

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R5-2008-0586

MANDATORY PENALTY
IN THE MATTER OF

CITY OF GALT
WASTEWATER TREATMENT PLANT
SACRAMENTO COUNTY

This Order is issued to the City of Galt, Wastewater Treatment Plant (hereafter Discharger) pursuant to California Water Code (CWC) section 13385, which authorizes the imposition of Administrative Civil Liability. This Complaint is based on findings that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Order Nos. 97-111 and R5-2004-0001 (NPDES No. CA0081434).

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

1. The Discharger owns and operates a wastewater collection, treatment, and disposal system, and provides sewerage service for Galt. Treated wastewater is discharged to Laguna Creek, tributary to the Cosumnes River, a water of the United States.
2. On 20 June 1997, the Central Valley Water Board adopted WDRs Order No. 97-111 to regulate discharges of waste from the wastewater treatment plant (WWTP). On 29 January 2004, the Central Valley Water Board adopted WDRs Order No. R5-2004-0001, which contained new requirements and rescinded WDRs Order No. 97-111.
3. On 30 December 2004, the Central Valley Water Board and the City of Galt entered into a stipulated agreement to resolve matters raised in a petition before the State Water Resources Control Board, which was approved by the State Water Resources Control Board in WQO 2005-0003. The stipulation remanded Order R5-2004-0001 and vacated effluent limitations for aluminum, hexavalent chromium, copper, cyanide, lead, silver, ammonia, arsenic, iron, carbon tetrachloride, bromodichloromethane, dibromochloromethane, bis(2-ethylhexyl)phthalate, nitrate, coliform, turbidity, biological oxygen demand, and total suspended solids found in Effluent Limitations B1. of Order No. R5-2004-0001, as well as the compliance period for any such limitations found in the Provisions of the Order.
4. On 14 May 2008, the Central Valley Water Board sent the Discharger a draft Record of Violations. On 11 June 2008, the Discharger responded. After consideration of information submitted by the Discharger, Central Valley Water Board staff prepared a technical memorandum, discussed in Finding No. 12 of this Order and available in the Board's public file.

5. CWC sections 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.”*

CWC section 13385(i)(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 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. 97-111 Effluent Limitations No. B.1., include, in part, the following: *“Effluent shall not exceed the following limits:”*

<u>Constituents</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Monthly Median</u>	<u>Daily Maximum</u>
Chlorine Residual ⁴	mg/L	--	--	--	0.02
Total Coliform Organisms	MPN/100 mL			23	230

⁴ When discharging to Laguna Creek (the Cosumnes River), Discharge No. 001

8. WDRs Order No. 97-111 Effluent Limitations B.3 requires: *“The discharge shall not have a pH less than 6.5 nor greater than 8.5.”*

9. WDRs Order No. R5-2004-0001, Effluent Limitations B.1. requires, in part: “*Effluent shall not exceed the following limits.*”

<u>Constituent</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>7-Day Median</u>	<u>Daily Average</u>	<u>Daily Maximum</u>
Settleable Solids	mL/L	0.1	--	--	--	0.2

<u>Constituent</u>	<u>Units</u>	<u>4-Day Average</u>	<u>1-Hour Average</u>	<u>30-Day Average</u>
Chlorine Residual	mg/L	0.01	0.02	--
	lb/day ²	0.25	0.50	--

² Based upon a design treatment capacity of 3.0 mgd. For reporting purposes, compliance with these limitations shall be determined as follows: measured concentration (in mg/L) * 8.345 (conversion factor) * monthly average flow rate.

10. WDRs Order No. R5-2004-0001, Effluent Limitations B.2. requires, in part: “*Effective immediately, the following ... TSS... interim effluent limitations shall be in effect...*” [Note: the end date for this limitation was removed by the 30 December 2004 Stipulation.]

<u>Constituent</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Monthly Median</u>	<u>Daily Maximum</u>
Total Suspended Solids ²	mg/L	30	45	--	60
	lb/day ³	750	1125		1500

² To be ascertained by a 24-hour composite.

³ Based upon a design treatment capacity of 3.0 mgd. For reporting purposes, compliance with these limitations shall be determined as follows: measured concentration (in mg/L) * 8.345 (conversion factor) * monthly average flow rate.

