

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

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R7-2014-0063
IN THE MATTER OF
CITY OF EL CENTRO
EL CENTRO WASTEWATER TREATMENT PLANT
EL CENTRO – IMPERIAL COUNTY

CITY OF EL CENTRO IS HEREBY GIVEN NOTICE THAT:

1. City of El Centro (Discharger) is alleged to have violated effluent limitations of Waste Discharge Requirements (WDRs) Orders R7-2009-0022 (NPDES No. CA0104426) 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 Executive Officer of the Colorado River Basin Water Board to issue this Administrative Civil Liability Complaint (Complaint); and Water Code section 7 authorizes the Executive Officer to delegate these powers and duties to the Assistant Executive Officer. The Executive Officer of this Colorado River Basin Water Board has delegated the issuance of complaints to the Assistant Executive Officer.
3. The Discharger owns and operates a municipal wastewater treatment plant (Facility) located at 2255 N. La Brucherie Road, El Centro in Imperial County. Treatment consists of removal of solids by an automatic bar screen; primary sedimentation using clarifiers; biological treatment via activated sludge units; and secondary clarification and disinfection provided by ultraviolet light. The sludge is treated anaerobically, de-watered in a belt press, and then land-applied. Wastewater is discharged from Discharge Point 001 to the Central Main Drain, a water of the United States, tributary to the Alamo River, within the Salton Sea Watershed.
4. The Colorado River Basin Water Board adopted WDRs Order R7-2009-0022 on May 21, 2009. The purpose of this order is to regulate discharges of wastewater from the Facility. 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.
5. WDRs Order R7-2009-0022 contains the following final effluent limitations for selenium (page 11, section IV.A.1.a.) with which the Discharger is required to maintain compliance at Discharge Point 001:

Parameter	Effluent Limitations		
	Units	Average Monthly	Maximum Daily
Selenium, Total	µg/L	4.1	8.3
Recoverable	lbs/day	0.27	0.55

6. WDRs Order R7-2009-0022 contains the following final effluent limitations for bacteria (page 12, section IV.A.1.d.) with which the Discharger is required to maintain compliance at Discharge Point 001:

E. Coli. The geometric mean bacterial density (based on a minimum of not less than five samples equally spaced over a 30-day period) shall not exceed a MPN of 126 MPN per 100 milliliters, nor shall any sample exceed the maximum allowable bacterial density of 400 MPN per 100 milliliters.

Fecal Coliform. The geometric mean bacterial density (based on a minimum of not less than five samples equally spaced over a 30-day period) shall not exceed a MPN of 200 MPN per 100 milliliters, nor shall more than ten percent of the total samples during any 30-day period exceed 400 MPN per 100 milliliters.

ALLEGATIONS:

7. On March 13, 2012, the Colorado River Basin Water Board issued Administrative Civil Liability Complaint (2012 Complaint) No. R7-2012-0019 to the City of El Centro for mandatory minimum penalties (MMPs). The 2012 Complaint alleged, pursuant to 13385(i)(1), five (5) violations for effluent limitation exceedances that occurred between May 4, 2011 and July 31, 2011. The violation identification numbers and violation dates for those effluent limitation exceedances are as follows: 904110 (5/4/11); 904112 (5/10/11); 904113 (5/18/11); 908131 (7/12/11), and; 908130 (7/31/11).
8. The Water Code states that MMPs shall be assessed for each violation whenever a person commits one of the violations enumerated in Water Code section 13385(i)(1) four or more times in any period of six consecutive months, except that MMPs are not applicable to the first three violations. Pursuant to Water Code section 13385(i)(1), the Colorado River Basin Water Board did not assess MMPs in the 2012 Complaint for violations 904110 (5/4/11), 904112 (5/10/11), or 904113 (5/18/11) as they were the first three violations in a period of six consecutive months.
9. Subsequent to the Discharger's settlement of the 2012 Complaint, State Water Resources Control Board staff conducted a file review of the subject Facility and found that four (4) exceedances of the effluent limits for E. coli and fecal coliform had been unaccounted for in the 2012 Complaint. Those four (4) exceedances are based on self-monitoring reports submitted by the Discharger for violations on or about and between January 31, 2011 and May 31, 2011. Those reports show that wastewater discharged from the Facility exceeded effluent limitations set forth in WDRs R7-2009-0022 as follows:
 - (a) 30-day percentage of fecal coliform results in excess of 400 MPN/100 mL on three (3) occasions; and
 - (b) Maximum *Enterococci* results on one (1) occasion.The violation identification numbers and violation dates for those four previously unaccounted for effluent limitation exceedances are as follows: 953717 (1/31/11); 953718 (3/21/11); 953719 (3/31/11), and; 953682 (5/31/11).
10. The previously unaccounted for effluent limitation exceedances with violation identification numbers 953717 (1/31/11), 953718 (3/21/11), and 953719 (3/31/11) preceded, and occurred within, a consecutive six month period of, the three effluent limitation exceedances with violation identification numbers 904110 (5/4/11), 904112 (5/10/11), and 904113 (5/18/11), for which the Colorado River Basin Water Board did not assess MMPs in the 2012 Complaint. Therefore, the Colorado River Basin Water Board is required to assess MMPs for the three effluent limitation exceedances identified in the

