

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2016-0516

MANDATORY PENALTY
IN THE MATTER OF

CITY OF GALT
WASTEWATER TREATMENT PLANT AND RECLAMATION FACILITY
SACRAMENTO COUNTY

This Complaint is issued to the City of Galt (hereafter Discharger) pursuant to California Water Code (Water Code) section 13385, which authorizes the imposition of Administrative Civil Liability and Water Code section 13323, which authorizes the Executive Officer to issue this Complaint 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 Complaint is based on allegations that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Orders R5-2010-0099 (NPDES CA0081434).

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

1. The Discharger owns and operates the City of Galt Wastewater Treatment Plant and Reclamation Facility (Facility), a wastewater collection, treatment, and disposal system, which provides sewerage service for the City of Galt. Treated wastewater is discharged to Laguna Creek, tributary to the Cosumnes River, a water of the United States.
2. In order to regulate discharges from the Facility, on 23 September 2010, the Central Valley Water Board adopted WDRs Order R5-2010-0099. On 11 December 2015, the Central Valley Water Board rescinded WDRs Order R5-2010-0099, except for enforcement purposes, and adopted WDRs Order R5-2015-0123. WDRs Order R5-2015-0123 became effective on 1 February 2016.
3. On 23 May 2010, the Board adopted Time Schedule Order (TSO) R5-2010-0100, which contained interim limitations and compliance time schedules for arsenic, bis (2-ethylhexyl)phthalate, carbon tetrachloride, copper, cyanide, chlorodibromomethane, dichlorobromomethane, and nitrate plus nitrite. The TSO required full compliance with the WDRs' final effluent limits for arsenic, bis (2-ethylhexyl)phthalate, copper, and nitrate plus nitrite by 1 September 2015 and full compliance with WDRs final effluent limitations for carbon tetrachloride, cyanide, chlorodibromomethane, and dichlorobromomethane by 1 November 2011.
4. On 15 December 2010, the Board amended TSO R5-2010-0100 and adopted TSO R5-2010-0100-01, which increased the interim effluent limitation for arsenic from 14 µg/L to 21 µg/L and extended the compliance schedule for carbon tetrachloride from 1 November 2011 to 1 September 2015. This Complaint considers the protection from mandatory minimum penalties (MMPs) provided by both TSOs.
5. On 10 July 2015 the Assistant Executive Officer of the Central Valley Water Board issued a draft administrative civil liability complaint (draft ACLC) for \$12,000 in mandatory minimum penalties (MMPs) for effluent violations occurring between 1 May 2013 and 31 December 2014.
6. On 12 January 2016, staff issued the Discharger a Notice of Violation (NOV) and draft Record of Violations (ROV) for effluent limitation violations in the amount of \$3,000 that occurred between 1 September 2014 and 30 November 2015. The Discharger has not responded to the ROV despite Board staffs' attempts to contact them regarding the alleged violations. This Complaint revises

the review period from 1 May 2013 through 31 December 2015; one additional violation has been found other than those cited in the 10 July 2015 draft ACLC and 12 January 2016 ROV.

7. This Complaint addresses administrative civil liability for effluent violations that occurred between 1 May 2013 and 31 December 2015. These violations are specifically identified in Attachment A to this Complaint as subject to mandatory minimum penalties. Attachment A to this Complaint is attached hereto and incorporated herein by this reference.
8. Water Code section 13385(h) and (i) require assessment of mandatory penalties and state, in part, the following:

Water Code section 13385(h)(1) states:

Notwithstanding any other provision of this division, and except as provided in subdivisions (j), (k), and (l), a mandatory minimum penalty of three thousand dollars (\$3,000) shall be assessed for each serious violation.

Water Code section 13385 (h)(2) states:

For the purposes of this section, a "serious violation" means any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 20 percent or more or for a Group I pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 40 percent or more.

Water Code section 13385 subdivision (i)(1) states, in part:

Notwithstanding any other provision of this division, and except as provided in subdivisions (j), (k), and (l), a mandatory minimum penalty of three thousand dollars (\$3,000) shall be assessed for each violation whenever the person does any of the following four or more times in any period of six consecutive months, except that the requirement to assess the mandatory minimum penalty shall not be applicable to the first three violations:

- A) Violates a waste discharge requirement effluent limitation.
- B) Fails to file a report pursuant to Section 13260.
- C) Files an incomplete report pursuant to Section 13260.
- D) Violates a toxicity effluent limitation contained in the applicable waste discharge requirements where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.

9. Water Code section 13323 states, in part:

Any executive officer of a regional board may issue a complaint to any person on whom administrative civil liability may be imposed pursuant to this article. The complaint shall allege the act or failure to act that constitutes a violation of law, the provision authorizing civil liability to be imposed pursuant to this article, and the proposed civil liability.