11. WDRs Order No. R5-2004-0001, Effluent Limitations B.5. requires: “*The discharge shall not have a pH less than 6.5 nor greater than 8.5.*”

12. As described in the technical memorandum mentioned in Finding No. 4, no adjustments have been made to the draft Record of Violations (all violation numbers reference those contained in the draft Notice of Violation). The final Record of Violations can be found as Attachment A, a part of this Order.

- Chlorine Residual Violation 11. The Discharger claimed that there was not an effluent sampling event on 13 January 2003. The laboratory analysis for acute toxicity collected by and submitted by the Discharger showed a 0.14 mg/L chlorine residual. The violation was retained.
- Total Coliform Organisms Violation 12. The Discharger claimed that according to its records, the violation occurred on 31 January 2003 not on 30 January 2003. The

Discharger's self-monitoring report reported the violation on 30 January 2003. The violation was retained.

- Total Suspended Solids and Settleable Solids violations 22, 23, 26-48. The Discharger claimed that the effluent sampling point should have been immediately after the wastewater treatment plant rather than after the storage lagoon. The monitoring location in the WDRs follows the storage lagoon, the last unit in the treatment process. The storage lagoon stores effluent during the summer and the discharges after 1 November. Water from the reclamation and biosolids application area drains into the lagoon. The violations were retained because the samples reflected the effluent quality discharged to Laguna Creek.
13. According to the Discharger's self-monitoring reports, the Discharger committed twenty-one (21) serious Group I violations of the above effluent limitations contained in Order Nos. 97-111 and R5-2004-0001 during the period beginning 1 January 2000 and ending 31 December 2007. The violations are defined as serious because measured concentrations of Group I constituents exceeded maximum prescribed levels by more than 40 percent on these occasions. The mandatory minimum penalty for these serious violations is **sixty-three thousand dollars (\$63,000)**.
 14. According to the Discharger's self-monitoring reports, the Discharger committed six (6) serious Group II violations of the above effluent limitations contained in Order Nos. 97-111 and R5-2004-0001 during the period beginning 1 January 2000 and ending 31 December 2007. These violations are defined as serious because measured concentrations of Group II constituents exceeded maximum prescribed levels by more than 20 percent on these occasions. The mandatory minimum penalty for these serious violations is **eighteen dollars (\$18,000)**.
 15. According to the Discharger's self-monitoring reports, the Discharger committed twenty-one (21) non-serious violations of the above effluent limitations contained in Order Nos. 97-111 and R5-2004-0001 during the period beginning 1 January 2000 and ending 31 December 2007. Nine (9) of the non-serious violations are subject to mandatory penalties under CWC section 13385(i)(1) because these violations were preceded by three or more similar violations within a six-month period. The mandatory minimum penalty for these non-serious violations is **twenty-seven thousand dollars (\$27,000)**.
 16. The total amount of the mandatory penalties assessed for the cited effluent violations is **one hundred eight thousand dollars (\$108,000)**. A detailed list of the cited effluent violations is included in Attachment A, a part of this Order.
 17. CWC section 13385(l) states: *"(1) In lieu of assessing penalties pursuant to subdivision (h) or (i), the state board or the regional board, with the concurrence of the discharger, may direct a portion of the penalty amount to be expended on a supplemental environmental project in accordance with the enforcement policy of the state board. If the penalty amount exceeds fifteen thousand dollars (\$15,000), the portion of the penalty amount that may be directed to be expended on a supplemental environmental project*

may not exceed fifteen thousand dollars (\$15,000) plus 50 percent of the penalty amount that exceeds fifteen thousand dollars (\$15,000)."

"(2) For the purposes of this section, a "supplemental environmental project" means an environmentally beneficial project that a person agrees to undertake, with the approval of the regional board, that would not be undertaken in the absence of an enforcement action under this section."

