

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

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R7-2016-0021
IN THE MATTER OF
IMPERIAL IRRIGATION DISTRICT
GRASS CARP HATCHERY

IMPERIAL IRRIGATION DISTRICT IS HEREBY GIVEN NOTICE THAT:

1. Imperial Irrigation District (Discharger) is alleged to have violated effluent limitations of Waste Discharge Requirements (WDRs) Orders R7-2010-0023 (NPDES No. CA7000004) for which the Regional Water Quality Control Board, Colorado River Basin (Colorado River Basin Water Board) may impose civil liability pursuant to California Water Code section 13385.
2. Water Code section 13323 authorizes the Interim Executive Officer of the Colorado River Basin Water Board to issue this Administrative Civil Liability Complaint (Complaint); and Water Code section 7 authorizes the Interim Executive Officer to delegate these powers and duties to the Interim Assistant Executive Officer. The Interim Executive Officer of this Colorado River Basin Water Board has delegated the issuance of Complaints to the Interim Assistant Executive Officer.
3. The Discharger owns and operates the Grass Carp Hatchery (Hatchery) located at 485 E. Villa Road, El Centro, CA 92243 in Imperial County. The facility is split into two sections to accommodate different phases in grass carp growth and development. Fertilization and initial growth of the fish is conducted at the El Centro Fish Hatchery served by Discharge Point 001. When the carp have matured sufficiently to subsist on green plant material, they are transported to the Villa Road Grow-out Facility served by Discharge Point 002.

EL CENTRO FISH HATCHERY:

4. Intake water is diverted by gravity from the Imperial Irrigation District's Dogwood Canal to the Facility for use in aquatic organism production as process water. A collection of small and large fiberglass tanks are used for rearing the smallest fish which, once they mature to the juvenile stage, are then transferred to any of nine earthen, unlined ponds. Once the fish grow to 3 to 4 inches in size, they are transferred to the Villa Grow-out Facility.

The process water circulated in the fiberglass tanks and earthen ponds are conveyed to a primary collection sump and distributed between three secondary sumps. The secondary sumps possess a vertical header pipe equipped with a fine-mesh screen. Process water then collects at a final tertiary sump equipped with a long "mesh sock" designed to trap and retain grass carp eggs and fry. Process water is then pumped to a vegetated swale, where it drains by gravity to the inlet pipe for Discharge Point 001.

VILLA GROW-OUT FACILITY:

5. The Villa Grow-out Facility is comprised of 12 earthen ponds and a 13th large holding pond. Process water from each pond is collected at a main sump for conveyance to a

sedimentation pond. Water is treated via sedimentation and exits at Discharge Point 002, located on the distal end of the pond.

6. Final effluent is discharged from the Hatchery through Discharge Point 001 to the Central Main Drain No. 5, a tributary to the Alamo River and a water of the United States. According to daily discharge records dating from November 2010 through October 2015, the El Centro Fish Hatchery has an average daily flow of 0.13 MGD. The El Centro Fish Hatchery has a design flow of 1.44 MGD.
7. Final effluent is discharged from the Villa Grow-out Facility through Discharge Point 002 also to the Central Main Drain No. 5, a tributary to the Alamo River and a water of the United States. According to daily discharge records dating from March 2011 through October 2015, the Villa Grow-out Facility has an average daily flow of 0.25 MGD. The Villa Grow-out Facility has a design flow of 1.08 MGD.
8. The Colorado River Basin Water Board adopted WDRs Order R7-2010-0023 on September 16, 2010. The purpose of this Order is to regulate discharges of wastewater from the Hatchery. This Order includes effluent limitations, prohibitions, specifications, and provisions necessary to protect the beneficial uses of the surface and ground waters within the Colorado River Basin Region.
9. WDRs Order R7-2010-0023 contains the following final effluent limitations for total suspended solids (page 9, section IV.A.1.a, Table 6) with which the Discharger is required to maintain compliance at Discharge Point 001:

Parameter	Units	Effluent Limitations
		Average Monthly
Total Suspended Solids (TSS)	mg/L	60
	lbs/day ¹	721

¹ The mass-based effluent limitations are based on a design capacity of 1.44 MGD

10. WDRs Order R7-2010-0023 contains the following final effluent limitations for total suspended solids (page 10, section IV.B.1.a, Table 7) with which the Discharger is required to maintain compliance at Discharge Point 002:

Parameter	Units	Effluent Limitations
		Average Monthly
Total Suspended Solids (TSS)	mg/L	60
	lbs/day ¹	540

¹ The mass-based effluent limitations are based on a design capacity of 1.08 MGD

ALLEGATIONS:

11. On or about and between July 1, 2012 and August 31, 2015, self-monitoring reports submitted by the Discharger show that the wastewater discharged from the Hatchery exceeded the effluent limitations for total suspended solids (TSS) set forth in WDRs Order R7-2010-0023 on forty (40) occasions, as identified in Exhibit "A". Exhibit "A" is attached hereto and incorporated herein by this reference. This Complaint only

addresses administrative civil liability for violations specifically identified in Exhibit "A" as subject to Mandatory Minimum Penalty (MMP).

