

**STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL COAST REGION**

IN THE MATTER OF:	)	
	)	
CUYAMA COMMUNITY	)	
SERVICES DISTRICT	)	Settlement Agreement and Stipulation for
NEW CUYAMA, CA 93254	)	Entry of Administrative Civil Liability Order
	)	No. R3-2017-0009 (Proposed)

This Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order (Order or Stipulated Order) is entered into by and between the Assistant Executive Officer of the Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board), on behalf of the Central Coast Water Board Prosecution Team (Prosecution Team), and Cuyama Community Services District (Discharger) (collectively Parties) and is presented by the Prosecution Team and Discharger to the Central Coast Water Board, or its delegee, for adoption as an Order by settlement, pursuant to Government Code section 11415.60. This Settlement Agreement accepts the stipulations for settlement of administrative civil liability assessed to the Discharger for violations of California Water Code section 13385.

**RECITALS**

1. The Discharger operates a wastewater collection, treatment, and disposal system that provides sewerage services to the community of New Cuyama, in Santa Barbara County. The Cuyama Wastewater Treatment Plant (WWTP) is located at 5500 Highway 166, New Cuyama, California. The WWTP discharges treated and disinfected domestic wastewater to Salisbury Creek (a water of the U.S.), approximately 1.5 miles upstream from its confluence with the Cuyama River.
2. The Central Coast Water Board has determined that the Discharger meets the requirement under California Water Code section 13385, subdivision (k) and the State Water Resources Control Board (State Water Board) Water Quality Enforcement Policy (Enforcement Policy) as a publicly owned treatment works serving a small community with a financial hardship. Attachment "A" attached hereto, incorporated herein, and made a part of this Stipulated Order by this reference as it sets forth the basis of that determination.
3. The Discharger is regulated by Waste Discharge Requirement (WDR) Order No. R3-2007-0020 (NPDES Permit No. CA0048089), which was adopted by the Central Coast Water Board on May 11, 2007. The effect of Order No. R3-2007-0020 was administratively extended by letter, signed by the Executive Officer, on May 11, 2012 until a reissued NPDES permit is adopted.
4. The Prosecution Team has alleged violations against the Discharger as set forth in Expedited Payment Letter No. R3-2013-0053 dated December 4, 2013, which is attached hereto as Attachment "B" and incorporated herein by reference.

5. Pursuant to California Water Code section 13385, the Central Coast Water Board shall impose a minimum civil liability of three thousand dollars (\$3,000) per violation for the five violations identified in the Expedited Payment Letter for a total mandatory minimum penalty (MMP) of \$15,000.
6. California Water Code section 13385, subdivision (k) states:
  - (1) In lieu of assessing all or a portion of the MMPs pursuant to subdivisions (h) and (i) against a publicly owned treatment works serving a small community, the state board or the regional board may elect to require the publicly owned treatment works to spend an equivalent amount towards the completion of a Compliance Project (CP) proposed by the publicly owned treatment works, if the state board or the regional board finds all of the following:
    - (A) The CP is designed to correct the violations within five years.
    - (B) The CP is in accordance with the enforcement policy of the state board, excluding any provision in the policy that is inconsistent with this section.
    - (C) The publicly owned treatment works has prepared a financing plan to complete the CP.
  - (2) For the purposes of this subdivision, “a publicly owned treatment works serving a small community” means a publicly owned treatment works serving a population of 10,000 persons or fewer or a rural county, with a financial hardship as determined by the state board after considering such factors as median income of the residents, rate of unemployment, or low population density in the service area of the publicly owned treatment works.
7. The Parties have engaged in settlement negotiations and agree to settle alleged violations of the California Water Code set forth in this Order without administrative or civil litigation and by presenting this Stipulated Order to the Central Coast Water Board, or its delegee, for adoption as an Order pursuant to Government Code section 11415.60. The Prosecution Team finds that the resolution of the violations alleged herein is fair and reasonable and fulfills its enforcement objectives, that no further action is warranted concerning these violations except as provided in this Stipulated Order, and that this Stipulated Order is in the best interest of the public.
8. To resolve by consent and without further administrative proceedings the alleged violations of the California Water Code section 13385 set forth in the Expedited Payment Letter, the Parties have agreed to the imposition of \$15,000 in liability against the Discharger. The Discharger agrees to direct the entire \$15,000 to fund the CP as described below in Paragraph 12. The whole MMP amount (\$15,000) shall be suspended upon completion of the CP in accordance with the terms of this Stipulated Order.

## **STIPULATIONS**

The Parties stipulate to the following:

9. **Jurisdiction:** The Parties agree that the Central Coast Water Board has subject matter jurisdiction over the matters alleged in this action and personal jurisdiction over the Parties to this Stipulated Order.

10. **Administrative Civil Liability:** The Discharger hereby agrees to the imposition of **FIFTEEN THOUSAND DOLLARS** (\$15,000) in administrative civil liability to resolve the violations alleged in the Expedited Payment Letter. This amount reflects \$15,000 in MMPs (CP Amount).

- a. The Parties agree that the complete mandatory minimum penalty amount of \$15,000 shall be suspended pending completion of the CP as set forth herein.
- b. Should the Discharger fail to complete the CP as described herein, the Discharger shall pay the associated suspended penalty amount of \$15,000, or a pro-rated amount determined by the Central Coast Water Board or its delegate, to the *State Water Board Cleanup and Abatement Account*. Payment of any or the entire previously suspended amount does not relieve the Discharger of its independent obligation to take necessary actions to achieve compliance with Waste Discharge Requirements Order No. R3-2007-0020 (NPDES Permit No. CA0048089).

11. **Compliance Project Amount:** Discharger agrees to direct the entire CP Amount to fund the CP as described in more detail below in Paragraph 12. Discharger shall submit proof that the CP Amount was directed to the CP before thirty (30) days after the effective date of this Stipulated Order.

12. **Compliance Project Description:** The project consists of construction of a test pond and four lined treated wastewater evaporation ponds, a concrete wet well, pump stations, buried pipelines, and associated electrical systems. The CP amount (\$15,000) is spent on the building of the test pond. The remaining parts of the CP will be funded by a Proposition 1 (Prop 1) grant. The Discharger has been approved for an estimated \$1,998,000 in Prop 1 funding for the WWTP Effluent Removal Remediation Project (ERRP). The CP has been designed to correct the violations within five years. The CP completion date will be 150 days from the contractor's receipt of the Notice to Proceed. After CP completion, the WWTP will no longer need a NPDES permit because it will no longer be discharging to a water of the U.S. The Discharger will instead be discharging to land and will be permitted by Waste Discharge Requirements that will no longer assess MMPs.

- a. **Compliance Project Cost:** The CP amount (\$15,000) is to be spent on the construction of the test pond. The remaining project costs for the grant funded portion of the CP will be as follows:

<b>Description</b>	<b>Approved Budget (\$)</b>
Facilities Design	97,328
Construction Management	164,000
Administration	48,000
Facilities Construction Total	1,440,988
Contingency	210,259
Planning	37,425
<b>Total (\$)</b>	<b>1,998,000</b>

- b. **Compliance Project Schedule:** The Discharger will submit proof of construction of the test pond within 30 days after the effective date of this Order.