18. On 14 August 2008, the Assistant Executive Officer issued Administrative Civil Liability Complaint R5-2008-0563 to the City of Galt. The Complaint assessed the Discharger \$108,000 in mandatory minimum penalties, and resolution of the Complaint is considered a settlement pursuant to Federal regulations (40 CFR 123.27). Public Notice of the proposed Complaint was posted on the Central Valley Water Board's website on 14 August 2008, and was also published in a newspaper of general circulation. No public comments were received.
19. Following issuance of ACL Complaint No. R5-2008-0563, the Discharger and Board's enforcement team conferred for the purpose of settling this matter and the allegations herein without a formal hearing. After arms-length negotiations, the Discharger and the Board's enforcement team arrived at a mutually acceptable resolution of the Complaint based on information contained in the record of the Central Valley Water Board. This settlement agreement was presented to the Executive Officer and received her approval, resulting in this Order. The Discharger and the Executive Officer have agreed to settle the administrative civil liability for the full amount proposed in the Complaint (\$108,000). The SEP has been developed in conformity with the requirements of the State Water Board's Enforcement Policy.
20. The Discharger and the Executive Officer agreed to resolve the ACL Complaint as follows: Payment of fifty five thousand seven hundred forty nine dollars (\$55,749) to the *State Water Pollution Control Cleanup and Abatement Account* and the timely completion of a Supplemental Environmental Project (SEP) as outlined in Attachment B to this Order. Expenditures for the SEP shall equal or exceed fifty two thousand two hundred fifty one dollars (\$52,251). The proposed settlement takes into account the factors cited in CWC Section 13385(e) and the State Water Resources Control Board's *Water Quality Enforcement Policy*.
21. The Discharger has waived its right to a hearing before the Central Valley Water Board. This Order is issued to effectuate the parties' settlement.
22. Issuance of this Administrative Civil Liability Order to enforce CWC Division 7, Chapter 5.5 is exempt from the 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(a)(2).

23. On 15 March 2007, the Central Valley Water Board explicitly delegated to the Executive Officer the authority to issue orders to assess administrative civil liability where the matter is not contested by the Discharger (Resolution R5-2007-0009).
24. Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with CWC section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date that this tentative Order becomes final, except that if the thirtieth day following the date that this tentative Order becomes final falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. This tentative Order is set to become final on 29 September 2008. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

IT IS HEREBY ORDERED that Administrative Civil Liability Complaint No. R5-2008-0563 is rescinded and:

1. The City of Galt, its agents, successors and assigns, shall be assessed Administrative Civil Liability in the amount of **one hundred eight thousand dollars (\$108,000)**.
2. By **15 November 2008**, the Discharger shall pay **fifty-five thousand, seven hundred forty-nine dollars (\$55,749)** by check made payable to the "*State Water Pollution Cleanup and Abatement Account*." The check shall have written upon it the number of this ACL Order.
3. The Discharger may satisfy the remaining portion of the assessed liability liability by completing the Supplemental Environmental Project (SEP) set forth in Attachment B, a part of this Order. Actual costs, up to a maximum of **fifty-two thousand, two hundred fifty-one dollars (\$52,251)**, shall be permanently suspended upon the Discharger's timely completion of the SEP, and upon timely submission of an accounting detailing the Discharger's expenditures.
4. By **8 November 2008**, the Discharger shall submit a copy of the partnership agreement between the City of Galt and the Cosumnes River Preserve. The agreement shall show that the City will fund two specific tasks:
 - Excavation
 - Seeding of Native Grasses and Forbs
5. By **31 December 2008**, the Discharger shall submit a report showing that the two above tasks have been satisfactorily completed. The report shall also provide post-project accounting records clearly showing the amount that has been paid to complete this work. If the final cost of the successfully completed SEP is less than the suspended amount of

\$52,251, the Discharger must remit the difference to the *State Water Pollution Cleanup and Abatement Account* by **31 January 2009**.

6. The 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. 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 Executive Officer for any significant departures from the project described in Attachment B. 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 B and the total amount of the suspended penalty.
7. If the Executive Officer determines that any of the tasks listed above are not satisfactorily completed by their respective due date (including any extensions approved by the Executive Officer), the Executive Officer may demand payment of the suspended liability that reflects the portion of the SEP that has not been satisfactorily completed. Payment shall be made via check made payable to the *State Water Pollution Cleanup and Abatement Account*, and shall be due within 30 days of the demand. The check shall have written upon it the number of this ACL Order.
8. Whenever the Discharger or its agents or subcontractors, or any fiscal agent holding SEP funds, publicize any element of a SEP project, they shall state in a prominent manner that the project is being undertaken as part of the settlement of an enforcement action against the Discharger.
9. This Order is effective upon the date of signature.