10. Water Code section 13385(j) exempts certain violations from the mandatory minimum penalties, and states, in relevant part:

Subdivisions (h) and (i) do not apply to any of the following:

- 3) A violation of an effluent limitation where the waste discharge is in compliance with either a cease and desist order issued pursuant to Section 13301 or a time schedule order issued pursuant to Section 13300 or 13308 if all of the following requirements are met:
 - C) The regional board establishes a time schedule for bringing the waste discharge into compliance with the effluent limitation that is as short as possible....For the purposes of this subdivision, the time schedule may not exceed five years in length The interim requirements shall include both of the following:
 - i) Effluent limitations for the pollutant or pollutants of concern.
 - ii) Actions and milestones leading to compliance with the effluent limitation.

11. WDRs Order R5-2010-0099 Effluent Limitations IV.A.1.e includes, in part, the following effluent limitations:

- e. **Total Coliform Organisms.** Effluent total coliform organisms shall not exceed:
 - i. 2.2 most probable number (MPN) per 100 mL, as a 7-day median; and
 - ii. 23 MPN/100 mL, more than once in any 30-day period, and
 - iii. 240 MPN/100 mL, at any time.

12. WDRs Order R5-2010-0099 Effluent Limitations IV.A.1.a includes, in part, the following effluent limitations:

- a. The Discharger shall maintain compliance with the effluent limitations specified in Table 6:

Table 6. Effluent Limitations

Parameter	Units	Effluent Limitations				
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
Copper, Total Recoverable	µg/L	3.1	--	4.3	--	--
Arsenic	µg/L	10	--	--	--	--

13. TSO R5-2010-0100-01 Directive 2 includes, in part, the following interim effluent limitations:

- 2. The following interim maximum daily effluent limitations shall be effective immediately and until the date specified in the table for applicable parameter, or when the Discharger is able to come into compliance, whichever is sooner.

Effective immediately and until:	Parameter	Maximum Daily Effluent Limitation
1 September 2015	Copper	7 µg/L
1 September 2015	Arsenic	21 µg/L

14. TSO R5-2010-0100-01 contains interim effluent limitations for copper and arsenic; however, as shown in Attachment A, the Discharger exceeded the interim effluent limit and therefore Water Code section 13385, subdivision (j) does not exempt that particular violation from MMPs.

15. According to the Discharger's self-monitoring reports, the Discharger committed six (6) serious Group II violations of the above effluent limitations contained in WDRs Order R5-2010-0099. These violations are defined as serious because measured concentrations of Group II constituents exceeded maximum prescribed levels in the WDRs by 20 percent or more. The mandatory minimum penalty for these serious violations is **eighteen thousand dollars (\$18,000)**.
16. The total amount of the mandatory penalties assessed for the alleged effluent violations is **eighteen thousand dollars (\$18,000)**. As stated herein, a detailed list of the alleged effluent violations is included in Attachment A. This Complaint addresses administrative civil liability for violations that are specifically identified as subject to mandatory minimum penalties in Attachment A.
17. On 14 February 2014, the Executive Officer designated Andrew Altevogt, Assistant Executive Officer, as the Lead Prosecution Officer for all enforcement matters originating in the Central Valley Region. The 14 February 2014 Delegation of Authority also authorizes Andrew Altevogt to issue Administrative Civil Liability Complaints.
18. Issuance of this Administrative Civil Liability Complaint to enforce Water Code Division 7, Chapter 5.5 is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code section 21000 et seq.), in accordance with California Code of Regulations, title 14, section 15321(a)(2).

THE CITY OF GALT IS HEREBY GIVEN NOTICE THAT:

1. The Assistant Executive Officer of the Central Valley Water Board proposes that the Discharger be assessed an Administrative Civil Liability in the amount of **eighteen thousand dollars (\$18,000)**.
2. A hearing on this matter will be held at the Central Valley Water Board meeting scheduled on **23/24 June 2016**, unless one of the following occurs by **27 April 2016**.
 - a) The Discharger waives the hearing by completing the attached form (checking off the box next to Option 1) and returning it to the Central Valley Water Board, along with payment for the proposed civil liability of **eighteen thousand dollars (\$18,000)**; or
 - b) The Central Valley Water Board agrees to postpone any necessary hearing after the Discharger requests to engage in settlement discussions by checking off the box next to Option #2 on the attached form, and returns it to the Board along with a letter describing the issues to be discussed; or
 - c) The Central Valley Water Board agrees to postpone any necessary hearing after the Discharger requests a delay by checking off the box next to Option #3 on the attached form, and returns it to the Board along with a letter describing the issues to be discussed.
3. If a hearing on this matter is held, the Central Valley Water Board will consider whether to affirm, reject, or modify the proposed Administrative Civil Liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. If this matter proceeds to hearing, the Assistant Executive Officer reserves the right to amend the proposed amount of civil liability to conform to the evidence presented, including but not limited to, increasing the proposed amount to account for the costs of enforcement (including staff, legal and

expert witness costs) incurred after the date of the issuance of this Complaint through completion of the hearing.

Original Signed by

ANDREW ALTEVOGT, Assistant Executive Officer

28 March 2016

DATE

Attachment A: Record of Violations

**WAIVER FORM
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

By signing this waiver, I affirm and acknowledge the following:

I am duly authorized to represent the City of Galt (hereafter Discharger) in connection with Administrative Civil Liability Complaint R5-2016-0516 (hereafter Complaint). I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served. The person who has been issued a complaint may waive the right to a hearing."

