30 November 2016

Steven Winkler
Public Works Director
City of Galt
495 Industrial Drive
Galt, CA 95632

CERTIFIED MAIL
91 7199 9991 7035 8365 3

SETTLEMENT AGREEMENT AND STIPULATION FOR ENTRY OF ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2016-0566, CITY OF GALT, WASTEWATER TREATMENT PLANT AND RECLAMATION FACILITY, SACRAMENTO COUNTY

Enclosed is Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order R5-2016-0566 (Order), issued to the City of Galt. This Order resolves violations of Waste Discharge Requirements (WDRs) Order R5-2010-0099 (NPDES CA0077691), which regulates treated wastewater discharges from the Galt Wastewater Treatment Plant. The Order imposes a liability in the amount of ninety three thousand dollars ($93,000).

The Order requires the City of Galt to pay forty-six thousand five hundred dollars ($46,500) by 31 December 2016. Payment shall be made by check payable to the State Water Resources Control Board Cleanup and Abatement Account and shall reference “Order R5-2016-0566” in the subject line. Payment shall be remitted to the State Water Resources Control Accounting Office, Attn: ACL Payment, P.O. Box 1888, Sacramento, CA 95812-1888. Copies of the checks shall be sent to Kailyn Ellison, Attorney, State Water Resources Control Board, Office of Enforcement, P.O Box 100, Sacramento, California 95812 and Wendy Wyels, Supervisor, Compliance and Enforcement Section, Regional Water Quality Control Board, Central Valley Region, 11020 Sun Center Drive, Suite 200, Rancho Cordova, CA 95670.

The remaining forty-six thousand five hundred dollars ($46,500) shall be paid to the Rose Foundation for Communities and Environment (Rose Foundation) by 31 December 2016. The payment shall be made by check payable to the Rose Foundation and sent to the Rose Foundation, Att.: Tim Little, 1970 Broadway, Suite 600, Oakland, California 94612-2218. A copy of the check shall also be sent to Kailyn Ellison and Wendy Wyels at the addresses set forth above.

In addition to the imposed penalty, the Discharger shall pay one thousand three hundred ninety-five dollars ($1,395) to the Rose Foundation for oversight of the SEP. The payment shall be made by check payable to the Rose Foundation and sent to the Rose Foundation, Att.: Tim Little, 1970 Broadway, Suite 600, Oakland, California 94612-2218. A copy of the check shall also be sent to Kailyn Ellison and Wendy Wyels at the addresses set forth above.
In order to conserve resources, this letter transmits paper copies of the documents to the Discharger only. Interested persons may download the documents from the Central Valley Water Board’s Internet website at:

http://www.waterboards.ca.gov/centralvalley/board_decisions/final_orders/.

Copies of these documents can also be obtained by contacting or visiting the Central Valley Water Board’s office weekdays between 8:00 AM and 5:00 PM.

If you have any questions or comments regarding this Order, please contact Wendy Wyels at (916) 464-4835 or wwyels@waterboards.ca.gov.

WENDY WYELS, Supervisor
Compliance and Enforcement Section

Enclosures: ACL Order R5-2016-0566

cc w/o encl: Kailyn Ellison, Office of Enforcement, SWRCB, Sacramento
Patrick Pulupa, Office of Chief Counsel, SWRCB, Sacramento
Introduction

1. This Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order (Stipulated Order or Order) is entered into by and between the Assistant Executive Officer of the California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board), on behalf of the Central Valley Water Board Prosecution Team (Prosecution Team), and the City of Galt (Discharger)(collectively known as the Parties) and is presented to the Central Valley Water Board, or its delegee, for adoption as an order by settlement, pursuant to Government Code section 11415.60.

Recitals

2. The Discharger owns and operates the City of Galt Wastewater Treatment Plant and Reclamation Facility (Facility), a wastewater collection, treatment, and disposal system, and provides sewerage service for the City of Galt. During 1 November through 30 April of each year, treated wastewater is discharged to Laguna Creek via Skunk Creek, tributary to the Cosumnes River, which is a water of the United States. The remainder of the year, tertiary treated effluent may be discharged to Skunk Creek, or secondary treated effluent may be applied to 346 acres of agricultural land.

3. On 23 September 2010, the Central Valley Water Board adopted Waste Discharge Requirements (WDRs) Order R5-2010-0099 and Time Schedule Order (TSO) R5-2010-0100, which contained requirements for the discharge of wastewater from the Facility. The WDRs contained, among other items, prohibitions, effluent limitations, and monitoring and reporting requirements with which the Discharger was required to comply.

4. On 15 December 2010, the Board amended TSO R5-2010-0100 and adopted TSO R5-2010-0100-01. On 11 December 2015, the Board adopted Order R5-2015-0123, which among other things rescinded Order R5-2010-0099 except for enforcement purposes. Neither TSO R5-2010-0100-01 or WDR Order R5-2015-0123 were in effect at the time of the alleged violations.
5. On 10 July 2015, the Prosecution Team sent the Discharger a letter offering to enter into settlement negotiations (pre-ACL letter) related to alleged violations of the Monitoring and Reporting Program (MRP) of WDR Order R5-2010-0099.

6. The following terms are used by the Prosecution Team to describe the alleged violations:

a. **Method Detection Limit (MDL)** is the minimum concentration of a substance that can be measured and reported with 99 percent confidence that the analyte concentration is greater than zero, as defined in title 40 of the Code of Federal Regulations, Part 136, Attachment B, revised as of July 3, 1999.

b. **Minimum Level (ML)** is the concentration at which the entire analytical system must give a recognizable signal and acceptable calibration point. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed by a specific analytical procedure, assuming that all the method specified sample weights, volumes, and processing steps have been followed.

c. **Reporting Level (RL)** is the ML (and its associated analytical method) chosen by the Discharger for reporting and compliance determination from the MLs included in this Order. The MLs included in this Order correspond to approved analytical methods for reporting a sample result that are selected by the Central Valley Water Board either from Appendix 4 of the [Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California] (State Implementation Policy) in accordance with section 2.4.2 of the State Implementation Policy or established in accordance with section 2.4.3 of the State Implementation Policy. The ML is based on the proper application of method-based analytical procedures for sample preparation and the absence of any matrix interferences. Other factors may be applied to the ML depending on the specific sample preparation steps employed. For example, the treatment typically applied in cases where there are matrix-effects is to dilute the sample or sample aliquot by a factor of ten. In such cases, this additional factor must be applied to the ML in the computation of the RL.

d. **Detected, but Not Quantified (DNQ)** are those sample results less than the RL, but greater than or equal to the laboratory’s MDL.

e. **Not Detected (ND)** are those sample results less than the laboratory’s MDL.