PAMELA C. CREEDON, Executive Officer

9 October 2008

City Of Galt
Wastewater Treatment Plant

RECORD OF VIOLATIONS (1 January 2000 – 31 December 2007) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Program Nos. 97-111 and R5-2004-0001)

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measured</u>	<u>Period Type</u>	<u>Remarks</u>
1	17-Apr-00	Coliform	MPN/100mL	230	900	Daily	3
2	7-Dec-00	pH	pH units	6.5	6.3	Instantaneous	3
3	11-Jan-01	Coliform	MPN/100mL	230	300	Daily	3
4	5-Dec-01	pH	pH units	6.5	6.2	Instantaneous	3
5	17-Dec-01	Coliform	MPN/100mL	230	2400	Daily	3
6	23-Jan-02	pH	pH units	6.5	5.9	Instantaneous	3
7	6-Mar-02	pH	pH units	8.5	8.8	Instantaneous	4
8	14-Mar-02	pH	pH units	8.5	8.8	Instantaneous	4
9	20-Mar-02	pH	pH units	8.5	8.6	Instantaneous	4
10	17-Apr-02	pH	pH units	8.5	8.6	Instantaneous	4
11	13-Jan-03	Chlorine Residual	mg/L	0.02	0.14	Daily	2
12	30-Jan-03	Coliform	MPN/100mL	230	500	Daily	3
13	13-Mar-03	Coliform	MPN/100mL	230	2400	Daily	3
14	24-Mar-03	pH	pH units	6.5	6.4	Instantaneous	4
15	2-Apr-03	Coliform	MPN/100mL	230	500	Daily	4
16	7-Apr-03	Chlorine Residual	mg/L	0.02	0.04	Daily	2
17	9-Apr-03	Chlorine Residual	mg/L	0.02	0.03	Daily	2
18	14-Apr-03	Chlorine Residual	mg/L	0.02	0.03	Daily	2
19	2-Nov-04	pH	pH units	8.5	9.9	Instantaneous	3
20	9-Nov-04	pH	pH units	8.5	8.8	Instantaneous	3
21	16-Nov-04	pH	pH units	8.5	9.2	Instantaneous	3
22	18-Jan-05	Settleable Solids	mL/L	0.2	0.5	Daily	1
23	31-Jan-05	Settleable Solids	mL/L	0.1	0.23	Monthly	1
24	28-Nov-05	Chlorine Residual	mg/L	0.02	1	1-Hour avg	2
25	28-Nov-05	Chlorine Residual	lbs/day	0.5	17	1-Hour avg	2
26	12-Dec-06	Settleable Solids	mL/L	0.2	0.3	Daily	1
27	26-Dec-06	Settleable Solids	mL/L	0.2	0.4	Daily	1
28	30-Dec-06	Settleable Solids	mL/L	0.1	0.9	Monthly	1
29	4-Dec-07	TSS	mg/L	60	93	Daily	1
30	4-Dec-07	TSS	mg/L	45	93	Weekly	1
31	4-Dec-07	TSS	lbs/day	1500	1552	Daily	3
32	4-Dec-07	TSS	lbs/day	1125	1785	Weekly	4
33	11-Dec-07	TSS	mg/L	60	81	Daily	4
34	11-Dec-07	TSS	mg/L	45	81	Weekly	1
35	11-Dec-07	TSS	lbs/day	1125	1555	Weekly	4
36	18-Dec-07	Settleable Solids	mL/L	0.2	0.8	Daily	1
37	18-Dec-07	TSS	mg/L	60	590	Daily	1
38	18-Dec-07	TSS	mg/L	45	590	Weekly	1
39	18-Dec-07	TSS	lbs/day	1500	12309	Daily	1

ATTACHMENT A
 ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2008-0563
 MANDATORY PENALTY
 CITY OF GALT
 WASTEWATER TREATMENT PLANT
 SACRAMENTO COUNTY

