

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2012-0566

IN THE MATTER OF
CITY OF GRASS VALLEY
SANITARY SEWER OVERFLOWS
NEVADA COUNTY

This Administrative Order on Stipulation and Settlement Agreement (Order) is issued to the City of Grass Valley (hereafter Discharger) pursuant to California Water Code (Water Code) section 13385, which authorizes the imposition of administrative civil liability, and Water code section 7, which authorizes the delegation of the Executive Officer's authority to a deputy, in this case the Assistant Executive Officer. This Order memorializes a mutual settlement reached between the Central Valley Water Board's Prosecution Team and the Discharger (collectively referred to as the Parties) for the violations alleged in the Administrative Civil Liability (ACL) Complaint R5-2012-0537, which was issued by the Executive Officer on 6 July 2012. The Complaint alleged the Discharger violated provisions of Waste Discharge Requirements (WDRs) Order R5-2009-0067 (NPDES CA0079898).

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

Background

1. The Discharger owns and operates a wastewater collection, treatment, and disposal system. The wastewater treatment plant (WWTP) provides sewerage service for the City of Grass Valley, and also treats water that discharges from an abandoned mine portal (Drew Tunnel) located within the WWTP property. Treated wastewater is discharged to Wolf Creek, tributary to the Bear River, both of which are considered waters of the United States.
2. On 12 June 2009, effective 31 July 2009, the Central Valley Water Board issued WDRs Order R5-2009-0067, which rescinded WDRs Order R5-2003-0089 and prescribes requirements for the discharge of wastewater from the Discharger's WWTP. The WDRs contain, among other items, prohibitions, effluent limitations, and monitoring and reporting requirements with which the Discharger must comply.
3. On 2 May 2006, the State Water Board issued Order 2006-0003-DWQ, the *Statewide General Waste Discharge Requirements for Sanitary Sewer Systems*. The General Order prohibits discharges from, and prescribes requirements for, sanitary sewer systems. The Discharger obtained coverage under the General Order as of 25 July 2006 and is required to operate and maintain its sewage collection system in compliance with the permit.

4. WDRs Order R5-2009-0067 includes Prohibition III.A, which states: "*Discharge of wastewater at a location or manner different from that described in the Findings is prohibited.*"
5. The Parties have engaged in settlement negotiations and agree to settle the proposed administrative civil liability recommended in the Complaint without administrative proceeding or civil litigation, and by presenting this Stipulated Order to the Central Valley Water Board's Assistant Executive Officer for adoption as an Order by settlement under Government Code section 11415.60. The Prosecution Team believes that the resolution of the alleged violations is fair and reasonable and fulfills its enforcement objectives, that no further action is warranted concerning the specific violations alleged in the Complaint except as provided in the Stipulated Order, and that this Stipulated Order is in the best interest of the public.

Chronology of Relevant Events¹

6. On 19 October 2011, the Discharger notified the Central Valley Water Board of a sanitary sewer overflow (SSO) that occurred at a lift station at 100 Joyce Drive. After investigation², the Discharger reported that the SSO started on 18 October 2011 and that approximately 67,000 gallons of raw sewage was released from the lift station. The Discharger was able to recover approximately 60 gallons of the spill; however, an estimated 66,940 gallons of reached Wolf Creek. The spill was due to human error during upgrades to the lift station. When the crew left for the night, a power switch was not turned on and therefore three lift station pumps were unable to operate. In addition, the battery backup system for the auto dialer did not function because the battery terminals were corroded. The spill was reported and stopped after the crew reported to work the next morning.
7. On 16 March 2012, the Discharger notified the Central Valley Water Board of an SSO that occurred from a manhole near 450 Mill Street. The Discharger determined that 120 gallons of raw sewage was spilled over an hour period. The spill reached a storm drain which empties into Wolf Creek. According to the spill report, the spill was a result of excessive quantities of rain in a short period of time, and infiltration into the sewer system that exceeded the sewer system's capacity.
8. On 16 March 2012, the Discharger notified the Central Valley Water Board of another SSO that occurred from a manhole near 450 Mill Street. The Discharger determined that 900 gallons of raw sewage spilled over an hour period. The spill reached a storm drain which empties into Wolf Creek. According to the spill report, the spill was the result of a rain event that exceeded the Discharger's sewer system capacity.