7. The Prosecution Team alleges certain violations occurred between December 2010 and September 2012 because, for some samples and some reports, the Discharger did not select an analytical method with a RL that is at or below the effluent limitation as required by the MRP. As graphically depicted below, the MDL is less than the RL. When a laboratory reports a value that is between the MDL and RL, they are to include the qualifier “detected but not quantified” or DNQ. Values less than the MDL are to be reported as “not detected” and the MDL is to be included in the monitoring report. The use of the qualifier DNQ and the inclusion of the RL and MDL in the Discharger’s self-
monitoring reports are critical to ensure that samples are analyzed with the precision necessary to determine whether or not they exceed the effluent limitation.

<table>
<thead>
<tr>
<th>Concentration</th>
<th>Method</th>
<th>Reporting Level (ML)</th>
<th>Effluent Limitation</th>
</tr>
</thead>
</table>
| Detection Limit (MDL) | DNQ | ND | | }

8. The Prosecution Team initially alleged three categories of discretionary violations related to the MRP of WDR Order R5-2010-0099: (1) the failure to use reporting limits that are below the effluent limitations for priority pollutants, (2) the failure to include the reporting level, method detection limit, and if applicable, “detected but not quantified” in the monthly monitoring reports, and (c) the failure to sample at the frequency required by the WDRs. During the settlement process, the Discharger reviewed its laboratory reports and expended substantial resources to submit corrected monitoring reports. This resulted in a significant decrease in the number of violations pursued by the Prosecution Team and associated potential administrative civil liability.

9. Attachment A, hereby incorporated by this reference, contains the Prosecution Team’s discretionary administrative civil liability penalty calculations for the 10 separate monitoring reports in which the Discharger analyzed constituents with a reporting limit higher than the WDRs limitations in violation of Footnote 1 of Table E-3 in the MRP, and the two monitoring periods for which the Discharger did not sample for ammonia in violation of MRP Table E-3. The Discharger’s revised monitoring reports contained the RLs, MDLs, and DNQ qualifiers and therefore the second of the previously-asserted class of violations was dismissed and will not be pursued.

10. Pursuant to the State Water Resources Control Board’s Water Quality Enforcement Policy section VI.B (Settlement Considerations), the Prosecution Team agreed during settlement negotiations to reduce the discretionary administrative civil liability (ACL) amount to seventy-five thousand dollars ($75,000) in consideration of hearing and/or litigation risks. The Discharger does not concur that discretionary administrative civil liability is appropriate and does not concur with the Prosecution Team’s assessment of the potential discretionary ACL amount or calculations under the Enforcement Policy, but also agreed during settlement to compromise in the consideration of hearing and litigation costs and risks and in the interest of concluding the matter.

11. During settlement discussions, mandatory minimum penalties (MMPs) were separated from the discretionary penalties. On 28 March 2016, Andrew Altevogt, Assistant Executive Officer of the Central Valley Water Board, issued ACL Complaint R5-2016-0516 for $18,000 in MMPs which occurred between 1 May 2013 and 31 December 2015. On 13 April 2016, the Discharger waived the 90-day hearing requirement related to ACL Complaint R5-2016-0516 in order to engage in settlement discussions. Attachment B, hereby incorporated by this reference, includes the effluent limitation violations subject to $18,000 in MMPs.
Regulatory Considerations

12. Water Code sections 13385, subdivisions (h) and (i) require assessment of mandatory penalties and state, in part, the following:

Water Code section 13385, subdivision (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, subdivision (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:

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.

13. Water Code section 13385, subdivision (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:
Stipulated Administrative Civil Liability Order
R5-2016-0566

I) Effluent limitations for the pollutant or pollutants of concern.
II) Actions and milestones leading to compliance with the effluent limitation.

14. Order R5-2010-0099 section II.Q states, in part:

...Water Code sections 13267 and 13383 authorizes the Central Valley Water Board to require technical and monitoring reports. The Monitoring and Reporting Program establishes monitoring and reporting requirements to implement federal and State requirements.

15. Water Code section 13267, subdivision (a) provides that

A regional board, in establishing or reviewing any water quality control plan or waste discharge requirements, or in connection with any action relating to any plan or requirement authorized by this division, may investigate the quality of any waters of the state within its region.

16. Water Code section 13267, subdivision (b)(1) provides that

In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposed to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.

17. Water Code section 13268, subdivision (b)(1) states:

Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (a) in an amount which shall not exceed one thousand dollars ($1,000) for each day in which the violation occurs.

18. Pursuant to Water Code section 13327, in determining the amount of discretionary civil liability, the Central Valley Water Board is required to take into consideration the nature, circumstance, 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 ability to continue in 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 as justice may require.

**Settlement**

19. The Parties have engaged in confidential settlement negotiations and agree to settle the matter without administrative or civil litigation by presenting this Stipulated Order to the Central Valley Water Board, or its delegatee, for adoption as an order by settlement pursuant to Government Code section 11415.60. To resolve the violations by consent and without further administrative proceedings, the Parties have agreed to the imposition of an ACL in the amount of eighteen thousand dollars ($18,000) in MMPs and seventy-five thousand dollars ($75,000) in discretionary penalties, for a total of **ninety-three thousand dollars ($93,000)** in administrative civil liability against the Discharger. The Parties agree to suspend a portion of the liability conditioned on successful completion of a SEP as set forth herein.

20. The Central Valley Water Board Prosecution Team believes that the resolution of the alleged violation is fair and reasonable and fulfills its enforcement objectives, that no further action is warranted concerning the violations alleged herein and that this Stipulated Order is in the best interest of the public.

**Stipulations**

The Parties stipulate to the following:

21. **Administrative Civil Liability:**

   a. The Discharger hereby agrees to the imposition of an ACL for half of the discretionary ACL ($37,500) and half of the MMPs ($9,000) totaling **forty-six thousand five hundred dollars ($46,500)** to the Central Valley Water Board to resolve the alleged Water Code violations. The ACL shall be paid to the State Water Board Cleanup and Abatement Account. Payment shall be made no later than thirty (30) days after the entry of an Order approving this Settlement Agreement by the Central Valley Water Board, or its delegatee, by check payable to the State Water Board Cleanup and Abatement Account. The Discharger shall indicate on the check the number of this Order. The Discharger shall send the original signed check to the Accounting Office, Attn: ACL Payment, P.O. Box 1888, Sacramento, California 95812-1888. A copy of the check shall be sent to Kailyn Ellison, Attorney, State Water Resources Control Board, Office of Enforcement, P.O. Box 100, Sacramento, CA 95812 and Wendy Wyels, Supervisor, Compliance and Enforcement Section, Regional Water Quality Control Board, Central Valley Region, 11020 Sun Center Drive, Suite 200, Rancho Cordova, CA 95670.

   b. The remaining **forty-six thousand five hundred dollars ($46,500)** in ACL shall be paid to the Rose Foundation for Communities and the Environment (Rose Foundation) no later than thirty (30) days after the entry of an Order approving this Settlement Agreement by the Central Valley Water Board or its delegatee. Of that amount, forty-three thousand two hundred forty-five dollars ($43,245) shall be distributed in its entirety by the Rose Foundation to the California Indian
Environmental Alliance (CIEA). The remaining three thousand two hundred fifty-five dollars ($3,255) shall be used for the Rose Foundation’s SEP Program Oversight. Payment shall be provided to the Rose Foundation in the form of a single check payable to the Rose Foundation and sent to the following address: Rose Foundation, Attn.: Tim Little, 1970 Broadway, Suite 600, Oakland, California 94612-2218. A copy of the check shall also be sent to Kailyn Ellison and Wendy Wyels at the addresses set forth above.