The implementation schedule for completion of the Prop 1 portion of the CP is as follows:

<b>Task Description</b>	<b>Calendar Days from Contractor's Receipt of Notice to Proceed</b>
Construction of 4 Ponds	60
Construction of Wet Well	75
Installation of Pond Liners	90
Construction of Pipelines and Valve Vaults	90
Construction of Pump Stations	100
Construction of Electrical	120
Substantial Completion	120
<b>Final Completion</b>	<b>150</b>

13. **Compliance with Applicable Laws:** The Discharger understands that payment of administrative liability in accordance with the terms of this Stipulated Order 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.
14. **Extension of the CP Implementation Schedule Deadlines:** If the Discharger provides written justification and Central Coast Water Board staff concurs that a delay in the CP implementation schedules are beyond the reasonable control of the Discharger, the Executive Officer may revise the implementation schedule as appropriate. Written justification must be received by Jill North ("Designated Central Coast Water Board Representative") at the following address: Central Coast Water Board; Attn: Jill North; 895 Aerovista Place, Suite 101; San Luis Obispo, CA 93401 or [Jill.North@waterboards.ca.gov](mailto:Jill.North@waterboards.ca.gov). Prior to the Discharger's failure to meet a milestone deadline, Discharger must describe circumstances causing the delay, and must state when each task of the CP will be completed. If any extension of the implementation schedule is granted, Central Coast Water Board staff shall provide the Discharger with a new implementation schedule in writing, which shall include the date the CP will be completed ("Revised Completion Date")
15. **Representations and Agreements of the Discharger to Implement and Complete, Report, and Guarantee Implementation of the CP:** As a material consideration for the Central Coast Water Board's adoption of this Stipulated Order, the Discharger represents and agrees that (1) it will implement and complete the CP as described in this Stipulated Order; (2) it will provide certification and written reports to the Designated Central Coast Water Board Representative consistent with the terms of this Stipulation detailing the implementation of the CP; and (3) it will guarantee implementation of the CP identified in Paragraph 12 by remaining liable for the Suspended Liabilities until the CP is completed and accepted by the Central Coast Water Board in accordance with the terms of this Stipulated Order. The Discharger agrees that the Central Coast Water Board has the right to require an audit of the funds expended by it to implement the CP.
16. **CP Quarterly Progress Reports:** The Discharger shall provide quarterly reports of progress to the Designated Central Coast Water Board Representative commencing 30

days after this Stipulated Order becomes final and continuing through submittal of the certified statement of completion of the CP described in Paragraph 17. Subsequent quarterly reports for this CP are due at the same time the quarterly reports for the Prop 1 WWTP ERRP are due. At a minimum, the first quarterly report is due 30 days after the Stipulated Order becomes final and it shall include the following:

- a. Proof that the CP Amount (\$15,000) was directed to the CP building of the test pond.

The first of the Prop 1 WWTP ERRP quarterly reports shall include the following:

- a. A copy of the projects notice to proceed, including the date it was received by the CP contractor.
- b. A schedule for subsequent quarterly report submittals consistent with the submittal of quarterly reports for the Prop 1 WWTP ERRP.

**17. Certification of Completion of CP:** On or before the CP Completion Date, (or within 60 days of a Revised Completion Date, if an extension to the Completion Date is granted pursuant to Paragraph 14), the Discharger shall provide a certified statement of completion ("Certification of Completion"). The Certification of Completion shall be submitted by a responsible official under penalty of perjury under the laws of the state of California, to the Designated Central Coast Water Board Representative. The Certificate of Completion shall include the following:

- a. Certification that the CP has been completed in accordance with the terms of this Stipulated Order. Such documentation may include design plans, invoices, receipts, certifications, and other materials reasonably necessary for the Central Coast Water Board to evaluate the completion of the CP and the costs incurred by the Discharger.
- b. Certification documenting the expenditures by the Discharger during the implementation of the CP in order to complete the CP. Expenditures may include, but are not limited to, payments to outside vendors or contractors implementing the CP. The Discharger shall provide any additional information requested by Central Coast Water Board staff that is reasonably necessary to verify CP expenditures.
- c. Certification that the Discharger followed all applicable environmental laws and regulations in the implementation of the CP including but not limited to the California Environmental Quality Act (CEQA), the federal Clean Water Act, and the Porter-Cologne Act.

**18. Third Party Financial Audit:** At the written request of Central Coast Water Board staff, the Discharger, at its sole cost, shall submit a report prepared by an independent third party(ies) acceptable to the Central Coast Water Board staff providing such party's/ies' 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 that the auditor requests. Central Coast Water Board staff's written request shall specify the reasons why the audit is being requested. The audit report shall be provided to the Designated Central Coast Water Board Representative within three (3) months of notice from Central Coast Water Board staff to the Discharger of the need for an independent third party audit. The audit need not address any costs incurred by Central Coast Water Board oversight.

- 19. Failure to Expend the Entire Suspended Liability on the Approved CP:** In the event that the Discharger is not able to demonstrate to the reasonable satisfaction of the Central Coast Water Board staff that the entire suspended liability amount of \$15,000 has been spent to complete the CP as required by this Stipulation and Order, the Discharger shall pay the difference between the Suspended Liability and the amount the Discharger can demonstrate was actually spent on the completion of the CP, as administrative civil liability. The Discharger shall be liable to pay the *State Water Board Cleanup and Abatement Account* the difference within 30 days of receipt of notice of Central Coast Water Board staff's determination that the Discharger failed to demonstrate that the entire Suspended Liability was spent to complete the CP as required by this Stipulation and Order. Checks shall be made payable to the "SWRCB Cleanup and Abatement Account" noting "ACL Order No. R3-2017-0009" on the check. The check shall be sent to the following address: SWRCB, Division of Administrative Services, Attn: ACL Payment, P.O. Box 1888, Sacramento, CA 95812-1888.
- 20. Failure to Complete CP:** If the Discharger fails to complete the CP by 150 days from the contractor's receipt of the notice to proceed, as required by this Stipulation and Order, (or within 60 days of the Revised Completion Date, if an extension to the Completion Date is granted pursuant to Paragraph 14), or there has been a material failure to timely submit a progress report of the Certification of Completion as required by this Stipulation and Order, the Central Coast Water Board staff shall issue a Notice of Violation (NOV). The Discharger shall be liable to pay the entire suspended liability of \$15,000, or some portion thereof less the value of the completion of any milestone requirements satisfied in accordance with this Stipulation and Order, to the *State Water Board Cleanup and Abatement Account* within 30 days of receipt of the NOV.
- 21. Completion of the CP to the Satisfaction of Central Coast Water Board Staff:** Upon the Discharger's satisfaction of the CP and obligations under this Stipulated Order, and completion of the CP and any audit requested by the Central Coast Water Board, Central Coast Water Board staff shall send the Discharger a letter recognizing satisfactory completion of its obligations under this Stipulation and Order. Receipt of this letter shall terminate any further obligations of the Discharger under this Stipulation and Order and result in the permanent stay of the Suspended Liability.
- 22. Publicity:** Whenever the Discharger or its agents or subcontractors publicizes one or more elements of the CP, the Discharger shall state in a prominent manner that the CP is undertaken as part of the settlement of an enforcement action by the Central Coast Water Board against the Discharger.
- 23. Attorneys' fees and Costs:** Each Party shall bear all attorneys' fees and costs arising from the Party's own counsel in connection with the matters set forth herein.
- 24. Matters Addressed by Stipulation:** Upon the Central Coast Water Board's adoption of the Stipulated Order incorporating the terms of this Stipulation, this Stipulated Order represents a final and binding resolution and settlement of the violations alleged herein (Covered Matters). The provisions of this Paragraph are expressly conditioned on the Discharger's full satisfaction of the CP obligations described herein.
- 25. Public Notice:** Discharger understands that federal regulations require that the Central Coast Water Board publish and allow the public thirty (30) days to comment on any