¹ Findings 6 through 9 are summarized from the electronic self monitoring reports submitted by the Discharger to the CIWQS Sanitary Sewer Overflow Database. These reports are available to the public at http://www.waterboards.ca.gov/water_issues/programs/ciwqs/publicreports.shtml#sso.

² Described in the Discharger's 9 January 2012 response to the Board's 12 December 2011 Notice of Violation.

9. On 19 March 2012, the Discharger notified the Central Valley Water Board of an SSO that occurred from a private lateral cleanout near 535 East Main Street. The Discharger determined that 3,600 gallons of raw sewage spilled. The Discharger was able to recover approximately 50 gallons, but 3,550 gallons reached a storm drain that connects to Matson Creek and Wolf Creek. The spill lasted for 2.5 days, and was a result of a plugged main line. According to the spill report, a large rain event occurred during this period which may have contributed to the event.

Regulatory Authority and Alleged Violations

10. As described above, the Discharger discharged untreated sewage to waters of the United States in violation of Prohibition III.A of WDRs Order R5-2009-0067.
11. Water Code section 13376 states, in part: *A person who discharges pollutants or proposes to discharge pollutants to the navigable waters of the United States ... shall file a report of the discharge in compliance with the procedures set forth in Section 13260... and "The discharge of pollutants...except as authorized by waste discharge requirements [NPDES permit]...is prohibited.*
12. Order R5-2009-0067 does not allow the discharge of raw sewage. Therefore, by failing to file a report of waste discharge as set forth in Water Code section 13276 for these four SSOs, and failing to obtain an NPDES permit authorizing these four SSO discharges prior to the causing the discharges described in the above Findings, the Discharger has violated Water Code sections 13376 and 13385(a)(1) and/or section 13385(a)(2). Water Code section 13385(c) authorizes the imposition of administrative civil liability for such violations.
13. The Discharger violated WDRs Order R5-2009-0067 Prohibition III.A and Water Code section 13385(a)(2) during the four discharges described in Findings 6 through 9, above. The Discharger is liable pursuant to Water Code section 13385(c).

Regulatory Considerations

14. The *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, Fourth Edition* (hereafter Basin Plan) designates beneficial uses, establishes water quality objectives, contains implementation plans and policies for protecting waters of the basin, and incorporates by reference plans and policies adopted by the State Water Resources Control Board.
15. Surface water drainage from the plant is to Wolf Creek, which is a tributary to the Bear River.
16. The Basin Plan designates the beneficial uses of the Bear River as municipal and domestic supply; agricultural supply; hydropower generation; water contact recreation; noncontact water recreation; warm freshwater habitat; cold freshwater habitat; ground

water recharge; freshwater replenishment; migration of aquatic organisms; spawning, reproduction and/or early development; and wildlife habitat.

17. Administrative civil liabilities may be sought and imposed for violations of a discharger's WDR permit and/or applicable Board orders pursuant to the procedures described in Water Code section 13323. This Administrative Civil Liability Complaint alleges the Discharger's acts and/or failure to act constitutes violations of the WDRS R5-2009-0067, and seeks administrative civil liabilities under Water Code section 13385.
18. Issuance of this Administrative Civil Liability Complaint to enforce Division 7, Chapter 5.5 of the Water Code is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code § 21000 et seq.), in accordance with California Code of Regulations, title 14, sections 15307, 15308, 15321(a)(2) and all applicable law.