22. **Oversight Payment:** In addition to the ACL in paragraph 21 above, the Discharger hereby agrees to pay one thousand three hundred ninety-five dollars ($1,395) to the Rose Foundation for the SEP oversight for the specific SEP described in paragraph 23 below. Attachment C, hereby incorporated by this reference, describes the Rose Foundation’s SEP Development and SEP Oversight activities in detail. Payment shall be made no later than thirty (30) days after the entry of an Order approving this Settlement Agreement by the Central Valley Water Board, or its delegatee, to the Rose Foundation at the address set forth above. A copy of the check shall be sent to Kailyn Ellison and Wendy Wyels at the addresses set forth above.

23. **Supplemental Environmental Project:** The Parties agree that this resolution includes a SEP as follows:

   a. The Discharger and the Central Valley Water Board agree that the payment specified in paragraph 21.b is a SEP, and that the amount specified (SEP Amount) will be treated as a suspended ACL for purposes of this Stipulated Order. Upon the Dischargers’ full payment of its SEP obligations under this Stipulated Order, Central Valley Water Board staff shall send the Discharger a letter recognizing the satisfactory completion of its SEP obligations. This letter shall terminate any further SEP obligations of the Discharge and result in the permanent waiver of the suspended ACL.

   b. The Parties’ expectations are that the Rose Foundation shall transfer the SEP Amount to the CIEA which will fund the *Safer Subsistence Fishing: Cache Creek Basin to Sacramento River Project*. The goal of the SEP is to create a model for identifying and securing safe fishing locations in the Cache Creek Watershed east from Clearlake into the Sacramento River. The SEP has four components: 1) ranking waters in this area by cleanest locations, 2) filling data gaps, 3) developing further cleanup plans and identifying sources to fund this work, and 4) protecting this portion of the watershed utilizing existing state programs and distributing fish consumption advisories. Detailed plans concerning how the SEP will be implemented, as well as an implementation schedule, milestone dates, and budget are provided in the SEP proposal included herein as Attachment D and hereby incorporated by this reference.

   c. Should the Discharger or its agents publicize one or more elements of the SEP, they shall state in a prominent manner that the project is being funded as part of the settlement of an enforcement action by the Central Valley Water Board against the Discharger.
Stipulated Administrative Civil Liability Order
R5-2016-0566

24. **Compliance with Applicable Laws and Regulatory Changes:** The Discharger understands that payment of an ACL in accordance with the terms of this Stipulated Order and/or compliance with the terms of this Stipulated Order is not a substitute for compliance with applicable laws, and that additional violations of the type alleged may subject it to further enforcement, including additional ACLs. Nothing in this Stipulated Order shall excuse the Discharger from meeting any more stringent requirements which may be imposed hereafter by changes in applicable and legally binding legislation or regulations.

25. **Party Contacts for Communications Related to Stipulated Order:**

For the Central Valley Water Board:
Wendy Wyels, Supervisor
Compliance and Enforcement Section
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, California 95670
Wendy.Wyels@waterboards.ca.gov
(916) 464-4835

Kailyn Ellison
Office of Enforcement, State Water Resources Control Board
P.O. Box 100
Sacramento, California 95812
Kailyn.Ellison@waterboards.ca.gov
(916) 445-9557

For the Discharger:
Steven Winkler, P.E.
Public Works Director
City of Galt, Public Works Department
495 Industrial Drive
Galt, California 95632
swinkler@ci.galt.ca.us
(209) 366-7260

Paul S. Simmons
Somach Simmons & Dunn
500 Capitol Mall, Suite 1000
Sacramento, California 95814
psimmons@somachlaw.com
(916) 446-7979

26. **Attorney's Fees and Costs:** Except as otherwise provided herein, each Party shall bear all attorneys' fees and costs arising from the Party's own counsel in connection with the matters set forth herein.

27. **Matters Addressed by Stipulation:** Upon adoption by the Central Valley Water Board, or its delegatee, this Stipulated Order represents a final and binding resolution and
settlement of all claims, violations, or causes of action alleged in this Order or which could have been asserted based on the specific facts alleged in this Stipulated Order against Dischargers as of the effective date of this Stipulated Order. The provisions of this Paragraph are expressly conditioned on Discharger’s full payment of the ACL by the deadline specified in Stipulation 1.

28. **Public Notice:** The Discharger understands that this Stipulated Order will be noticed for a 30-day public review and comment period prior to consideration by the Central Valley Water Board, or its delegatee. If significant new information is received that reasonably affects the propriety of presenting this Stipulated Order to the Central Valley Water Board, or its delegatee, for adoption, the Assistant Executive Officer may unilaterally declare this Stipulated Order void and decide not to present it to the Central Valley Water Board, or its delegatee. The Discharger agrees that it may not rescind or otherwise withdraw its approval of this proposed Stipulated Order.

29. **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 or adjust the procedure as necessary or advisable under the circumstances.

30. **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. The Central Valley Water Board reserves all rights to take additional enforcement actions, including without limitation the issuance of ACL complaints or orders for violations other than those addressed by this Order.

31. **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 Prosecution Team or any state agency, department, board or entity or any local agency from exercising its authority under any law, statute, or regulation.

32. **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.

33. **Modification:** This Stipulated Order shall not be modified by any of the Parties by oral representation whether 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 delegatee.
34. **If Order Does Not Take Effect:** In the event that this Stipulated Order does not take effect because it is not approved by the Central Valley Water Board, or its delegate, or is vacated in whole or in part by the State Water Board or a court, the Parties acknowledge that the Prosecution Team may proceed to a contested evidentiary hearing before the Central Valley Water Board to determine whether to assess an ACL for the underlying alleged violations, or may continue to pursue settlement. 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 any subsequent administrative or judicial proceeding or hearing and will be fully protected by California Evidence Code sections 1152 and 1154; California Government Code section 11415.60; Rule 408, Federal Rules of Evidence; and any other applicable privilege under federal and/or state law. 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 to the extent that they 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 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. **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 Valley Water Board.

36. **Waiver of Right to Petition:** The Discharger hereby waives the right to petition the Central Valley Water Board's adoption of the Stipulated Order as written for review by the State Water Board, and further waives the rights, if any, to appeal the same to a California Superior Court and/or any California appellate level court.