settlement of an enforcement action addressing NPDES permit violations (40 C.F.R. section 123.27 (d)(2)(iii)). This Stipulated Order will be noticed for a 30-day public comment period prior to being presented to the Central Coast Water Board, or its delegee, for adoption. In the event objections are raised during the public review and comment period, the Central Coast Water Board or its delegee may, under certain circumstances, require a public hearing regarding the Stipulated Order.

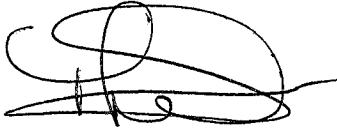
In that event, the Parties agree to meet and confer concerning any such objections, and may agree to revise or adjust the proposed Order as necessary or advisable under the circumstances. Discharger agrees that it may not rescind or otherwise withdraw approval of this proposed Stipulated Order.

26. **Addressing Objections Raised During Public Comment Period:** The Parties agree that the procedure contemplated for adopting the Stipulated Order by the Central Coast Water Board and review of this Stipulation by the public is lawful and adequate.
27. **Interpretation:** This Stipulation and Order shall be construed as if the Parties prepared it jointly. Any uncertainty or ambiguity shall not be interpreted against any one Party.
28. **Modification:** This Stipulation and 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 Coast Water Board or its delegee.
29. **If the Stipulated Order Does Not Take Effect:** In the event that this Stipulated Order does not take effect because it is not approved by the Central Coast Water Board or its delegee, or it 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 Coast Water Board to determine whether to assess administrative civil liabilities for the underlying alleged violations, unless the Parties agree otherwise. The Parties agree that all oral and written statements and agreements made during the course of settlement discussions will not be admissible as evidence in the hearing. The Parties agree to waive any and all objections based on settlement communications in this matter, including, but not limited to:
  - a. Objections related to prejudice or bias of any of the Central Coast Water Board members or their advisors and any other objections that are premised in whole or in part on the fact that the Central Coast 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 violations alleged in this matter; or
  - b. Laches or delay or other equitable defenses based on the time period for administrative or judicial review to the extent this period has been extended by these settlement proceedings.
30. **Waiver of Hearing:** The Discharger has been informed of the rights provided by Water Code section 13323, subdivision (b), and hereby waives its right to a hearing before the Central Coast Water Board prior to the adoption of the Order.

31. **Waiver of Right to Petition:** The Discharger hereby waives its right to petition the Central Coast Water Board's adoption of the Stipulated Order for review by the State Water Board, and further waives its rights, if any, to appeal the same to a California Superior Court and/or any California appellate level court.
32. **Central Coast Water Board is Not Liable:** Neither the Central Coast Water Board members nor the Central Coast Water Board or State 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, their directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Stipulation, Order, or CP, nor shall the Central Coast Water 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 Stipulation and Order.
33. **Discharger's Covenant Not to Sue:** The Discharger's covenant not to sue or pursue any administrative or civil claim(s) against any State Agency or the State of California, its officers, Board Members, employees, representatives, agents, or attorneys arising out of or relating to any Covered Matter.
34. **Necessity for Written Approvals:** All approvals and decisions of the Central Coast Water Board under the terms of this Stipulated Order shall be communicated to the Discharger in writing. No oral advice, guidance, suggestions, or comments by employees or officials of the Central Coast Water Board regarding submissions or notices shall be construed to relieve the Discharger of their obligation to obtain any final written approval required by this Stipulated Order.
35. **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.
36. **Effective Date:** The obligations under this Stipulation are effective and binding on the Parties only upon the entry of an Order by the Central Coast Water Board, which incorporates the terms of this Stipulation.
37. **Severability:** This Stipulation and Order are severable; should any provision be found invalid the remainder shall remain in full force and effect.
38. **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.



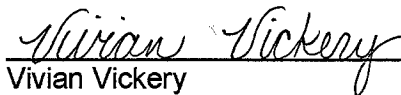
**IT IS SO STIPULATED<sup>1</sup>:**



for Michael Thomas, Assistant Executive Officer  
Central Coast Water Board  
Prosecution Team

March 28, 2017

Date



Vivian Vickery  
On behalf of Cuyama Community Services District

March 17, 2017

Date

**ORDER OF THE CENTRAL COAST WATER BOARD:**

39. This Order incorporates the terms of the foregoing Stipulation, and includes Attachment A (Small Community with a Financial Hardship Determination) and Attachment B (Expedited Payment Letter No. R3-2013-0053).
40. Pursuant to Water Code section 13385, subdivision (k), the Regional Water Board, in lieu of assessing all or a portion of mandatory minimum penalties pursuant to Water Code section 13385, subdivisions (h) and (i), may require a publicly owned treatment works serving a small community to spend all or a portion of mandatory minimum penalties towards the completion of a CP proposed by the publicly owned treatment works. The CP must conform to the requirements specified in the State Water Board Water Quality Enforcement Policy (Enforcement Policy).
41. On November 17, 2009, the State Water Board adopted Resolution No. 2009-0083 amending the Enforcement Policy. The Enforcement Policy was approved by the Office of Administrative Law and became effective on May 20, 2010. The policy can be found at:  
[http://www.waterboards.ca.gov/water\\_issues/programs/enforcement/docs/enf\\_policy\\_fin\\_al111709.pdf](http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_fin_al111709.pdf)
42. Section VIII of the Enforcement Policy states that CPs shall only be considered where expressly authorized by statute, i.e., Water Code section 13385, subdivision (k), and may not be considered in connection with discretionary administrative civil liability.

<sup>1</sup> The final version of this document may include more than one page with the same page number to accommodate the various executing signatures.

43. This is an action to enforce the laws and regulations administered by the Central Coast Water Board. The Central Coast 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.
44. The Parties believe that settlement of this matter is in the best interest of the People of the State. Therefore, to settle the violations alleged herein, the Discharger hereby agrees to comply with the terms and conditions of this Order.
45. The 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 Stipulated Order.