2012 Complaint for which the Colorado River Basin Water Board did not previously assess MMPs because those three violations occurred subsequent to, and within the same six consecutive month period as three other effluent limitation exceedances. Additionally, the Colorado River Basin Water Board is required to assess MMPs for the four (4) previously unaccounted for effluent limitation exceedances with violation identification numbers 953717 (1/31/11), 953718 (3/21/11), 953719 (3/31/11), and 953682 (5/31/11), because those four violations occurred subsequent to, and within the same six consecutive month period as three other effluent limitation exceedances.

11. The effluent limitation exceedances described in paragraph 9 and 10 above are identified and detailed in Exhibit "A", 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 MMPs.

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) states, 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 Assistant Executive Officer of the Colorado River Basin Water Board proposes that the Discharger be assessed an MMP of **twenty-one thousand dollars \$21,000** for exceeding the effluent limitations for *E. Coli* and fecal coliform 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 \$21,000 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 ACLC, 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:

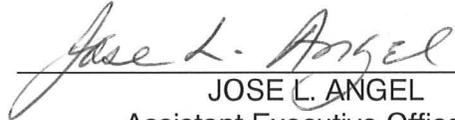
State Water Resources Control Board
Accounting Office, Attn: ACL Payment
PO Box 1888
Sacramento, California, 95812-1888

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 ACLC. The Discharger shall also submit a settlement proposal, including a SEP proposal, to the Colorado River Basin 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 Order 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 propose a supplemental environmental project, compliance with the California Environmental Quality Act will be revisited for the appropriate lead agency to address CEQA requirements prior to implementing a supplemental environmental project that may have a significant impact on the environment.



JOSE L. ANGEL
Assistant Executive Officer



Date

Effluent Limitation Violations Requiring Mandatory Minimum Penalties

#	Violation Number	Violation Date*	Constituent	Pollutant Group	Exempted from MMP?	Limitation Period	Limit [^]	Result/Average [^]	Units	% Over Limit [^]	Date 180 Days Prior	Serious* Violation ?	Effluent Violations in Past 180 Days	Mandatory Fine?	Penalty
1	887737	11/15/10	E. Coli	OEV	No	Instantaneous	400	410	MPN/100 mL	N/A	5/19/10	No	1	No	\$0
2	953725	11/30/10	Fecal Coliform	OEV	No	%	10	11	%	N/A	6/3/10	No	2	No	\$0
3	953724	12/31/10	Fecal Coliform	OEV	No	%	10	11	%	N/A	7/4/10	No	3	No	\$0
4	953717	1/31/11	Fecal Coliform	OEV	No	%	10	11	%	N/A	8/4/10	No	4	Yes	\$3,000
5	953718	03/21/11	E. Coli	OEV	No	Instantaneous	400	727	MPN/100 mL	N/A	9/22/10	No	5	Yes	\$3,000
6	953719	03/31/11	Fecal Coliform	OEV	No	%	10	33	%	N/A	10/2/10	No	6	Yes	\$3,000
7	904110	5/4/11	E. Coli	OEV	No	Instantaneous	400	2419	MPN/100 mL	N/A	11/5/10	No	7	Yes ¹	\$3,000
8	904112	5/10/11	E. Coli	OEV	No	Instantaneous	400	727	MPN/100 mL	N/A	11/11/10	No	8	Yes ¹	\$3,000
9	904113	5/18/11	E. Coli	OEV	No	Instantaneous	400	727	MPN/100 mL	N/A	11/19/10	No	9	Yes ¹	\$3,000
10	953682	05/31/11	Fecal Coliform	OEV	No	%	10	33	%	N/A	12/2/10	No	10	Yes	\$3,000

¹ Violation numbers 904110, 904112 and 904113 should have been assessed \$3,000 for each violation in R7-2012-0019.

Total Penalty: \$21,000

* Violation occurs on sample date or last date of averaging period.

** For Group I pollutants, a violation is serious when the limitation for the parameter of concern is exceeded by more than 40%.

For Group II pollutants, a violation is serious when the limitation for the parameter of concern is exceeded by more than 20%.

[^] Biochemical oxygen demand removal violation calculation based on percent remaining.

Mandatory Minimum Penalty = (0 Serious Violations x \$3,000) + (7 Non-Serious Violations x \$3,000) = \$21,000