37. **Covenant Not to Sue:** Upon the effective date of this Stipulated Order, Discharger shall and does release, discharge, and covenant not to sue or pursue any civil or administrative claims against any State Agency or the State of California, its officers, agents, directors, employees, attorneys, representatives, for any and all claims or cause of action, which arise out of or are related to this action.

38. **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 the negligent or intentional acts or omissions by Discharger or its respective directors, officers, employees, agents, representatives, or contractors in carrying out activities pursuant to this 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 Discharger, or its directors, officers, employees, agents, representatives, or contractors in carrying out activities pursuant to this 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 and to bind the entity on whose behalf he or she executes the Order.

40. Necessity for Written Approvals: All approvals and decisions of the Central Valley 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 Valley Water Board regarding submissions or notices shall be construed to relieve the Discharger of its obligation to obtain any final written approval required by this Stipulated Order.

41. No Third Party Beneficiaries: This Stipulated Order is not intended to confer any rights or obligation on any third party or parties, and no third party or parties shall have any right of action under this Stipulated Order for any cause whatsoever.

42. Severability: This Stipulated Order is severable; should any provision be found invalid the remainder shall remain in full force and effect.

43. Effective Date: This Stipulated Order shall be effective and binding on the Parties upon the date the Central Valley Water Board, or its delegate, enters the Order.

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.

California Regional Water Quality Control Board Prosecution Team
Central Valley Region

By: Andrew Altevogt / Assistant Executive Officer

Date: 10/25/16

City of Galt

By: Eugène M. Palazzo / City Manager City of Galt

Date: 10/20/16
HAVING CONSIDERED THE PARTIES STIPULATIONS, THE CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD, BY AND THROUGH ITS EXECUTIVE OFFICER, FINDS THAT:

1. In adopting this Stipulated Order, the Central Valley Water Board, or its delegatee, has considered, where applicable, each of the factors prescribed in Water Code sections 13327, 13351, and 13385(e). The consideration of these factors is based upon information and comments obtained by the Central Valley Water Board’s staff in investigating the allegations concerning the Discharger discussed herein or otherwise provided to the Central Valley Water Board or its delegatee by the Parties and members of the public.

2. This is an action to enforce the laws and regulations administered by the Central Valley Water Board. The method of compliance with this enforcement action consists entirely of payment of amounts for ACL. As such, the Central Valley Water Board finds that issuance of this Order is not considered subject to the provisions of the California Environmental Quality Act (CEQA) as it will not result in a direct or reasonably foreseeable indirect physical change in the environment and is not considered a “project” (Public Resources Code 21065, 21080(a); 15060(c)(2),(3); 150378(a), Title 14, of the California Code of Regulations). In addition, issuance of this Stipulated Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et seq.), in accordance with sections 15061(b)(3) and 15321(a)(2), of Title 14 of the California Code of Regulations.

3. The foregoing Stipulation is fully incorporated herein and made part of this 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 Valley Region.

Pamela Creedon
Executive Officer
Central Valley Regional Water Quality Control Board

11-29-14
Date

Attachment A: Specific Factors Considered for Administrative Civil Liability
Attachment B: Record of Violations (1 May 2013 – 31 December 2015) Mandatory Penalties
Attachment C: SEP Program Development and Oversight Work Breakdown
Attachment D: Safer Subsistence Fishing: Cache Creek Basin to Sacramento River
Attachment A – ACL Order R5-2016-0566
Specific Factors Considered for Administrative Civil Liability
City of Galt Wastewater Treatment Plant and Reclamation Facility

The State Water Board’s Water Quality Enforcement Policy (Enforcement Policy) establishes a methodology for determining administrative civil liability by addressing the factors that are required to be considered under California Water Code section 13327. Each factor of the nine-step approach is discussed below, as is the basis for assessing the corresponding score. The Enforcement Policy can be found at: http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf.

Background

This Attachment details the methodology for determining administrative civil liability for the 10 separate monitoring reports in which the Discharger analyzed constituents with a reporting limit higher than the WDRs limitations in violation of Footnote 1 of Table E-3 in the MRP, and the two monitoring periods for which the Discharger did not sample for ammonia in violation of MRP Table E-3. The following terms are used to describe the violations:

Method Detection Limit (MDL) is the minimum concentration of a substance that can be measured and reported with 99 percent confidence that the analyte concentration is greater than zero, as defined in title 40 of the Code of Federal Regulations, Part 136, Attachment B, revised as of July 3, 1999.

Minimum Level (ML) is the concentration at which the entire analytical system must give a recognizable signal and acceptable calibration point. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed by a specific analytical procedure, assuming that all the method specified sample weights, volumes, and processing steps have been followed.

Reporting Level (RL) is the ML (and its associated analytical method) chosen by the Discharger for reporting and compliance determination from the MLs included in this Order. The MLs included in this Order correspond to approved analytical methods for reporting a sample result that are selected by the Central Valley Water Board either from Appendix 4 of the [Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California] (State Implementation Policy) in accordance with section 2.4.2 of the State Implementation Policy or established in accordance with section 2.4.3 of the State Implementation Policy. The ML is based on the proper application of method-based analytical procedures for sample preparation and the absence of any matrix interferences. Other factors may be applied to the ML depending on the specific sample preparation steps employed. For example, the treatment typically applied in cases where there are matrix-effects is to dilute the sample or sample aliquot by a factor of ten. In such cases, this additional factor must be applied to the ML in the computation of the RL.

Detected, but Not Quantified (DNQ) are those sample results less than the RL, but greater than or equal to the laboratory’s MDL.

Not Detected (ND) are those sample results less than the laboratory’s MDL.

To summarize, the Discharger is required to select an analytical method with a RL that is at or below the effluent limitation. The MDL is less than the RL. When a laboratory reports a value that is between the MDL and RL, they are to include the qualifier “detected but not quantified” or DNQ. Values less than the MDL are to be reported as “not detected” and the MDL is to be included in the monitoring
The use of the qualifier DNQ and the inclusion of the RL and MDL in the Discharger's self-monitoring reports are critical to ensure that samples are analyzed with the precision necessary to determine whether or not they exceed the effluent limitation. This information can be graphically depicted as follows:

```
<table>
<thead>
<tr>
<th>Method</th>
<th>DNQ</th>
<th>Reporting Level (ML)</th>
<th>Effluent Limitation</th>
</tr>
</thead>
<tbody>
<tr>
<td>ND</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
```

Violation 1: Reporting limit higher than the effluent limitation (Violation of Footnote 1 of Table E-3 in the MRP)

Footnote 1 of Table E-3 in the MRP requires that the Discharger select detection limits that are below the effluent limitations for priority pollutant constituents with effluent limitations. After the Discharger submitted corrected monitoring reports, there remained 10 monitoring reports for which the reporting limit was higher than the effluent limitation for the analytes copper, lead, and bis(2-ethylhexyl)phthalate (see table on page 4 below).

**Step 1 – Potential for Harm for Discharge Violations**
The Central Valley Water Board Prosecution Team is not alleging any illegal discharge of waste by the Discharger. Therefore, the evaluation of this factor has been omitted from the following calculation.