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

\_\_\_\_\_  
John M. Robertson  
Executive Officer  
Central Coast Water Board

\_\_\_\_\_  
Date


Attachments:

- A: Determination of eligibility for compliance project as a small community with a financial hardship.
- B: Expedited Payment Letter No. R3-2013-0053



## State Water Resources Control Board

**TO:** Michael Thomas  
Assistant Executive Officer  
**CENTRAL COAST REGIONAL WATER QUALITY CONTROL BOARD**

**FROM:** Erin Mustain, P.E.   
Senior Water Resource Control Engineer  
**OFFICE OF ENFORCEMENT**

**DATE:** March 2, 2017

**SUBJECT:** CUYAMA COMMUNITY SERVICES DISTRICT WASTEWATER TREATMENT PLANT, DETERMINATION OF ELIGIBILITY FOR COMPLIANCE PROJECT AS A SMALL COMMUNITY WITH A FINANCIAL HARDSHIP

### Background and Summary

On December 4, 2013, the Central Coast Regional Water Quality Control Board (Regional Water Board), issued an Offer to Participate in the Expedited Payment Program (Offer) to the Cuyama Community Services District (CSD or District) for their Wastewater Treatment Plant (WWTP) for mandatory minimum penalties (MMPs) pursuant to California Water Code (Water Code) section 13385, subdivisions (h) and (i). The Offer noted that the liability was proposed based on the Discharger's exceedance of effluent limitations set forth in Waste Discharge Requirements (WDRs) Order No. R3-2007-0020 (NPDES No. CA0048089).

The Discharger requested the allowance of a compliance project. State Water Resources Control Board (State Water Board) staff, on behalf of the Regional Water Board, conducted an analysis, based on the 2015 5-year estimate census data, and determined that based on the analysis below, the Cuyama CSD WWTP does serve a community that has a financial hardship and therefore, does qualify for a compliance project.

### Analysis

The District owns the WWTP, a publicly owned treatment works (POTW), located at 5500 Highway 166, in the town of New Cuyama, in Santa Barbara County. Water Code section 13385, subdivision (k), provides that the State Water Board or Regional Water Board may, contingent upon certain findings, require a POTW serving a small community to spend an amount of money equivalent to the MMP amount toward the completion of a compliance project proposed by the POTW, in lieu of paying the penalty amount to the State Water Board's Cleanup and Abatement Account. Water Code section 13385, subdivision (k)(2), defines a POTW "serving a small community" as:

"[A] publicly owned treatment works serving a population of 10,000 persons or fewer or a rural county, with a financial hardship as determined by the state board after considering such factors as median income of the residents, rate of

unemployment, or low population density in the service area of the publicly owned treatment works.”

Determining whether a POTW is “serving a small community” entails two separate determinations, whether: (1) the POTW is either situated within a rural county or has a population of 10,000 or less; and (2) the POTW’s service area has a “financial hardship.”

### 1. Rural County/Population Cap

The State Water Board’s Water Quality Enforcement Policy<sup>1</sup> (*Enforcement Policy*), defines a small community as one that:

1. Has a population of 10,000 or fewer people or
2. Lies completely within one or more rural counties.

The Enforcement Policy defines “rural county” as “a county classified by the Economic Research Service, United States Department of Agriculture (ERS, USDA) with a rural-urban continuum code of four through nine.”

The Cuyama CSD WWTP is a POTW located in Santa Barbara County. According to the 2013 Rural Urban Continuum Codes file updated 10 May 2013,<sup>2</sup> Santa Barbara County has a rural-urban continuum code of one (Metro - Counties in metro areas of 250,000 to 1 million population) and therefore, does not fall within the “rural county” classification.

Based on United States Census Bureau data discussed below, the block group encompassing the POTW service area has a population of 1,200 people, which does meet the population requirement of 10,000 or fewer people.

### 2. Financial Hardship

Consistent with Water Code section 13385, subdivision (k)(2), the *Enforcement Policy*, at page 24, defines “financial hardship” in terms of median household income (MHI), unemployment rate and poverty level. Specifically, the *Enforcement Policy* defines “financial hardship” as meaning that the community served by the POTW meets one of the following criteria:

- Median household income<sup>4</sup> for the community is less than 80 percent of the California median household income;
- The community has an unemployment rate<sup>5</sup> of 10 percent or greater; or
- Twenty percent of the population is below the poverty level.<sup>6</sup>

“Median household income,” “unemployment rate,” and “poverty level” of the population served by the POTW are based on the most recent U.S. Census block group<sup>7</sup> data or a local survey approved by the Regional Water Board in consultation with the State Water Board.

<sup>4</sup> **Median household income** The median income divides the income distribution into two equal groups, one having incomes above the median and the other having incomes below the median.

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<sup>1</sup> A copy of the State Water Board’s Water Quality Enforcement Policy is available at [http://www.waterboards.ca.gov/water\\_issues/programs/enforcement/docs/enf\\_policy\\_final111709.pdf](http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf).

<sup>2</sup> <http://www.ers.usda.gov/data-products/rural-urban-continuum-codes.aspx>, accessed October 18, 2016.

<sup>5</sup> **Unemployed** All civilians, 16 years and older, are classified as unemployed if they (1) were neither "at work" nor "with a job but not at work" during the reference week, (2) were actively looking for work during the last 4 weeks, and (3) were available to accept a job. Also included as unemployed are civilians who (1) did not work at all during the reference week, (2) were waiting to be called back to a job from which they had been laid off, and (3) were available for work except for temporary illness.

<sup>6</sup> **Poverty** Following the Office of Management and Budget's Directive 14, the Census Bureau uses a set of income thresholds that vary by family size and composition to detect who is poor. If the total income for a family or unrelated individual falls below the relevant poverty threshold, then the family or unrelated individual is classified as being "below the poverty level."

<sup>7</sup> **Block group** A subdivision of a census tract (or, prior to 2000, a block numbering area). A block group is the smallest geographic unit for which the Census Bureau tabulates sample data. A block group consists of all the blocks within a census tract beginning with the same number. Example: block group 3 consists of all blocks within a 2000 census tract numbering from 3000 to 3999. In 1990, block group 3 consisted of all blocks numbered from 301 to 399Z."

On December 21, 2016, Vivian Vickery, the Office Administrator for Cuyama CSD, provided Regional Water Board staff with an electronic copy of the sanitary sewer collection system service area map. State Water Board staff uploaded the map into ArcGIS and georeferenced it using the Santa Barbara Parcel Boundary layer. Based on the georeferenced service area, and United States Census Bureau tract and block group map layers available in ArcGIS, the District's service area appears to lie wholly within Santa Barbara County Census Tract 18 within Block Group 1 as shown below in Figure 1.