LEGAL PROVISIONS UPON WHICH LIABILITY IS BASED:

12. Water Code section 13385, subdivision (h)(1) requires the Colorado River Basin Water Board to assess an MMP of three thousand dollars (\$3,000) for each serious violation.
13. Water Code section 13385, subdivision (h)(2), in part, the following: "For the purpose of this Section, a 'serious violation' means any waste discharge that violates the effluent limitations... 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."
14. Water Code section 13385, subdivision (i)(1) also requires the Colorado River Basin Water Board to assess an MMP of three thousand dollars (\$3,000) for each violation, not counting the first three violations, if the Discharger does any of the following four or more times in a period of six consecutive months (hereafter "chronic violation"):
 - 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; or
 - 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.
15. Water Code section 13385, subdivision (i)(2) states the following: "For the purpose of this Section, a 'period of six consecutive months' means the period commencing on the date that one of the violations described in this subdivision occurs and ending 180 days after that date."

PROPOSED CIVIL LIABILITY ASSESSMENT:

16. The Interim Assistant Executive Officer of the Colorado River Basin Water Board proposes that the Discharger be assessed an MMP of **one hundred eleven thousand dollars (\$111,000)** for exceeding the effluent limitations for total suspended solids (TSS) specifically identified in Exhibit "A" as subject to MMPs.
17. Pursuant to Water Code section 13323(b), the Colorado River Basin Water Board will hold a Public Hearing on this matter within 90 days after service of this Complaint, unless the Discharger chooses either of the following two options:
 - a. Waive the right to a Hearing before the Colorado River Basin Water Board and pay the proposed MMPs of \$111,000 in full; or
 - b. Waive the right to a Hearing before the Colorado River Basin Water Board within 90 days after service of this Complaint to engage the Colorado River Basin Water Board Prosecution Team in settlement discussions.

18. If the Discharger chooses to waive the right to a hearing and pay the proposed penalty, an authorized representative shall within 30-days of this Complaint, sign the enclosed Waiver and make out a check for the full amount of the proposed liability, payable to the "State Water Pollution Cleanup and Abatement Account." The check shall be remitted to the following address:

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

The signed Waiver and a copy of the check shall be sent to the following address:

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

19. If the Discharger chooses to propose a supplemental environmental project (SEP), an authorized representative shall sign the enclosed Waiver and submit it within 30-days of this Complaint. The Discharger shall also submit a settlement proposal, including a SEP proposal, to the Colorado River Basin Water Board. The Waiver and settlement proposal shall be mailed to the Colorado River Basin Water Board address listed above. The SEP Policy is available on the State Water Resources Control Board's website under plans and policies.
20. If a Hearing on this matter is held, the Colorado River Basin Water Board will consider whether to affirm, reject, or modify the proposed Administrative Civil Liability (up to the maximum penalty provided for by law), or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
21. Regulations of the United States Environmental Protection Agency require public notification of any proposed settlement of the civil liability occasioned by violation of the Clean Water Act. Accordingly, interested persons will be given thirty (30) days to comment on any proposed settlement of this Complaint.
22. Issuance of this Complaint is an enforcement action and is, therefore, exempt from the California Environmental Quality Act (Pub. Resources Code section 21000 et seq.), pursuant to California Code of Regulations, Title 14, section 15321, subdivision (a)(2). This is an action to enforce the laws and regulations administered by the Colorado River Basin Water Board. The method of compliance with this enforcement action consists entirely of payment of an administrative penalty. As such, the Colorado River Basin Water Board finds that issuance of this Complaint is not considered subject to the provisions of the California Environmental Quality Act (CEQA) as it will not result in a direct or reasonably foreseeable indirect physical change in the environment and is not considered a "project" (Public Resources Code 21065, 21080(a); 15060(C)(2), (3); 15378(a), Title 14, of the California Code of Regulations). In addition, the Colorado River Basin Water Board finds that issuance of this Complaint is also exempt from the provisions of CEQA in accordance with section 15321(a)(2), Title 14, of the California Code of Regulations as an enforcement action by a regulatory agency and that there are no exceptions that would preclude the use of this exemption. Should the Discharger

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propose a SEP, compliance with CEQA will be revisited for the appropriate lead agency to address CEQA requirements prior to implementing a SEP that may have significant impact on the environment.

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ABDI HAILE
Interim Assistant Executive Officer

April 13, 2016

Date