(OPTION 1: Check here if the Discharger waives the hearing requirement and will pay in full.)

- a. I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board.
- b. I certify that the Discharger will remit payment for the proposed civil liability in the full amount of **eighteen thousand dollars (\$18,000)** by check that references "ACL Complaint R5-2016-0516" made payable to the *State Water Pollution Cleanup and Abatement Account*. Payment must be received by the State Water Resources Control Board, Accounting Office, Attn: ACL Payment at PO Box 1888, Sacramento, California, 95812-1888 by **27 April 2016**. The waiver and a copy of the check must be submitted to the Central Valley Water Board Attn: Wendy Wyels at 11020 Sun Center Drive #200, Rancho Cordova California, 95670 by **27 April 2016**.
- c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after a 30-day public notice and comment period. Should the Central Valley Water Board receive significant new information or comments during this comment period, the Central Valley Water Board's Assistant Executive Officer may withdraw the complaint, return payment, and issue a new complaint. I also understand that approval of the settlement will result in the Discharger having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
- d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

(OPTION 2: Check here if the Discharger waives the 90-day hearing requirement in order to engage in settlement discussions.) I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board within 90 days after service of the complaint, but I reserve the ability to request a hearing in the future. I certify that the Discharger will promptly engage the Central Valley Water Board Prosecution Team in settlement discussions to attempt to resolve the outstanding violation(s). By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing so that the Discharger and the Prosecution Team can discuss settlement. It remains within the discretion of the Central Valley Water Board to agree to delay the hearing. Any proposed settlement is subject to the conditions described above under "Option 1."

(OPTION 3: Check here if the Discharger waives the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines. Attach a separate sheet with the amount of additional time requested and the rationale.) I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board within 90 days after service of the complaint. By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing and/or hearing deadlines so that the Discharger may have additional time to prepare for the hearing. It remains within the discretion of the Central Valley Water Board to approve the extension.

(Print Name and Title)

(Signature)

(Date)

**ATTACHMENT A
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2016-0516**

**City of Galt
Wastewater Treatment Plant**

RECORD OF VIOLATIONS (1 May 2013 – 31 December 2015) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Program R5-2010-0099)

<u>Date</u>	<u>Parameter</u>	<u>Units</u>	<u>WDRs</u> <u>Limit</u>	<u>TSO</u> <u>Limit</u>	<u>Measured</u>	<u>Period</u>	<u>Remarks</u>	<u>CIWQS</u>
2/4/2014	Copper	µg/L	4.3	7	8.5	Maximum Daily	2, 5	967009
3/4/2014	Copper	µg/L	4.3	7	7.9	Maximum Daily	2, 5	968878
5/29/2014	Total Coliform	MPN/100mL	2.2	--	10.5	7-day Median	3	981248
7/31/2014	Arsenic	µg/L	10	21	20	Average Monthly	2, 6	981251
8/31/2014	Arsenic	µg/L	10	21	20	Average Monthly	2, 7	981253
1/6/2015	Copper	µg/L	4.3	7	7.3	Daily Maximum	5	1001609
1/31/2015	Copper	µg/L	3.1	--	7.3	Average Monthly	2	1001623

Remarks:

1. Serious Violation: For Group I pollutants that exceed the effluent limitation by 40 percent or more.
2. Serious Violation: For Group II pollutants that exceed the effluent limitation by 20 percent or more.
3. Non-serious violation falls within the first three violations in a 180-day period, thus is not subject to mandatory minimum penalties. Penalties that may be assessed for this violation are discretionary. This violation is not addressed or resolved in this ROV.
4. Non-serious violation subject to mandatory minimum penalties.
5. Copper violations subject to MM-Ps for exceeding the maximum daily interim limitation of 7 ug/L in TSO R5-2010-0100-01.
6. The maximum daily interim effluent limitation for arsenic of 21 µg/L contained in TSO R5-2010-0100-01 was exceeded on 15 July 2014 with a value of 24 µg/L. Therefore, MMP protection was lost. The WDRs do not have a daily effluent limit for arsenic, and therefore, compliance was assessed with the WDR's average monthly effluent limitation for arsenic for the month of July 2014.
7. The maximum daily interim effluent limitation for arsenic of 21 µg/L contained in TSO R5-2010-0100-01 was exceeded on 12 August 2014 with a value of 24 µg/L. Therefore, MMP protection was lost. The WDRs do not have a daily effluent limit for arsenic, and therefore, compliance was assessed with the WDR's average monthly effluent limitation for arsenic for the month of August 2014.

<u>VIOLATIONS AS OF:</u>	<u>12/31/15</u>
Group I Serious Violations:	0
Group II Serious Violations:	6
Non-Serious Violations Not Subject to MMPs:	1
<u>Non-serious Violations Subject to MMPs:</u>	<u>0</u>
Total Violations Subject to MMPs:	6

Mandatory Minimum Penalty = (6 Group II Serious Violations) x \$3,000 = \$18,000