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measured</u>	<u>Period Type</u>	<u>Remarks</u>
40	18-Dec-07	TSS	lbs/day	1125	11324	Weekly	1
41	26-Dec-07	Settleable Solids	mL/L	0.2	0.7	Daily	1
42	26-Dec-07	TSS	mg/L	60	410	Daily	1
43	26-Dec-07	TSS	mg/L	45	410	Weekly	1
44	26-Dec-07	TSS	lbs/day	1500	6843	Daily	1
45	26-Dec-07	TSS	lbs/day	1125	7527	Weekly	1
46	31-Dec-07	Settleable Solids	mL/L	0.1	0.4	Monthly	1
47	31-Dec-07	TSS	mg/L	30	294	Monthly	1
48	31-Dec-07	TSS	lbs/day	750	5643	Monthly	1

Remarks:

1. Serious Violation: For Group I pollutants that exceed the effluent limitation by 40 percent or more.
2. Serious Violation: For Group II pollutants that exceed the effluent limitation by 20 percent or more.
3. Non-serious violations falls within the first three violations in a six-month period, thus is exempt.
4. Non-serious violation subject to mandatory penalties.

<u>VIOLATIONS AS OF:</u>	<u>12/31/2007</u>
Group I Serious Violations:	21
Group II Serious Violations:	6
Non-Serious Exempt from MPs:	12
Non-serious Violations Subject to MPs:	9
<u>Total Violations Subject to MPs:</u>	<u>36</u>

Mandatory Minimum Penalty = (27 Serious Violations + 9 Non-Serious Violations) x \$3,000 = \$108,000

ATTACHMENT B

CITY OF GALT WASTEWATER TREATMENT PLANT SEP PROPOSAL

OVERVIEW

The City of Galt (City) and the Cosumnes River Preserve (CRP) have agreed to develop a partnership agreement that will result in \$52,251 of City funds being donated to the CRP to support the Pilot Restoration Plan and Implementation task under the Research and Restoration of Priority Wetlands for Giant Garter Snakes study currently being implemented by the CRP. The purpose of this study is to determine how rapidly changing hydrologic and vegetative conditions in and adjacent to the CRP are impacting the giant garter snake population on the Badger Creek sub-unit of the preserve. The information gathered during the pilot restoration effort will be used to develop the long-term restoration strategy for the wetlands that provide a habitat for the Giant Garter Snake at the CRP.

PROJECT

The Pilot Restoration Plan and Implementation project will help to aid restoration of the federal and state-listed threatened giant garter snake population within Snake Marsh, which is the most genetically distinct population of the 13 populations recognized by the U.S. Fish and Wildlife Service. The City's funds will be used to purchase the equipment needed to complete two of the specific tasks that have been outlined for this project, as follows:

Task 1: Excavation

Excavation using a 60-ft long reach is necessary for the removal of the highly invasive yellow water primrose that has been growing for the past several years. The cost for the excavation is estimated to be \$19,830; which includes \$690 for the Mobilization/Demobilization; \$17,940 for the operator and the rental of an excavator; and \$1,200 for rental of pumps.

Task 2: Seeding of Naïve Grass and Forbs

The CRP will plant native grass and forbs near Snake Marsh to provide areas suitable for basking, summer shelter and winter habitat. Planning of native grasses and forbs also stabilizes the soil around the marsh, thereby preventing additional sediment accumulation in the marsh. A 3.5 acre area has been chosen for this task; and the task involves obtaining the appropriate local native seed mixture, site preparation, planting and five years of maintenance such as mowing, spraying, hand pulling of weeds. The total cost for these activities is estimate to be \$32, 421.

COST

The City shall contribute \$52,251 toward the execution of the Pilot Restoration Plan and Implementation project.

ATTACHMENT B

IMPLEMENTATION

Upon approval, the CRP will begin implementation of the Pilot Restoration Plan and Implementation Project. Excavation as described in Task 1 will begin as soon as possible, and is expected to be completed by October 1, 2008. The site preparation for sowing native grasses and forbs will be completed on or before December 1, 2008. Additional data collection on water quality, prey availability, snake use of the newly created habitat, and monitoring of the newly planted native grasses and forbs will continue at least through December 2009, with the exception of the native plantings which will be monitored for success over the subsequent 3-5 year period following planting. A final report summarizing the findings of the data collection efforts and making recommendations for full-scale restoration projects is expected to be completed by March 1, 2010.

DELIVERABLE

Within 30 days of issuance of the ACL Order, the City will provide a copy of the partnership agreement.

By December 31, 2008, the City will provide documentation that both tasks are complete.