Violations Under Water Code Section 13385

19. California Water Code section 13385 states, in relevant part:
 - (a) A person who violates any of the following shall be liable civilly in accordance with this section:
 - (1) Section 13375 or 13376.
 - (2) A waste discharge requirement . . .
 - (c) Civil liability may be imposed administratively by the state board or a regional board pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 in an amount not to exceed the sum of both of the following:
 - (1) Ten thousand dollars (\$10,000) for each day in which the violation occurs.
 - (2) Where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.
 - (e) At a minimum, liability shall be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation.
20. **Maximum Civil Liability for Discharge to Surface Waters:** Per Water Code section 13385, civil liability administratively imposed by the Central Valley Water Board may not exceed \$10,000 per violation per day, plus \$10 per gallon for each gallon of waste discharged over 1,000 gallons. The Discharger spilled 71,510 gallons of raw sewage over a six day period. Over the seven days of spills, a total of 68,490 gallons were discharged in excess of 1,000 gallons per spill event. Therefore, at \$10 per gallon for discharges in excess of 1,000 gallons, and at \$10,000 per day for each day of the

discharge, the maximum administrative civil liability that may be assessed pursuant to section 13385 is **seven hundred fifty four thousand nine hundred dollars (\$754,900)**.

21. **Minimum Civil Liability for Discharge to Surface Waters:** Pursuant to Water Code section 13385(e), civil liability, at a minimum, must be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation. The Joyce Drive sanitary sewer overflow was due to human error and the failure to adequately maintain the backup system for the autodialer. The three other spills were due to a lack of capacity within the collection system. The economic benefit gained by non-compliance has been calculated using the US EPA's BEN model. The economic benefit is calculated to be approximately **twenty five thousand five hundred sixty one dollars (\$25,561)**, which becomes the minimum civil liability which must be assessed pursuant to section 13385.

Settlement Liability Amounts

22. On 6 July 2012, Executive Officer Pamela C. Creedon, as head of the Prosecution Team, issued Administrative Civil Liability Complaint R5-2012-0537 to the Discharger. The Complaint proposed one hundred ten thousand eight hundred fifty dollars (\$110,850) in civil liability pursuant to Water Code section 13385. The amount of the proposed liability was established based on a review of the factors cited in Water Code section 13385.
23. The Discharger and the Central Valley Water Board Prosecution Team have engaged in settlement discussions and agree to settle the matter without administrative action or resorting to civil litigation. The Central Valley Water Board Prosecution Team believes that this resolution is fair and reasonable, is in the public interest and comports with the State Water Resources Control Board's Water Quality Enforcement Policy.
24. The City of Grass Valley is hereby assessed an administrative civil liability in the amount of **one hundred ten thousand eight hundred fifty dollars (\$110,850)**. Of this amount,
 - a. **Fifty five thousand four hundred and twenty five dollars (\$55,425)** is to be submitted in the form of a check, made payable to the *State Water Pollution Cleanup and Abatement Account* and remitted to the Central Valley Regional Water Quality Control Board located 11020 Sun Center Drive, Suite 200, Rancho Cordova, California, 95670. The check shall have the number of this Order written upon it, and sent to the attention of Wendy Wyels.
 - b. The remaining liability of **fifty five thousand four hundred and twenty five dollars (\$55,425)** shall be permanently suspended pending timely completion of the work, and submittal of the reports, described in Attachment A, *Enhanced Compliance Action*. The reports must document the completion of the required tasks at a cost of at least \$55,425. If less than \$55,425 is spent on the project, then the Discharger

shall submit the difference no later than **1 October 2013**.

