following four or more times in any period of six consecutive months, except that the requirement to assess the mandatory minimum penalty shall not be applicable to the first three violations:

- A) Violates a waste discharge requirement effluent limitation.
- B) Fails to file a report pursuant to Section 13260.
- C) Files an incomplete report pursuant to Section 13260.
- D) Violates a toxicity effluent limitation contained in the applicable waste discharge requirements where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.

6. CWC section 13323 states, in part:

Any executive officer of a regional board may issue a complaint to any person on whom administrative civil liability may be imposed pursuant to this article. The complaint shall allege the act or failure to act that constitutes a violation of law, the provision authorizing civil liability to be imposed pursuant to this article, and the proposed civil liability.

7. WDRs Order No. R5-2007-0166 includes, Effluent Limitations IV.A.1.a., which states, in part, the following final effluent limitations:

1. The Discharger shall maintain compliance with the following effluent limitations at Discharge Point D-001, with compliance measured at Monitoring Location EFF-001 as described in the attached MRP (Attachment E):

**Table 6. Effluent Limitations**

Parameter	Units	Effluent Limitation			
		Average Monthly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
Flow	mgd	0.95	1.4	--	--
BOD 5-day @ 20°C	mg/L	100	150	--	--
	lbs/day	792 <sup>1</sup>	1,168 <sup>2</sup>	--	--
Total Suspended Solids	mg/L	100	200	--	--
	lbs/day	792 <sup>1</sup>	1,168 <sup>2</sup>	--	--
Chlorine Residual	mg/L	--	0.02	--	--
Settleable Solids	mL/L	0.1	0.2	--	--
Total Dissolved Solids	lbs/day	--	79,800	--	--
Chlorides	lbs/day	--	27,900	--	--
pH	s.u.	--	--	6.0	9.5
Ammonia	mg/L	8.2	24.0	--	--

8. According to the Discharger's self-monitoring reports, the Discharger committed four (4) serious Group I violations of the above effluent limitations contained in WDRs Order R5-2007-0166 during the period beginning 1 July 2010 and ending 30 April 2011. The violations are defined as serious because the measured concentrations of a Group I constituents exceeded maximum prescribed levels in WDRs Order R5-2007-0166 by 40 percent or more. The mandatory minimum penalty for these serious violations is **twelve thousand dollars (\$12,000)**.

9. According to the Discharger's self-monitoring reports, the discharger committed four (4) non-serious Group I violations of the above effluent limitations contained in WDRs Order R5-2007-0166 during the period beginning 1 July 2010 and ending 30 April 2011. The first three non-serious violations are not subject to mandatory minimum penalties (CWC section 13358(i)(1)), as they fall within the first three violations during a six month period. The mandatory minimum penalty for the remaining non-serious violations is **six thousand dollars (\$6,000)**.

10. The total amount of the mandatory minimum penalties assessed for the cited effluent violations is **eighteen thousand dollars (\$18,000)**. The cited effluent violations are included in Attachment A, a part of this Order.

11. Issuance of this Administrative Civil Complaint to enforce CWC Division 7, Chapter 5.5 is exempt from provisions of the California Environmental Quality Act (Pub. Resources Code section 21000 et seq.), in accordance with California Code of Regulations, title 14, section 15321 subsection (a)(2).

**BELL-CARTER OLIVE CO. INC. AND THE CITY OF CORNING IS HEREBY GIVEN NOTICE THAT:**

- 1) The Assistant Executive Officer of the Central Valley Water Board proposes that the Discharger be assessed an Administrative Civil Liability in the amount of **eighteen thousand dollars (\$18,000)**.
- 2) A hearing on this matter will be conducted at the Central Valley Water Board meeting scheduled **on 2/3 February 2012**, unless either of the following occurs by **15 December 2011**:
  - a) The Discharger waives the hearing by completing the attached form (checking off the box next to Option #1) and returning it to the Central Valley Water Board, along with payment for the proposed civil liability of **eighteen thousand dollars (\$18,000)**; or
  - b) The Central Valley Water Board agrees to postpone any necessary hearing after the Discharger requests to engage in settlement discussions by checking off the box next to Option #2 on the attached form, and returns it to the Board along with a letter describing the issues to be discussed; or
  - c) The Central Valley Water Board agrees to postpone any necessary hearing after the Discharger requests a delay by checking off the box next to Option #3 on the attached form, and returns it to the Board along with a letter describing the issues to be discussed.
- 3) If a hearing on this matter is conducted, the Central Valley Water Board will consider whether to affirm, reject, or modify the proposed Administrative Civil Liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.

If this matter proceeds to hearing, the Executive Officer reserves the right to amend the proposed amount of civil liability to conform to the evidence presented, including but not limited to, increasing the proposed amount to account for the costs of enforcement (including staff, legal and expert witness costs) incurred after the date of the issuance of this Complaint through completion of the hearing.