**Step 2 – Assessment for Discharge Violations**
The Central Valley Water Board Prosecution Team is not alleging any illegal discharge of waste by the Discharger. Therefore, the evaluation of this factor has been omitted from the following calculation.

**Step 3 – Per Day Assessment for Non-Discharge Violation**
The "per day" factor is calculated for each non-discharge violation considering the (a) potential for harm and (b) the extent of the deviation from the applicable requirements.

**Potential for Harm**
The Enforcement Policy requires a determination of whether the characteristics of the violations resulted in a minor, moderate, or major potential for harm or threat to beneficial uses. As summarized below, there were 10 separate monitoring reports in which the Discharger analyzed constituents with a reporting limit higher than the WDRs limitations. When samples are analyzed with reporting limits higher than the effluent limit in the WDRs, the Discharger is unable to show whether it complied with the WDRs. Therefore, the Discharger may have discharged effluent that did not comply with its permit limitations and may have caused toxicity in the receiving water.

Discharge from the City of Galt Wastewater Treatment Plant and Reclamation Facility (Facility) travels from Laguna Creek and into Cosumnes River, which is a tributary to Mokelumne River and the Sacramento-San Joaquin Delta. The designated beneficial uses of Laguna Creek and Cosumnes River that could be impacted by the Discharger include municipal and domestic water supply; agricultural supply; contact and non-contact water recreation; warm and cold freshwater habitat; warm and cold spawning, reproduction, and/or early development; and wildlife habitat.
The effluent limitations in the WDRs are calculated to protect the beneficial uses. As indicated in Attachment F Section IV.C.3.b of the WDRs, the discharge has a reasonable potential to cause or contribute to an in-stream excursion above a water quality standard for copper, lead, and bis(2-ethylhexyl) phthalate.

Therefore, the characteristics of the violation present a "minor threat to beneficial uses" because the Water Board was deprived of the essential technical evaluations, monitoring, and data reporting to determine the extent and severity of the water quality impacts. A value of "Minor" is warranted.

Deviation from Requirement
The Enforcement Policy requires determination of whether the violation represents either a minor, moderate, or major deviation from the applicable requirements. For the Deviation from Requirement, a "Major" factor is appropriate in this case: "The requirement has been rendered ineffective (e.g., discharger disregards the requirement, and/or the requirement is rendered ineffective in its essential functions)." The WDRs, specifically the MRP, requires detection limits below the effluent limitation. As stated above, the elevated detection limits and the estimated concentrations do not give an accurate representation of the constituent concentrations in the effluent discharge, and therefore, cannot be used to determine compliance with the WDRs.

Using Table 3 in the Enforcement Policy, the Per Day Factor of 0.3 is assigned. This value is to be multiplied by the days of violation and the maximum per day penalty.

Days of Violation and Maximum Per Day Penalty
Typically, the Per Day factor (0.3) would be multiplied by the maximum statutory liability per day ($1,000 per day) and by the number of days of violation. The Enforcement Policy provides that, for violations lasting more than 30 days, the Central Valley Water Board may adjust the per-day basis for civil liability if at least one of three findings is made and provided that the adjusted per-day basis is no less than the per-day economic benefit, if any, resulting from the violation. These findings include that the violation is not causing daily detrimental impact to the environment or regulatory program, results in no economic benefit from the illegal conduct that can be measured on a daily basis, or occurred without the knowledge or control of the violator, who therefore did not take action to mitigate or eliminate the violation.

The Prosecution Team finds that the violation results in no economic benefit that can be measured on a daily basis. Following the Enforcement Policy, for violations lasting more than 30 days, the days are counted as follows: first day of violation, every fifth day of violation until the 30th day, and every 30 days thereafter. For example, a violation lasting 62 days would be compressed to 8 days (counting days 1, 5, 10, 15, 20, 25, 30, 60).

The following table shows the actual days of violation and the reduced days for the monitoring reports in which the violations occurred. For purposes of settlement, the days of violation are calculated from the due date of the reports through to 1 June 2013, which is assumed to be the earliest point at which the Prosecution Team could have issued an ACL if the violations had been known at that time.
### Step 4 – Adjustment Factors
There are three additional factors to be considered for modification of the amount of initial liability: the violator’s culpability, efforts to clean up or cooperate with regulatory authority, and the violator’s history of violations. After each of these factors is considered for the violations involved, the applicable factor should be multiplied by the proposed amount for each violation to determine the revised amount for that violation.

**Culpability**
Higher liabilities should result from intentional or negligent violations as opposed to accidental violations. A multiplier between 0.5 and 1.5 is to be used, with a higher multiplier for intentional or negligent behavior. The Discharger is given a multiplier value of 1.1. Attachment I of the WDRs contains a list of priority pollutants and other constituents of concern with respective criterion quantitation limits (CQL) and suggested test methods. Furthermore, Attachment H of the WDRs required the reporting limit to be equal to or lower than the CQL to meet the purpose of the monitoring. The WDRs provide instructions as to appropriate reporting limits and quantification limits, yet the Discharger did not follow the permit requirements. In addition, because staff was unable to determine

<table>
<thead>
<tr>
<th>Report</th>
<th>Constituent with RL over effluent limitation</th>
<th>Report Due Date</th>
<th>Days of Violation through 6/1/2013</th>
<th>Compressed Days of Violation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dec-2010</td>
<td>copper</td>
<td>2/1/2011</td>
<td>852</td>
<td>34</td>
</tr>
<tr>
<td></td>
<td>lead</td>
<td>2/1/2011</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Apr-2011</td>
<td>copper</td>
<td>6/1/2011</td>
<td>732</td>
<td>30</td>
</tr>
<tr>
<td>Oct-2011</td>
<td>copper</td>
<td>12/1/2011</td>
<td>549</td>
<td>24</td>
</tr>
<tr>
<td></td>
<td>bis-2</td>
<td>12/1/2011</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nov-2011</td>
<td>copper</td>
<td>1/1/2012</td>
<td>518</td>
<td>23</td>
</tr>
<tr>
<td>Feb-2012</td>
<td>copper</td>
<td>4/1/2012</td>
<td>427</td>
<td>20</td>
</tr>
<tr>
<td></td>
<td>lead</td>
<td>4/1/2012</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mar-2012</td>
<td>copper</td>
<td>5/1/2012</td>
<td>397</td>
<td>19</td>
</tr>
<tr>
<td></td>
<td>bis-2</td>
<td>5/1/2012</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>lead</td>
<td>5/1/2012</td>
<td></td>
<td></td>
</tr>
<tr>
<td>May-2012</td>
<td>copper</td>
<td>7/1/2012</td>
<td>336</td>
<td>17</td>
</tr>
<tr>
<td></td>
<td>lead</td>
<td>7/1/2012</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jul-2012</td>
<td>copper</td>
<td>9/1/2012</td>
<td>274</td>
<td>15</td>
</tr>
<tr>
<td></td>
<td>bis-2</td>
<td>9/1/2012</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>lead</td>
<td>9/1/2012</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Aug-2012</td>
<td>bis-2</td>
<td>10/1/2012</td>
<td>244</td>
<td>14</td>
</tr>
<tr>
<td>Sep-2012</td>
<td>bis-2</td>
<td>11/1/2012</td>
<td>213</td>
<td>13</td>
</tr>
</tbody>
</table>

### Violation 1- Initial Liability Amount Using Compressed Days

$$209 \text{ days} \times \$1,000/\text{day} \times 0.3 = \$62,700$$
compliance, the Discharger avoided being assessed mandatory minimum penalties for any instances in which the true constituent concentration was between the effluent limit and the reporting limit. Because the reporting limit is elevated above the effluent limit, it is unknown if and how many times the Discharger avoided the $3,000 mandatory minimum penalty. It is appropriate to use a culpability multiplier of 1.1 for this adjustment factor.