25. This ACL Order is being issued in part, to resolve by consent and without further administrative proceedings alleged violations of WDR Order R5-2009-0067 (NPDES CA0079898) as set forth in the Complaint and, in part to address threatened and continuing violations of the WDRs.
26. Water Code sections 13385(e) specifies that, in determining the amount of liability imposed under CWC sections 13385, the Regional Water Boards shall take into account, "the nature, circumstances, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on its ability to continue its business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters that justice may require." CWC section 13385(c) also adds that "[a]t a minimum, liability shall be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation." The following is a discussion of these factors:
 - a. *Nature and Extent:* The Discharger has violated WDRs Order R5-2009-0067 by discharging 71,750 gallons of raw sewage, of which 71,390 gallons entered Wolf Creek. These discharges occurred during four sanitary sewer overflows which took place between 19 October 2011 and 19 March 2012. The Discharger violated Discharge Prohibition III.A of its WDRs.
 - b. *Circumstances:* The 67,000 gallon spill was due to human error during upgrades to the Joyce Drive lift station. When the crew left for the night, a power switch was not turned on and therefore three lift station pumps were unable to operate. In addition, the battery backup system for the auto dialer did not function because the battery terminals were corroded. The spill was reported and stopped after the crew reported to work the next morning. According to the Discharger, the other three spills were due to excessive quantities of rain which overwhelmed the collection system.
 - c. *Gravity of the Violations:* The Discharger failed to prevent the discharge of waste to Wolf Creek, which is a highly accessible surface water and which supports sensitive beneficial uses, including domestic water supply and recreation. Potential health risks from bacteria and viruses resulting from raw sewage are a serious concern for humans and wildlife habitat.
 - d. *Susceptibility of the Discharge to Cleanup:* Due to the circumstances of the spills, once the larger spills entered storm drains or surface waters, there was no practical way to clean up to avoid water quality impacts or impacts to beneficial uses. However, the Discharger was able to recover a total of 110 gallons from the four spills.

- e. *Toxicity*: The main sanitary sewer overflow (Joyce Drive lift station) occurred during a dry period so there was less dilution in Wolf Creek than would have been expected during a storm event, and therefore a higher potential for toxicity. However, no fish kills were reported. The other SSOs occurred during rain events, and Wolf Creek would be expected to provide some additional dilution.
 - f. *Ability to Pay/Ability to Continue Business*: The U.S.EPA's model MUNIPAY was used to analyze the economic and financial condition of Grass Valley, and to quantify the City's ability to pay a penalty. Based on the balance of the City's unassigned Enterprise Fund balance as of 30 June 2011, Grass Valley has the ability to pay a penalty amount over \$225,000 and up to \$3,000,000.
 - g. *Voluntary Cleanup/Degree of Cooperation*: Although the Discharger was only able to clean up 110 gallons from the four spills, the Discharger cooperated by providing prompt notification of the discharge events.
 - h. *Prior History of Violations*: The Discharger does not appear to have a long history of sanitary sewer overflows relating to storm events nor has it been assessed a significant number of mandatory minimum penalties for effluent limit violations.
 - i. *Degree of Culpability*: The largest spill (which occurred on 18 October 2011) resulted from an inadvertent operator error; however, if proper maintenance had been completed, then the backup alarm system would have functioned properly and the magnitude of the spill would have been significantly reduced. The three other spills occurred from rain events that overwhelmed the collection system.
 - j. *Economic Benefit*: Pursuant to Water Code section 13385(e), civil liability, at a minimum, must be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation. In general, the discharges were due to operator error and inflow/infiltration within the collection system. The Discharger has stated that it budgets \$200,000 to \$300,000 per year to line pipes and reduce inflow and infiltration. The U.S.EPA's model BEN was used to evaluate the economic benefit derived from delaying or avoiding compliance with existing environmental regulations. Using the model, the economic benefit of noncompliance is calculated to be \$25,561.
 - k. *Other Matters That Justice May Require - Staff Costs*: The Prosecution Team has spent over 100 hours associated with the investigation of the discharges and preparation of the ACL Complaint. The State Water Board Office of Enforcement has directed that all regions are to use a value of \$150 per hour for staff costs. For this case, staff time through preparation of the Complaint is \$15,000.
27. On 23 April 2009, the Central Valley Water Board delegated the authority to issue Administrative Civil Liability Orders, where the matter is not contested by the Discharger,

to the Executive Officer, or to an Assistant Executive Officer when the Executive Officer is serving as head of the Board's Prosecution Team (Resolution R5-2009-0027). Pamela C. Creedon is serving as the head of the Board's Prosecution Team for this matter, and therefore Assistant Executive Officer Kenneth D. Landau has the authority to issue this Order.