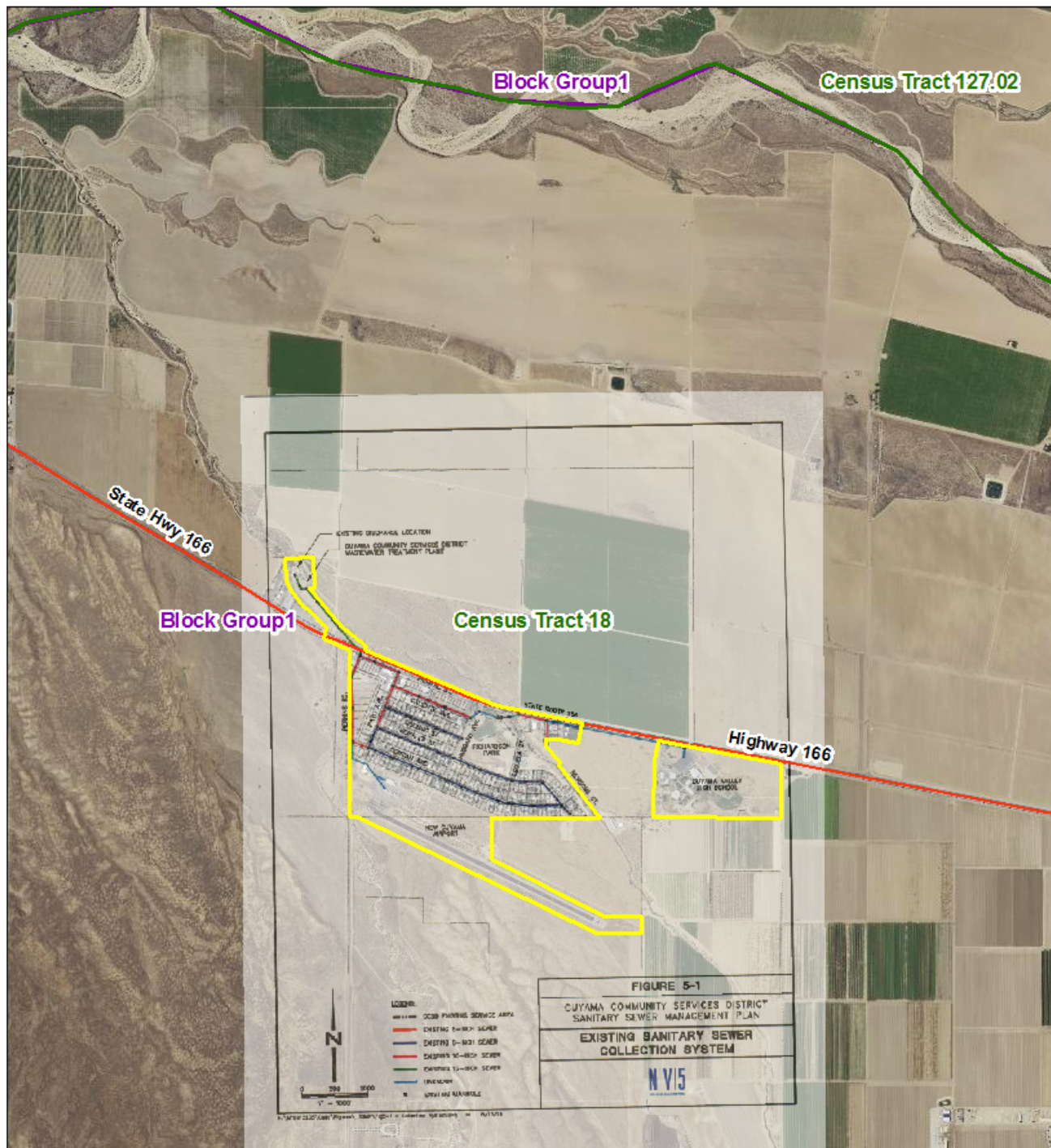
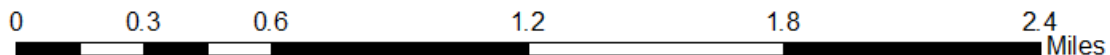


Image Source: United States Farm Service Agency's National Agriculture Imagery Program (NAIP) 2016



Legend

- CSD Boundary
- 2010 Census Tract
- 2013 Census Block Groups
- State Route 166

Created by: Erin Mustain, PE  
 Senior Water Resource Control Engineer  
 2/24/2017

**Figure 1 – Cuyama Community Services District (CSD) Sanitary Sewer Collection System Service Area, Census Tract, and Census Block Group Boundaries**

As the 2010 decennial census did not include collection of economic data, the most recent available economic data are from the United States Census Bureau's on-going American Community Survey (ACS) estimates. For smaller communities, ACS data are only available for 5-year estimates. The most recent available 5-year estimate with block group data is that for 2015. Selected data tables may be retrieved through the Census Bureau's American FactFinder portal, available at <http://factfinder.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t>. The following tables were identified as providing the necessary information at the block group level, and staff retrieved their data for Tract 18, Block Group 1.

Table #	Table Description	Tract 18 Block Group 1 2015 5- year	California 2014 5-year	Financial Hardship Criterion
B01003	Total Population	1,200 people	N/A	Population <10,000 <b><i>criterion met</i></b>
B19001	Household Income in the Past 12 Months (In 2015 Inflation-Adjusted Dollars)	430 households	N/A	N/A
B19013	Median Household Income In The Past 12 Months (In 2015 Inflation-Adjusted Dollars)	\$45,875 (household- weighted by block group)	\$61,818	MHI less than 80% of CA MHI 80% CA MHI = \$49,454 <b><i>criterion met</i></b>
B23025	Employment Status For The Population 16 Years And Over	478 in labor force. Of those, 35 unemployed. 7% unemployed	N/A	Unemployment rate 10% or greater <b><i>criterion not met</i></b>
C17002 <sup>3</sup>	Ratio of Income to Poverty Level in the Past 12 Months	295/1,200 25% below poverty level	N/A	20% below poverty level <b><i>criterion met</i></b>

Based on the *Enforcement Policy's* criteria and the most recent U.S. Census block group data, the District does qualify as a small community with a financial hardship. If the Discharger believes that the U.S. Census data used in this determination do not accurately represent the population served by the Cuyama CSD WWTP, the *Enforcement Policy* provides for the possibility of a local survey approved by the Regional Water Board in consultation with the State Water Board (p. 24) and a procedure by which the Discharger may present an alternative justification to the Regional Water Board for designation as a "POTW serving a small community (p. 25)." Pursuant to the *Enforcement Policy*, the Regional Water Board must consult with the State Water Board when making such determinations.

<sup>3</sup> The Census Bureau reports a number for the people below 50% of the poverty level and a number for people between 50% and 99% of the poverty level. Adding those two numbers represents all people below the poverty level.



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**Central Coast Regional Water Quality Control Board**

December 4, 2013

**via certified US mail: 7008 1140 0003 4708 8735**

Mr. U.S. Wilson, Wastewater Systems Manager  
Cuyama Community Services District  
550 Highway 166  
Santa Barbara, CA 93254  
[ccsd@inreach.com](mailto:ccsd@inreach.com)

**EXPEDITED PAYMENT LETTER (EPL) NO. R3-2013-0053, OFFER TO PARTICIPATE IN EXPEDITED PAYMENT PROGRAM RELATING TO VIOLATIONS OF NPDES PERMIT FOR CUYAMA COMMUNITY SERVICES DISTRICT WASTEWATER TREATMENT PLANT (WDR ORDER NO. R3-2007-0020, NPDES NO. CA0048089)**

Dear Mr. Wilson:

This letter is to notify the Cuyama Community Services District (hereinafter "Permittee" or "you") of alleged violations of the California Water Code identified in the Central Coast Regional Water Quality Control Board's (Central Coast Water Board) water quality data system and to allow the Permittee to participate in the Central Coast Water Board's Expedited Payment Program to address \$15,000 in liability which may be assessed pursuant to Water Code sections 13385 and 13385.1.