\_\_\_\_\_  
ROBERT A CRANDALL, Assistant Executive Officer

\_\_\_\_\_  
(date)

**WAIVER FORM  
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

By signing this waiver, I affirm and acknowledge the following:

I am duly authorized to represent Bell-Carter Olive Co. Inc. and the City of Corning (hereafter Discharger) in connection with Administrative Civil Liability Complaint **R5-2011-0598** (hereafter Complaint). I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served. The person who has been issued a complaint may waive the right to a hearing."

**(OPTION 1: Check here if the Discharger waives the hearing requirement and will pay in full.)**

- a. I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board.
- b. I certify that the Discharger will remit payment for the proposed civil liability in the full amount of **eighteen thousand dollars (\$18,000)** by check that references "ACL Complaint **R5-2011-0598**" made payable to the *State Water Pollution Cleanup and Abatement Account*. Payment must be received by the Central Valley Water Board by **15 December 2011**.
- c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after a 30-day public notice and comment period. Should the Central Valley Water Board receive significant new information or comments during this comment period, the Central Valley Water Board's Executive Officer may withdraw the complaint, return payment, and issue a new complaint. I also understand that approval of the settlement will result in the Discharger having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
- d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

**(OPTION 2: Check here if the Discharger waives the 90-day hearing requirement in order to engage in settlement discussions.)** I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board within 90 days after service of the complaint, but I reserve the ability to request a hearing in the future. I certify that the Discharger will promptly engage the Central Valley Water Board Prosecution Team in settlement discussions to attempt to resolve the outstanding violation(s). By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing so that the Discharger and the Prosecution Team can discuss settlement. It remains within the discretion of the Central Valley Water Board to agree to delay the hearing. Any proposed settlement is subject to the conditions described above under "Option 1."

**(OPTION 3: Check here if the Discharger waives the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines. Attach a separate sheet with the amount of additional time requested and the rationale.)** I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board within 90 days after service of the complaint. By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing and/or hearing deadlines so that the Discharger may have additional time to prepare for the hearing. It remains within the discretion of the Central Valley Water Board to approve the extension.

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(Print Name and Title)

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(Signature)

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(Date)

**ATTACHMENT A - ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2011-0598**

**BELL-CARTER OLIVE COMPANY INC. AND CITY OF CORNING  
INDUSTRIAL WASTEWATER TREATMENT PLANT**

**MANDATORY MINIMUM PENALTIES  
(Data reported under Monitoring and Reporting Program No. R5-2007-0166)**

<b>Violation Date</b>	<b>Pollutant/ Parameter</b>	<b>Effluent Limit</b>	<b>Analytical Results</b>	<b>Percentage Over</b>	<b>Violation Type</b>	<b>MMP Amount</b>
7/21/2010	Settleable Solids	0.2 mL/L (Daily Maximum)	0.4 mL/L	100	Serious, Group I	\$3,000.00
1/26/2011	BOD	150 mg/L (Daily Max.)	166 mg/L	11	Non-Serious, Group I	-- <sup>1</sup>
1/26/2011	BOD	1168 lbs/day (Daily Max.)	1588 lbs/day	36	Non-Serious, Group I	-- <sup>1</sup>
2/16/2011	Settleable Solids	0.2 mL/L (Daily Max.)	0.3 mL/L	50	Serious, Group I	\$3,000.00 <sup>2</sup>
4/13/2011	BOD	150 mg/L (Daily Max.)	360 mg/L	140	Serious, Group I	\$3,000.00
4/13/2011	BOD	1168 lbs/day (Daily Max.)	2891 lbs/day	147	Serious, Group I	\$3,000.00
4/30/2011	BOD	100 mg/L (Monthly Ave.)	122 mg/L	22	Non-Serious, Group I	\$3,000.00
4/30/2011	BOD	792 lbs/day (Monthly Ave.)	920 lbs/day	16	Non-Serious, Group I	\$3,000.00
<b>TOTAL</b>						<b>\$18,000.00</b>

<sup>1</sup>First three non-serious violations are not subject to mandatory minimum penalties.

<sup>2</sup> serious violation used as support for chronic MMPs.

- Notes:
- Serious Group I: any waste discharge that exceeds the effluent limitations for a group I pollutant by 40% or more.
  - Serious Group II: any waste discharge that exceeds the effluent limitations for a group II pollutant by 20% or more.
  - Non-Serious Violation: A non-serious violation occurs if the discharger does any one of the following four or more times in any period of 180 days:
    - (a) violates a WDR effluent limitation;
    - (b) fails to file a report of waste discharge pursuant to California Water Code section 13260;
    - (c) files an incomplete report of waste discharge pursuant to California Water Code section 13260; or
    - (d) violates a whole effluent toxicity limitation where the WDRs do not contain pollutant-specific effluent limitations for any toxic pollutants.