28. This Order constitutes a settlement of the violations cited herein. Notice of this settlement was posted on the Central Valley Water Board's website, and was provided to all interested parties. The 30-day public notice and comment period mandated by Federal regulations (40 CFR 123.27) has expired. No public comments have been received.
29. Issuance of this Administrative Civil Liability Order to enforce Water Code Division 7, Chapter 5.5 is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code section 15321(a)(2)).
30. Upon adoption of the Central Valley Water Board, this Stipulated Order represents a final and binding resolution and settlement of all claims, violations or causes of action alleged in Complaint R5-2012-0537, or which could have been asserted based on the specific facts alleged in Complaint R5-2012-0537, against the City of Grass Valley as of the effective date of this Stipulated Order.
31. Upon the effective date of this Stipulated Order, the City of Grass Valley shall and does release, discharge and covenant not to sue or pursue any civil or administrative claims against the Central Valley Water Board; including its officers, agents, directors, employees, contractors, subcontractors, attorneys, representatives, predecessors-in-interest, and successors and assigns for any and all claims or causes of action, of every kind and nature whatsoever, in law and equity, whether known or unknown, suspected or unsuspected, foreseen or unforeseen, which arise out of or are related to this action.

Other Matters

32. **Jurisdiction.** The Parties agree that the Central Valley Regional Water Board has subject matter jurisdiction over the matters alleged in the complaint and personal jurisdiction over the Parties to this Stipulated Order.
33. **Procedure.** The Parties agree that the procedure that has been adopted for the approval of the settlement by the Parties and review by the public, as reflected in this Order, will be adequate. In the event procedural objections are raised prior to this Stipulated Order becoming effective, the Parties agree to meet and confer concerning any such objections, and may agree to revise to meet and confer concerning any such objections, and may agree to revise or adjust the procedure as necessary or advisable under the circumstances.

34. **Waivers.** In the event that this Stipulated Order does not take effect because it is not approved by the Central Valley Water Board's Assistant Executive Officer, or is vacated in whole or in part by a court, the Parties acknowledge that they expect to proceed to a contested evidentiary hearing before the Central Valley 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 also agree to waive any and all objections related to their efforts to settle this matter, including, but not limited to:
- a. Objections related to prejudice or bias of any of the Central Valley Water Board Members or their advisors and any other objections that are premised in whole or in part on the fact that the Central Valley Water Board members or their advisors were exposed to some of the material facts and the Parties' settlement positions, and therefore may have formed impressions or conclusions, prior to conducting any contested evidentiary hearing on the Complaint in this matter; or
 - b. Laches or delay or other equitable defenses based on the time period that the order or decision by settlement may be subject to administrative or judicial review.
35. **Appeals.** The City of Grass Valley hereby waives its right to petition the State Water Resources Control board to review this Stipulated Order, and to appeal it to a California Superior Court and/or any California appellate level court.
36. **Effect of Stipulated Order.** Except as expressly provided in this Stipulated Order, nothing in this Stipulated Order is intended nor shall it be construed to preclude the Enforcement Staff or any state agency, department, board or entity or any local agency from exercising its authority under any law, statute, or regulation.
37. **Water Boards Not Liable.** Neither the Central Valley Water Board members nor the Central Valley 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 City of Grass Valley, its directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this stipulated Order, nor shall the Central Valley Water Board, its members or staff be held as parties to or guarantors of any contract entered into by the City of Grass Valley, its directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Stipulated Order.
38. **No Waiver of Right to Enforce.** The failure of the Prosecution Team or Central Valley Water Board to enforce any provision of this Stipulated Order shall in no way be deemed a waiver of such provision, or in any way affect the validity of this Stipulated Order. The failure of the Prosecution Team or Central Valley Water Board to enforce any such provision shall not preclude it from later enforcing the same or any other provision of this Stipulated Order. No oral advice, guidance, suggestions or comments by employees or officials of any Party regarding matters covered under this Stipulated Order shall be construed to relieve any Party regarding matters covered in this Stipulated Order.