**NOTICE OF VIOLATION:** Based on information in the California Integrated Water Quality System (CIWQS), the Central Coast Water Board's Assistant Executive Officer alleges that from January 11, 2008, to May 27, 2008, the Permittee violated the effluent limitations, reporting violations, or Water Code provisions identified in the Notice of Violation (NOV) attached as Exhibit A. The Permittee will have the opportunity to address the alleged violations as discussed below.

**STATUTORY LIABILITY:** Subdivisions (h) and (i) of California Water Code section 13385 require the assessment of a mandatory minimum penalty of \$3,000 for specified serious and non-serious (formerly named "chronic") effluent limit violations. The Permittee is also potentially subject to discretionary administrative civil liabilities of up to ten thousand dollars (\$10,000) for each day in which the violation occurs, plus ten dollars (\$10) for each gallon discharged but not cleaned up in excess of 1,000 gallons. These mandatory minimum penalties and discretionary administrative civil liabilities may be assessed by the Central Coast Water Board or the State Water Board (collectively



“the Water Boards”), beginning with the date that the violations first occurred<sup>1</sup>. The formal enforcement action that the Water Boards use to assess such liability is an administrative civil liability complaint, although the Water Boards may instead refer such matters to the Attorney General’s Office for prosecution. If referred to the Attorney General for prosecution, the Superior Court may assess up to twenty-five thousand dollars (\$25,000) per violation. In addition, the Superior Court may assess up to twenty-five dollars (\$25) per gallon discharged but not cleaned up in excess of 1,000 gallons.

**OFFER TO PARTICIPATE IN EXPEDITED PAYMENT PROGRAM:** The Permittee can avoid the issuance of a formal enforcement action and settle the alleged violations identified in the attached NOV by participating in the Central Coast Water Board’s Expedited Payment Program. Details of the proposed settlement are described below and addressed in the enclosed documents.

To promote resolution of these violations, the Central Coast Water Board enforcement staff makes this Conditional Offer. The Permittee may accept this offer, waive the Permittee’s right to a hearing, and pay the mandatory minimum penalty as indicated on Exhibit A for the violations described. If the Permittee elects to do so, subject to the conditions below, the Central Coast Water Board will accept that payment in settlement of any enforcement action that would otherwise arise out of the violations identified in the NOV. Accordingly, the Central Coast Water Board enforcement staff will forego issuance of a formal administrative complaint, will not refer the violations to the Attorney General, and will waive its right to seek additional discretionary civil liabilities for the violations identified in the NOV.

The Expedited Payment Program does not address liability for any violation that is not specifically identified in the NOV.

**PERMITTEE’S OPTIONS FOR RESPONSE TO OFFER:** If you accept this offer, please complete and return the enclosed “Acceptance of Conditional Resolution and Waiver of Right to Hearing; Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order No. R3-2013-0053 (Upon Execution)” (Acceptance and Waiver) **no later than January 7, 2014**. The returned Acceptance and Waiver will be held, pending a 30-day public notice period, and then will be counter-signed by the Executive Officer and returned to you with an invoice for payment.

If you contest some but not all of the violations identified in the attached NOV, the Permittee may elect to reserve the right to address the contested matters and resolve any uncontested violations through the payment of the mandatory minimum penalty for each uncontested violation. If the Permittee chooses this option, please communicate

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<sup>1</sup> Please note that there are no statutes of limitation that apply to administrative proceedings to assess mandatory minimum penalties. See *City of Oakland v. Public Employees’ Retirement System*, (2002) 95 Cal.App.4th 29, 48; 3 Witkin, Cal. Procedure (4th ed. 1996) Actions, §405(2), p. 510.) The Permittee has not been substantially prejudiced by the passage of time between the date(s) that Permittee reported the violations identified on Exhibit A and the date of this letter. The Permittee was aware of the violations at the time it reported them to the Central Coast Water Board. Water Board staff’s limited enforcement resources and competing enforcement priorities provide a rational explanation for the delay. In fact, the delay has actually benefited the Permittee because it extended the time before payment of the mandatory minimum penalties is due. For these reasons, any delay is not unreasonable.

with the staff contact identified below to discuss the mechanism for memorializing that election on or before the due date.

If the Permittee chooses to contest any of the violations alleged in the NOV, please identify the specific violation and the basis for the challenge (factual error, affirmative defense, etc.) on or before the due date. Central Coast Water Board staff will evaluate the contested violation and take one of two actions:

- 1) Central Coast Water Board staff will determine that the violation is not supported, expunge the alleged violation from the CIWQS database, take no further action against the Permittee for the alleged violation, and notify the Permittee of that determination;
- 2) Central Coast Water Board staff will determine that the alleged violation is validated, notify the Permittee, and provide 30 days for the Permittee to submit a supplemental Expedited Payment for those violations. If the Permittee chooses not to make a payment in response to the determination, the Permittee should expect to be contacted regarding formal enforcement action that will be initiated with regard to the contested violations. In a formal enforcement action, the liability amount sought and/or imposed may exceed the liability amount set forth in this Conditional Offer. Moreover, the cost of enforcement is a factor which can be considered in assessing the liability amount.

**CONDITIONS FOR WATER BOARD ACCEPTANCE OF RESOLUTION:** Federal regulations require the Central Coast Water Board to publish and allow the public 30 days to comment on any settlement of an enforcement action addressing NPDES permit violations [40 C.F.R. section 123.27(d)(2)(iii)]. Upon receipt of the Permittee's Acceptance and Waiver, Central Coast Water Board enforcement staff will publish a notice of the proposed resolution of the violations.

If no comments are received within the 30-day period, and unless there are new material facts that become available to the Central Coast Water Board, the Executive Officer will execute the Acceptance and Waiver as a settlement agreement and stipulation for entry of administrative civil liability order assessing the uncontested mandatory minimum penalty amount pursuant to Water Code section 13385.

If, however, significant comments are received in opposition to the settlement, this Offer may be withdrawn. In that case, the Permittee's waiver pursuant to the Acceptance and Waiver will also be treated as withdrawn. In that case, the unresolved violations will be addressed in a liability assessment proceeding. At the liability assessment hearing the Permittee will be free to make arguments as to any of the alleged violations, and the Permittee's agreement to accept this conditional offer will not in any way be binding or used as evidence against the Permittee. The Permittee will be provided with further information on the liability assessment proceeding.

In the event the Acceptance and Waiver is executed by the Executive Officer, payment of the assessed amount shall be due and payable within 30 days and as specified in the letter and/or invoice that will accompany the Permittee's receipt of the Executive Officer's signed stipulated order. Failure to pay the penalty within the required time period may subject the Permittee to further liability.