**Cleanup and Cooperation**

This factor reflects the extent to which a Discharger voluntarily cooperated in returning to compliance and correcting environmental damage. A multiplier between 0.75 and 1.5 is to be used, with a higher multiplier when there is a lack of cooperation. Central Valley Water Board staff discussed the high reporting limit with the Discharger in April 2014, and the Discharger began monitoring and reporting as required by the WDRs beginning in May 2014. The Discharger's corrective actions and cooperation result in assigning a multiplier value of 1.0.

**History of Violation**

When there is a history of repeat violations, the Enforcement Policy requires a minimum multiplier of 1.1 to be used. The Discharger does not appear to have a history of violations associated with reporting levels. Therefore, the Discharger was given a neutral multiplier value of 1.0.

**Step 5 - Determination of Total Base Liability Amount**

The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Initial Liability Amount determined in Step 3.

<table>
<thead>
<tr>
<th>Violation 1- Total Base Liability Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>$62,700 x 1.1 x 1.0 x 1.0 = $68,970</td>
</tr>
</tbody>
</table>

**Violation 2: Failure to collect samples for ammonia (Violation of MRP Table E-3)**

Table E-3 of the MRP contains a listing of the minimum frequency for which effluent samples must be collected and analyzed. After the Discharger submitted corrected monitoring reports, it was determined that the Discharger did not collect samples for ammonia for two monitoring periods as indicated in the March 2012 and July 2012 Monthly Self-Monitoring Reports.

**Step 1 - Potential for Harm for Discharge Violations**

The Central Valley Water Board Prosecution Team is not alleging any illegal discharge of waste by the Discharger. Therefore, the evaluation of this factor has been omitted from the following calculation.

**Step 2 - Assessment for Discharge Violations**

The Central Valley Water Board Prosecution Team is not alleging any illegal discharge of waste by the Discharger. Therefore, the evaluation of this factor has been omitted from the following calculation.

**Step 3 - Per Day Assessment for Non-Discharge Violation**

The "per day" factor is calculated for each non-discharge violation considering the (a) potential for harm and (b) the extent of the deviation from the applicable requirements.
Potential for Harm
The Enforcement Policy requires a determination of whether the characteristics of the violations resulted in a minor, moderate, or major potential for harm or threat to beneficial uses. As shown in the table below, there were two monitoring periods in which the Discharger did not sample according to the requirements in the MRP. These violations do not directly impact the beneficial uses listed in Step 3 of Violation 1 above. Therefore, the characteristics of the violation present a "minor threat to beneficial uses" and a value of "Minor" is therefore warranted.

Deviation from Requirement
The Enforcement Policy requires determination of whether the violation represents either a minor, moderate, or major deviation from the applicable requirements. For the Deviation from Requirement, a "Major" factor is appropriate in this case: "The requirement has been rendered ineffective (e.g., discharger disregards the requirement, and/or the requirement is rendered ineffective in its essential functions)." The MRP outlines the required monitoring and frequency of monitoring to determine compliance with the final effluent limitations. Using Table 3 in the Enforcement Policy, the Per Day Factor of 0.3 is assigned.

Days of Violation and Maximum Per Day Penalty
As indicated in Step 4 of Violation 1 above, the days of violation can be compressed for violations lasting more than 30 days if certain findings are made. The Prosecution Team finds that the violations results in no economic benefit that can be measured on a daily basis and that compression of days of violation is appropriate. The following table shows the actual days of violation and the reduced days for monitoring reports in which the violations occurred. For purposes of settlement, the days of violation are calculated from the due date of the reports through to 1 June 2013, which is assumed to be the earliest point at which the Prosecution Team could have issued an ACL if the violations had been known at that time.

<table>
<thead>
<tr>
<th>Report</th>
<th>constituent</th>
<th>Due Date</th>
<th>Days through 6/1/2013</th>
<th>Compressed Days</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mar-2012</td>
<td>ammonia</td>
<td>5/1/2012</td>
<td>397</td>
<td>19</td>
</tr>
<tr>
<td>Jul-2012</td>
<td>ammonia</td>
<td>9/1/2012</td>
<td>274</td>
<td>15</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>671</td>
<td>34</td>
</tr>
</tbody>
</table>

Violation 2- Initial Liability Amount Using Compressed Days
34 days x $1,000/day x 0.3 = $10,200

Step 4 - Adjustment Factors
There are three additional factors to be considered for modification of the amount of initial liability: the violator's culpability, efforts to clean up or cooperate with regulatory authority, and the violator's history of violations. After each of these factors is considered for the violations involved, the applicable factor should be multiplied by the proposed amount for each violation to determine the revised amount for that violation.

Culpability
Higher liabilities should result from intentional or negligent violations as opposed to accidental violations. A multiplier between 0.5 and 1.5 is to be used, with a higher multiplier for intentional or
negligent behavior. The Discharger is given a multiplier value of 1.1. As summarized above, the Discharger failed to monitor two constituents that have effluent limitations in the WDRs. With the lack of sampling, Board staff is unable to determine compliance with the effluent limitations in the WDRs, and it is possible that the Discharger might have contributed to an in-stream excursion of water quality standards. It is appropriate to use a culpability multiplier of 1.1 for this adjustment factor.

Cleanup and Cooperation
This factor reflects the extent to which a Discharger voluntarily cooperated in returning to compliance and correcting environmental damage. A multiplier between 0.75 and 1.5 is to be used, with a higher multiplier when there is a lack of cooperation. The Discharger has consistently monitored the effluent in accordance with the MRP beginning in August 2012. The Discharger is assigned a factor of 1.0.

History of Violation
When there is a history of repeat violations, the Enforcement Policy requires a minimum multiplier of 1.1 to be used. The Discharger does not appear to have a history of violations associated with the failure to collect effluent samples. Therefore, the Discharger was given a neutral multiplier value of 1.0.

Step 5 - Determination of Total Base Liability Amount
The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Initial Liability Amount determined in Step 3.