39. **Authority to Enter Stipulated Order.** Each person executing this Stipulated Order in a representative capacity represents and warrants that he or she is authorized to execute this Order on behalf of the City of Grass Valley and to bind the entity on whose behalf he or she executes the Order.
40. **Integration.** This Stipulated Order constitutes the entire agreement between the Parties and may not be amended or supplemented except as provided for in this Stipulated Order.
41. **Modification of Stipulated Order.** This Order shall not be modified by any of the Parties by oral representation made before or after the execution of this Order. All modifications must be made in writing and approved by the Central Valley Water Board or its Executive Officer.
42. **Certification.** Whenever this Stipulated Order requires certification by the Discharger, such certification shall be provided by an employee of the City of Grass Valley at a managerial level. Each certification shall read as follows:
- To the best of my knowledge, based on information and belief and after reasonable investigation, I certify that the information contained in or accompanying this submission is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.*
43. **Interpretation.** This Stipulated Order shall not be construed against the party preparing it, but shall be construed as if the Parties jointly prepared it and any uncertainty and ambiguity shall not be interpreted against any one party.
44. **Counterpart Signatures.** This Order 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.

IT IS HEREBY ORDERED THAT:

HAVING CONSIDERED THE ALLEGATIONS AND THE PARTIES' STIPULATIONS, THE CENTRAL VALLEY WATER BOARD, BY AND THROUGH ITS ASSISTANT EXECUTIVE OFFICER, HEREBY FINDS THAT:

1. The City of Grass Valley is hereby assessed an administrative civil liability in the amount of **one hundred and ten thousand eight hundred fifty dollars (\$110,850)**. Of this amount:

- a. **Fifty five thousand four hundred and twenty five dollars (\$55,425)** is to be submitted in the form of a check, made payable to the *State Water Pollution Cleanup and Abatement Account* and remitted to the Central Valley Regional Water Quality Control Board located 11020 Sun Center Drive, Suite 200, Rancho Cordova, California, 95670. The check shall have the number of this Order written on it, and be sent to the attention of Wendy Wyels. The check shall be submitted within **30 days** of signature of this Order.
 - b. The remaining liability of **fifty five thousand four hundred and twenty five dollars (\$55,425)** shall be permanently suspended pending timely completion of the work, and submittal of the reports, described in Attachment A, *Enhanced Compliance Action*. The reports must document the completion of the required tasks at a cost of at least \$55,425. If less than \$55,425 is spent on the project, then the Discharger shall submit the difference no later than **1 October 2013**.
2. By **1 February 2013, 1 May 2013, and 1 August 2013**, the Discharger shall submit progress reports describing the work completed to date for the Enhanced Compliance Action described in Attachment A.
 3. Should the Discharger or its agents or contractors publicize one or more elements of the Enhanced Compliance Action, they shall state in a prominent manner that the project is being undertaken as part of the settlement of an enforcement action by the Central Valley Water Board against the Discharger.
 4. As required by the California Business and Professions Code Sections 6735, 7835, and 7835.1, all reports shall be prepared by, or under the supervision of, a California Registered Engineer or Professional Geologist and signed and stamped by the registered professional.
 5. The Assistant 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 make the extension request at least 30 days 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 Central Valley Water Board shall be deemed denied. The Discharger must obtain written approval from the Assistant Executive Officer for any significant departures from the tasks described in the Order. Failure to obtain written approval for any significant departures will result in the assessment of the actual cost difference between the portion of the task completed in conformity with the tasks described in the ACLO and the total amount of the suspended penalty.
 6. If the Assistant Executive Officer determines that the reports or individual task are not satisfactorily completed by their respective due dates (including any extensions approved by the Assistant Executive Officer), the Assistant Executive Officer may

demand payment of the suspended amount still outstanding.