**OPPORTUNITY FOR SUPPLEMENTAL ENVIRONMENTAL PROJECT OR COMPLIANCE PROJECT IN LIEU OF ADMINISTRATIVE LIABILITY:** In lieu of paying to the State Water Board Cleanup and Abatement Account all of the mandatory minimum penalty, the Permittee may elect to use part of the penalty to fund a supplemental environmental project (SEP) as defined in the State Water Board's Supplemental Environmental Project Policy. There are currently two SEP options available:

1. **Low Impact Development Initiative (LIDI):** The mission of the LIDI is to support the vision of healthy watersheds through the implementation of LID design principles, hydromodification controls, and sustainable development throughout the Central Coast Region. In 2008, the Central Coast Water Board established a LID Endowment Fund with the Bay Foundation of Morro Bay. This fund provides support for the LIDI, which is housed under a branch of the UC Davis Extension's Land Use and Natural Resources Program. LIDI services focus on the planning, design, and implementation of LID projects and programs. This includes regional training, regulatory compliance, site specific project designs, hydromodification criteria development, technical consulting services, and large-scale, long-term, community-level planning. More information is available at:

[http://www.centralcoastlidi.org/Central\\_Coast\\_LIDI/Home.html](http://www.centralcoastlidi.org/Central_Coast_LIDI/Home.html)

2. **Central Coast Ambient Monitoring Program (CCAMP):** CCAMP is the Central Coast Water Board's regionally scaled water quality monitoring and assessment program. The purpose of the program is to provide scientific information to Water Board staff, local water agencies and water purveyors, and the public, to protect, restore, and enhance the quality of the waters of central California. CCAMP consists of both surface water and groundwater components (Groundwater Assessment and Protection, or GAP), and has built a significant data resource over the years to characterize the Central Coast Region's waters. CCAMP will use the SEP funds for staffing, equipment, and contract services associated with field sampling, analytical testing, data management and assessment, and the implementation of water quality related projects. More information is available at:

<http://www.ccamp.org/>

[http://www.waterboards.ca.gov/centralcoast/water\\_issues/programs/gap/index.shtml](http://www.waterboards.ca.gov/centralcoast/water_issues/programs/gap/index.shtml)

Each option is an established, on-going, region-wide project administered by an approved third party, which allows the Permittee to satisfy its selected project obligations by transferring the agreed-upon funds in a timely manner. Funds derived from suspended liability related to the alleged violations are appropriate for these SEPs because the projects are implemented throughout the region and are related to waters associated with the Permittee's waste discharge. The State Water Board Office of Enforcement has approved both LIDI and CCAMP as appropriate SEPs. The Central Coast Water Board has established LIDI and CCAMP as top priorities for SEP funding. Central Coast Water Board staff will not accept SEP proposals other than those listed above as part of the EPL process.

Alternatively, the Permittee may elect to fund a compliance project (CP) pursuant to Water Code section 13385(k) if it can demonstrate status as a publicly owned treatment works serving a small community with a financial hardship.

Permittees may choose to pay the total settlement amount to the State Water Board's Cleanup and Abatement Account (CAA) rather than fund either of the above SEPs or propose a CP. The CAA's primary purpose is to provide public agencies with grants to clean up pollution in cases where no viable responsible party is available. In addition, agencies can apply to the CAA for grants to do habitat restoration, studies, monitoring, and planning activities.

The SEP and CAA options are represented in the enclosed Acceptance and Waiver. If you want to discuss any of the above options, please contact the person identified below.

**CONTACT PERSON:** Should you have any questions about the Notice of Violation or the Conditional Offer, please contact Peter von Langen at (805) 549-3688 or Peter.VonLangen@waterboards.ca.gov, or Harvey Packard at (805) 542-4639 or Harvey.Packard@waterboards.ca.gov.

Sincerely,

*for* Michael J. Thomas  
Assistant Executive Officer

- Encl. – 1. Exhibit A - Notice of Violation
2. Acceptance of Conditional Resolution and Waiver of Right to Hearing; Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order No. R3-2013-0053 (Upon Execution)

cc: Harvey Packard, RWQCB Enforcement Coordinator  
Peter von Langen, RWQCB Permitting Staff  
Todd Stanley, RWQCB CIWQS Coordinator  
Michael Thomas, RWQCB Assistant Executive Officer

File Location: P:\Enforcement\Mandatory Minimum Penalties\EPLs\2013 Cuyama CSD\Cuyama - MMP  
EPL Offer.docx  
Primary Indexing #216428  
CIWQS Regulatory Measure #393401

**Exhibit A – Notice of Violation**  
**Cuyama Community Services District WWTP**  
 ALLEGED VIOLATIONS (January 11, 2008 – May 27, 2008)  
 MANDATORY MINIMUM PENALTY VIOLATIONS REQUIRING ENFORCEMENT

The Enforcement Staff of the Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board) has reviewed information submitted by this facility to determine whether the discharger is subject to mandatory minimum penalties (MMPs) pursuant to subdivisions (h) and (i) of California Water Code section 13385. The following table lists this facility’s alleged violations of Waste Discharge Requirements Order No. R3-2007-0020, NPDES Permit No. CA0048089 from January 11, 2008, through May 27, 2008, for which the Central Coast Water Board has not assessed MMPs. Final calculation of MMP amounts owed and descriptions of the abbreviations that appear in the table are also listed below. For additional information about the alleged violations listed in the table, please refer to the State Water Resources Control Board CIWQS Public Reports webpage [http://www.waterboards.ca.gov/water\\_issues/programs/ciwqs/publicreports.shtml](http://www.waterboards.ca.gov/water_issues/programs/ciwqs/publicreports.shtml) and select the “Mandatory Minimum Penalty (MMP) Report” link located under the “Violations Reports” category. Once in the Mandatory Minimum Penalty Reports search page, select Region 3 along with the beginning and ending dates shown in this exhibit, select Run Report, and then select your facility to access the list of violations.

#	Violation Number*	Violation Date	Pollutant	Pollutant Type	Limitation Period	Limit	Result	Units	% Over Limit	Serious or Non-Serious Violation	Date 180 Days Prior	No. of Viols within 180 days	Penalty
1	955671^	01/11/2008	Dibromodichloro methane	Group 2	Daily Maximum	0.81	2.5	ug/L	209%	S	N/A	N/A	\$ 3,000
2	955670^	01/11/2008	Dichlorobromo methane	Group 2	Monthly Average	0.56	5.4	ug/L	864%	S	N/A	N/A	\$ 3,000
3	738198^	01/11/2008	Dichlorobromo methane	Group 2	Daily Maximum	1.13	5.4	ug/L	378%	S	N/A	N/A	\$ 3,000
4	955672^	01/11/2008	Dibromodichloro methane	Group 2	Monthly Average	0.4	2.5	ug/L	525%	S	N/A	N/A	\$ 3,000
5	771056	05/27/2008	Fecal Coliform	Other	10% for Period	400	500	MPN/100	25%	N	11/29/2007	9	\$ 3,000

**Total Penalty: \$15,000**

EPL No. R3-2013-0053 – Exhibit A  
 Proposed Stipulated ACL Order No. R3-2013-0053  
 Cuyama Community Services District WWTP

\* The Central Coast Water Board issued EPL No. R3-2009-0066 on October 21, 2009, followed by ACL Order No. R3-2010-0023 on October 12, 2010, resolving six MMP violations from February 6, 2008 through August 21, 2008. However, that enforcement action did not resolve the five violations shown above.

^ When a discharger collects a single sample for a given pollutant, the result for that sample is used to determine compliance with all of the pollutant's effluent limits (e.g., daily maximum and monthly average), and each violation is subject to MMP.