<table>
<thead>
<tr>
<th>Violation 2- Total Base Liability Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>$10,200 x 1.1 x 1.0 x 1.0 = $11,220</td>
</tr>
</tbody>
</table>

COMBINED TOTAL BASE LIABILITY AND FACTORS APPLIED TO ALL VIOLATIONS

The combined Total Base Liability Amount for the three violations is $80,190.

The following factors apply to the combined Total Base Liability Amounts for the violations discussed above.

Step 6 - Ability to Pay and Continue in Business
The ability to pay and to continue in business factor must be considered when assessing administrative civil liabilities. This factor is a neutral 1.0 because the Discharger is a municipality with the ability to collect taxes. Additionally, a review of the Discharger's Comprehensive Annual Financial Report for the Year End June 30, 2015 indicates the Discharger has the ability to pay the ACL and to continue in business. The Discharger has agreed to pay the penalty.

Step 7 - Other Factors as Justice May Require
The Central Valley Water Board Prosecution Team has incurred over $60,000 (400 hours at a statewide average of $150/hour) in staff costs associated with the investigation and enforcement of the violations alleged herein. While this amount could be added to the penalty, the Prosecution Team, in its discretion, is not adding this amount to the total proposed penalty. The Prosecution Team has chosen to not pursue staff costs in this matter.

Step 8 - Economic Benefit
Pursuant to Water Code section 13327, in determining the amount of civil liability, the Central Valley Water Board must analyze the economic benefit or savings, if any, resulting from the violation. The
economic benefit of noncompliance is any savings or monetary gain derived from the act or omission that constitutes the violation.

The laboratory reports indicate that two analytical methods were used for copper: EPA Method 200.7 and EPA Method 200.8. Based on the laboratory reports submitted by the Discharger, EPA Method 200.8 and 200.7 have reporting levels of 0.5 µg/L and 20 µg/L, respectively. Based on routine unit costs from California Laboratory Services, the contracted laboratory used by the Discharger, the unit cost of EPA Method 200.7 is $15 while the cost of EPA Method 200.8 is $18. The Discharger should have used EPA Method 200.8, which is the more sensitive analytical method and would provide quantifiable results to determine compliance with the WDRs. Based on the unit cost of the methods, the Discharger saved $24 ($3 x the number of samples that used EPA 200.7) by not using EPA Method 200.8 when appropriate.

Additionally, for bis (2-ethylhexyl) phthalate and lead laboratory analysis, it is assumed that the difference in cost between an EPA method with a high reporting limit and an EPA method sensitive enough to determine compliance with the WDRs effluent limitation is $3. Therefore, the Discharger saved $30 by not using the EPA method with the appropriate reporting limit for bis (2-ethylhexyl) phthalate and lead.

The Discharger did not report results for two separate required sampling events. Using a common cost of $18, the same as EPA Method 200.8 for copper, the Discharger saved $36 by not performing the analyses.

The total savings for the difference is EPA methods and the missed sampling is $90.

The total economic benefit the Discharger has gained for noncompliance is estimated to be approximately $100.

**Step 9 – Maximum and Minimum Liability Amounts**

The maximum and minimum amounts for discharge violation must be determined for comparison to the amounts being proposed.

**Maximum Liability Amount:** $5,213,000. (Calculated as 4,542 days of violation for Violation 1 and 671 days of violation for Violation 2, multiplied by $1,000 per day).

**Minimum Liability Amount:** The minimum liability is equal to the economic benefit + 10%, which is estimated to be approximately $100.

**Step 10 – Final Liability Amount**

The final liability amount consists of the added amounts for each violation, with any allowed adjustments, provided amounts are within the statutory minimum and maximum amounts. Based on the foregoing analysis, and consistent with the Enforcement Policy, the final liability amount of discretionary penalties is eighty thousand one hundred ninety dollars ($80,190).
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)

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

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 µg/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.

**VIOLATIONS AS OF:** 12/31/15

<table>
<thead>
<tr>
<th>Violation Type</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Group I Serious Violations</td>
<td>0</td>
</tr>
<tr>
<td>Group II Serious Violations</td>
<td>6</td>
</tr>
<tr>
<td>Non-Serious Violations Not Subject to MMPs</td>
<td>1</td>
</tr>
<tr>
<td>Non-Serious Violations Subject to MMPs</td>
<td>0</td>
</tr>
<tr>
<td>Total Violations Subject to MMPs</td>
<td>6</td>
</tr>
</tbody>
</table>

Mandatory Minimum Penalty = (6 Group II Serious Violations) x $3,000 = $18,000
SEP Development (Conducted in Partnership with Disadvantaged Communities) – 70% of Total Efforts:

1. (5%) Maintain database of Central Valley organizations that serve DACs and conduct WQ work. Develop and annually broadly circulate a Request for Proposals (RFP) containing detailed application instructions.

2. (5%) Annually conduct applicant workshops in each region.

3. (15%) Respond to prospective applicant inquiries, and advise applicants on shaping their proposals. Most applicants have detailed questions about allowable/eligible activities and/or structural requirements of the application process.

4. (25%) Review and respond to all proposals. Perform due diligence, including applicant interviews and site visits. Work with well-qualified applicants to move proposals forward which closely conform to the nexus around DACs and WQ. Advise applicants whose proposals illustrate potential, but need guidance in designing a competitive proposal; smaller community-based groups generally fall into this category. Advise unqualified applicants how they may potentially improve a future proposal.

5. (10%) Select the most qualified and strategic proposals to advance towards the Project List. Review the draft Project List with Central Valley Water Board to ensure strong nexus fit and that none of the projects are adverse to established Central Valley Water Board policies. Work with applicants to conduct any final needed reshaping of proposals.

6. (10%) As specific SEPS come into the Fund, negotiate grant terms with selected grantees that tie into their overall workplans, and specify deliverables for the actual grant. This may include updating workplans/timelines, breaking out pieces of projects that can be funded now vs. later, and generally scaling up or down of the overall project to fit available funds and nexus requirements. Bind all grantees through a contract that allows for the Rose Foundation’s oversight and requires detailed follow-up reporting to ensure that promises made in the grant application are fulfilled to the best ability of each grantee.

SEP Oversight Activities – 30% of Total Efforts:

1. (15%) Rigorously track grantee achievements to hold grantees accountable for their performance and ensure that funds are well spent. Tracking includes periodic check-in calls, site visits and written reports. These reports are the backbone of our accountability process, and also provide an important history and context for future applications and become part of our knowledge base that educates future grant decisions.

2. (2%) Annual report to Central Valley Water Board regarding status/completion of funded projects and present new Project List for approval.