7. If the Discharger fails to make the payments or take any of the above actions, the Assistant Executive Officer may refer the matter to the State Attorney General for enforcement of the terms of this Order.
8. This Order is final, and shall be effective immediately upon signature.

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 Water Code 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 Order becomes final, except that if the thirtieth day following the date that this 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. 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.



KENNETH D. LANDAU, Assistant Executive Officer

4 December 2012

Date

Attachment A: Enhanced Compliance Action Description

lo/wsw:30Nov12

Attachment A to ACLO R5-2012-0566

**City of Grass Valley
Enhanced Compliance Action Description**

Project Title: Upgraded Vacuum/Jet Truck Purchase

Geographic Area of Interest: Wolf Creek, City of Grass Valley, Nevada County

Name of Responsible Entity: City of Grass Valley

Estimated Cost for Project Completion: \$250,000-350,000. Of this amount, \$55,425 will be credited toward the Enhanced Compliance Action

Contact Information:

Tim Kiser, P.E.

Public Works Director/City Engineer, City of Grass Valley

125 E. Main Street

Grass Valley, CA 95945

(530) 274-4351

timk@cityofgrassvalley.com

Brief Description of the Project:

The City of Grass Valley (City) currently uses a jet truck and a 300 gallon separate trailer-mounted vacuum unit to respond to sanitary sewer overflows (SSOs). The trailer-mounted vacuum unit is used to clean-up the wastewater discharged during an SSO. As part of this project, the City will purchase a larger capacity (minimum 1,000 gallon) combination vacuum/jet truck in order to improve its ability to respond to and clean-up SSOs. In addition to having a stronger vacuum and larger wastewater storage capacity that will be utilized during SSO cleanups, the new truck will be equipped with a jet system. The City will use the jet system to clean segments of the collection system and clear plugged manholes which will enhance the City's overall collection system maintenance program.

Waterbody, Beneficial Use and/or Pollutant Addressed by this Project:

The project will take place within the City of Grass Valley, which drains to Wolf Creek. The City of Grass Valley Wastewater Treatment Plant also discharges tertiary effluent to Wolf Creek. The project will enhance the ability of City staff to respond to SSOs, clean up more of the wastewater discharged during an SSO, and conduct preventative maintenance in the collection system to reduce the risk of SSOs that may enter Wolf Creek.

Project Schedule, Budget, and Deliverables:

The City will be responsible for providing all deliverables described below for each phase of the project.

- Formal Agreement. The City shall submit a resolution approving the purchase of the truck. The agreement will document that any Enhanced Compliance Action (ECA) funds will be spent in accordance with the terms of the Administrative Civil Liability (ACL) Order, and that the City agrees to an audit of its ECA expenditures, if requested by the Central Valley Regional Water Quality Control Board.
Deliverable: Formal Agreement
Due Date: **December 31, 2012**
- Purchase Truck. The City shall review specific needs (i.e., size, type of vacuum, jet system) and for the truck it intends to purchase. The City shall evaluate and test trucks meeting its specifications and needs. After the evaluation is complete, the City shall purchase the selected truck.
Estimated Cost: \$250,000-350,000
Deliverable: Purchase Order for Truck
Due Date: **August 31, 2013**
- Quarterly Progress Reports. The City shall submit quarterly progress reports describing efforts completed-to-date to procure a vacuum/jet truck.
Deliverable: Progress reports
Due Date: **February 1, 2013; May 1, 2013; August 1, 2013**
- Final Report. The City shall include a summary of all tasks completed, an analysis of the success of the project, and a post-project accounting of all expenditures. The accounting shall clearly show whether the final cost of the successfully completed ECA is less than, equal to, or more than the suspended liability of \$55,425. The report shall be completed under penalty of perjury.
Deliverable: Final Report including above information
Due Date: **October 1, 2013**