**Total Mandatory Minimum Penalty Amount for Effluent Violations**

(4 Serious Violations + 1 Non-Serious Violation) × \$3,000 = \$15,000

For Group 2 pollutants, a violation is serious when the limit is exceeded by 20% or more, and non-serious when the limit is exceeded by less than 20%.

For "Other" (i.e., Other Effluent Violation) pollutants, a violation is non-serious when the limit is exceeded by any amount. For the purposes of MMP enforcement, Other Effluent Violations are not categorized as serious.

Serious violations are subject to a penalty of no less than \$3,000 each, as are non-serious violations when preceded by three or more specified violations within any period of 180 days.

**Definitions**

CIWQS	California Integrated Water Quality System database used by the Water Boards to manage violation and enforcement activities, as well as other data types relevant to water quality protection.
Violation Number	Identification number assigned to a violation in CIWQS.
Violation Date	Date that a violation actually occurred, with the exception that for some violation types, such as a monthly average, the last day of the reporting period is used. If the occurrence date is unknown, the date used is the day the violation was first discovered by staff, the Discharger, or a third party.
Pollutant Types: Group 1 & 2	Groups of pollutants defined in the State Water Resources Control Board Water Quality Enforcement Policy. Also referred to as Category 1 or CAT1, Category 2 or CAT2, respectively.
Pollutant Type: Other	"Other" refers to "Other Effluent Violation". Group of pollutants other than those included in Group 1 or 2.

**ACCEPTANCE OF CONDITIONAL RESOLUTION  
AND WAIVER OF RIGHT TO HEARING;**

**SETTLEMENT AGREEMENT AND STIPULATION FOR ENTRY OF ADMINISTRATIVE  
CIVIL LIABILITY ORDER NO. R3-2013-0053 (UPON EXECUTION)**

Cuyama Community Services District WWTP  
EPL No. R3-2013-0053  
Waste Discharge Requirements Order No. R3-2007-0020  
NPDES Permit No. CA0048089

By signing below and returning this Acceptance of Conditional Resolution and Waiver of Right to Hearing (Acceptance and Waiver) to the Central Coast Regional Water Quality Control Board (Central Coast Water Board), Cuyama Community Services District (Permittee) hereby accepts the "Offer to Participate in Expedited Payment Program" (Offer) and waives the right to a hearing before the Central Coast Water Board to dispute the alleged violations described in the Notice of Violation (NOV) attached to the Offer as Exhibit A and incorporated herein by reference.

The Permittee agrees that the NOV shall serve as a complaint pursuant to Article 2.5 of the Water Code and that no separate complaint is required for the Central Coast Water Board to assert jurisdiction over the alleged violations through its enforcement staff. The Permittee agrees to pay the penalties authorized by California Water Code section 13385, as specified in the NOV (Expedited Payment Amount), which shall be deemed payment in full of any civil liability pursuant to the Water Code sections 13385 and 13385.1 that otherwise might be assessed for the violations described in the NOV.

Expedited Payment Amount: **\$15,000.**

The Permittee understands that it may pay up to the maximum allowable portion<sup>1</sup> of the Expedited Payment Amount towards the Supplemental Environment Projects (SEPs) it indicates with an "X" in the first column of the table below. If selecting this option, the Permittee will indicate in the second column of the table below how much of the maximum allowable portion it will direct to each selected SEP. If selecting multiple SEPs, the amounts entered in the second column must be equal to or less than the maximum allowable portion. The Permittee understands that if the indicated SEP amount(s) exceed the maximum allowable portion, then Central Coast Water Board staff will adjust the amount(s) accordingly, and will indicate said adjustment below, in the transmittal of the executed order for stipulation, and/or in invoice(s) accompanying the executed order at a later date. If the Permittee does not select the SEP option, the Permittee shall pay the

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<sup>1</sup> Pursuant to Water Code section 13385(l)(1), if the penalty amount exceeds \$15,000, the amount the Water Board may direct to a SEP may not exceed \$15,000 plus 50 percent of the penalty amount over \$15,000. For penalty amounts of \$15,000 or less, the Water Board generally allows direction of the full amount to a SEP.



**Expedited Payment Letter (EPL) No. R3-2013-0053  
NPDES Permit No. CA0048089**

total Expedited Payment Amount to the State Water Resources Control Board Cleanup and Abatement Account.

Maximum Allowable Portion for SEPs: **\$15,000**.

<b>Permittee Selects the Following SEPs</b>	<b>Amount (\$) of Maximum Allowable Portion for each SEP</b>	<b>SEP Name</b>
		Low Impact Development Initiative
		Central Coast Ambient Monitoring Program

The Permittee understands that this Acceptance and Waiver does not address or resolve liability for any violation that is not specifically identified in the Notice of Violation.

Upon execution by the Permittee, the Permittee shall return this Acceptance and Waiver to:

Harvey Packard  
Enforcement Coordinator  
Central Coast Water Board  
895 Aerovista Place, Suite 101  
San Luis Obispo, CA 93401

The Permittee understands that federal regulations set forth at title 40, Code of Federal Regulations, section 123.27(d)(2)(iii) require the Central Coast Water Board to publish notice of and provide at least 30 days for public comment on any proposed resolution of this enforcement action. Accordingly, this Acceptance and Waiver, prior to execution by the Executive Officer of the Central Coast Water Board, will be published as required by law for public comment.

The Permittee understands that if significant comments are received in opposition to the Offer, the Central Coast Water Board enforcement staff's offer to resolve the violations set forth in the NOV may be withdrawn. In that circumstance, the Permittee will be advised of the withdrawal and an administrative civil liability complaint may be issued and the matter may be set for a hearing before the Central Coast Water Board. For such a liability hearing, the Permittee understands that this Acceptance and Waiver executed by the Permittee will be treated as a settlement communication and will not be used as evidence in that hearing.

If no comments are received within the notice period that causes the Executive Officer to reconsider the Offer, the Executive Officer will execute the Acceptance and Waiver

**Expedited Payment Letter (EPL) No. R3-2013-0053  
NPDES Permit No. CA0048089**

as Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order No. R3-2013-0053 (Settlement and Order).

The Permittee understands that after the signed Acceptance and Waiver is publicly noticed and executed by the Executive Officer of the Central Coast Water Board, Water Board staff will transmit the executed Settlement and Order to the Permittee with payment instructions and due dates. Furthermore, the Permittee understands that full payment of the Expedited Payment Amount, including any allowable portion of which is authorized for use in SEPs, within 30 days after staff transmits the executed Settlement and Order is a condition of this Acceptance and Waiver.

I hereby affirm that I am duly authorized to act on behalf of and to bind the Permittee in the making and giving of this Acceptance and Waiver and the terms of the Settlement and Order.

By: \_\_\_\_\_  
(Signed Name)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Printed or typed name)

\_\_\_\_\_  
(Title)

**Expedited Payment Letter (EPL) No. R3-2013-0053  
NPDES Permit No. CA0048089**

IT IS SO ORDERED PURSUANT TO WATER CODE SECTION 13385

Date: \_\_\_\_\_

By: \_\_\_\_\_

Kenneth A. Harris Jr.  
Executive Officer  
Central Coast Regional Water Quality Control Board

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Primary Indexing #216428

CIWQS Regulatory Measure #393401