3. (13%) Overall organizational overhead including rent, utilities, insurance, bookkeeping, audit, tax filings, etc.
Safer Subsistence Fishing: Cache Creek Basin to Sacramento River

Amount Requested: $ 43,245

Summary Description:

The goal of our Safer Subsistence Fishing: Cache Creek Basin to Sacramento River Project is to create a model for identifying and securing safe fishing locations in the Cache Creek Watershed east from Clearlake into the Sacramento River. This will result in cleaner water quality standards to levels that will support continued fish consumption at or near cultural subsistence rates and provide safer places for cultural practices within the watershed. This project is related to CIEA’s related Tribal Engagement in Integrated Regional Watershed Management Plans and Basin Plan Amendments. Specifically it will provide updated information for the Central Valley Region in the Westside, Sacramento River, San Francisco Bay Delta and Mountain County IRWMs wherein CIEA works closely with Tribes, and will provide guidance to watershed restoration projects.

This project will also show that the goal of securing safer fishing locations is obtainable and that families can have local alternatives and be healthful in their own traditional territories in California. Our project will provide an alternative and preferable method of assessing and remediating locations based on California Tribes’ and community needs.

The four components of this program 1) Rank waters in this area by cleanest locations 2) Fill data gaps, 3) Develop further cleanup plans and identify sources to fund this work and will begin to 4) Protect this portion of the watershed utilizing existing state programs and distribute fish consumption advisories.

Detailed Project Description:

This project is a collaborative partnership between CIEA and our three main Tribal partners each with expertise in water quality and fish tissue sampling. One of our partners has an in-house mercury sampling lab and relationships with outside labs that agencies commonly work with. These partners include the Scotts Valley Band of Pomo, Big Valley Rancheria and the Habematolel Pomo of Upperlake. These same Tribes asked CIEA to pursue the goals of water ranking and are eager to begin this project in order for families to return safely to the fishing lifeways of their Peoples. There are four additional Tribes on the east side of the Project Area who will participate directly in guiding our work and in providing results to their communities. Our first Project Partner Coordination meeting will include establishment of initial goals for fish tissue standards needed to meet known community needs. Following the community/families survey that we will conduct during the first quarter of this project these goals will be revisited by the Project partners to confirm that the communities fish consumption are reflected in our goals.

Overall our project will provide families and communities with confirmed safer fishing location information about their region and provide California Indian Tribes and communities with two (2)
locations identified as closest to meeting the fish consumption goals of regional Tribal Communities. Our ranking will not only identifying toxic locations but will identify those that are least toxic in order to bring them within levels that will support fish consumption at or near subsistence levels.

Through this project we will distribute surveys to identify areas of preferred use for fishing. Each Tribe will distribute these and gather results from their own membership, and conduct outreach to the four neighboring Tribes to gain wide community input. The partner Tribes and CIEA will evaluate the results of currently known fish tissue samples, point and nonpoint sources of toxins and whether or not continued remediation might be needed to bring water and fish to safer fish tissue levels. Desired consumption rates will be defined by the Tribes and tribal members themselves.

The Tribal partners will determine what locations will become the regional focus through discussions with their membership and outcomes of data surveys and supplemental sampling to fill data gaps. This plan will include an evaluation of existing state programs which can aid in securing access to two (2) safest fishing locations in the area. We will distribute findings, recommendations and new advisories that result from our sampling at the end of our project year and issue new advisories with coordination with OEHHA and CDPH to provide our findings to the local communities, Tribes and agencies. It will provide detailed information for Basin Plan Amendment updates and for Integrated Regional Water Management project identification.

The following are additional details of the four project phases for which we are requesting funding:

1) **Rank waters in this area by cleanest locations**

CIEA and our three project partners will complete and distribute a Community Watershed Survey to each of seven (7) regional Tribes and at a minimum of four (4) community events to identify which fishing locations on and near Cache Creek are most used and/or would like to be used by regional families for fishing and/or cultural use. We will also identify fish species of interest. We will simultaneously review known data from existing databases and regional studies and identify data gaps where species and locations of interest have not been sampled or where the data sets are incomplete. Project partners with Arc GIS software and training will overlay known toxic sites including mine feature sites using existing data from Department of Toxics Substances Control (DTSC) and California Environmental Protection Agency (CA EPA).

The intersection between locations of community interest and locations with low levels of toxicity will assist us in identifying safer locations, targeting species and locations in need further sampling and which locations may need further remediation. Our goal during this project phase is to identify two (2) regional sites that the community prefers to fish from, which are low in toxicity and that can most easily be brought into compliance. These will proceed into phases 3 of our project.

2) **Fill data gaps**

We are able to draw from several existing studies which show high and lower levels of toxins in multiple locations and for multiple species in the region. However these data sets are incomplete.

The Office of Health and Hazard Assessment and the California Department of Public Health coordinate fish consumption advisories in the State of California. In order for these advisories to be created complete data sets with the levels of mercury and PCBs must be available. Just because there is no site specific advisory does not mean that a location has been sampled and that an advisory is not in need of issuance. There are two statewide advisories in place in California which restrict the amount of fish that should be consumed from all locations. However, where data sets are
incomplete it may be that fish consumption could be higher than these advisories indicate. Our goal is to identify locations that can support fish consumption at rates that exceed these statewide advisories and with additional sampling we plan to confirm these safer locations or move the locations into phase 3 of our project, which includes providing regional updated information and a reassurance of advisories that are more regional and site specific. There are also traditional fish that have never been sampled that Tribes would like to inform families about. Some species of traditional fish are less likely to take up toxins and could be safer food sources.

Our project partners have been trained and are experienced in the proper protocols of collecting, transporting and initiating fish tissue sampling. In particular Big Valley Rancheria has equipment to complete mercury sampling. We have budgeted twenty-five samples to be sent for such sampling either through our Tribal partner or by sending to the lab utilized by our agency colleagues. By doing this our project will complete regional surface water quality studies (fish tissue sampling) in locations of interest to tribal families and this data can be integrated into state databases.

CIEA is the Tribal Engagement Coordinator for the North Coast, the Upper Feather River and the San Francisco Bay Delta Integrated Regional Water Management Plans. Our Board members and project partners are from the Westside IRWM Areas and we work in coordination with this fourth area. CIEA is coordinating the Upper Feather River Tribes to work with the wider Mountain Counties Tribes and Sacramento River Tribes for interregional watershed management through IRWM Plans and during Basin Plan Amendments. Our findings will advise the updates to both of these management documents.

3) Provide findings to regional Tribes and distribute safer fish consumption advisories

CIEA and our Project Partners will provide our findings to local Tribes which can be integrated into future remediation by regional Tribes if needed for the two (2) regional locations that are nearest to meeting needed water quality (fish tissues standard) objectives. This information will be shared with our regional partners, with focus on those communities within whose traditional territory the waters are within and/or closest to. Remediation plans can then be developed by Program partners after our program is completed. Because this project is a partnership between a non-profit and three federally recognized Tribes these project partners will have access to federal restoration and remediation funds that would otherwise be inaccessible or more difficult to obtain.

Our findings will also be shared by regional Tribes through participation in existing state programs such as those administered by CA EPA, the State Water Resource Control Board (SWRCB), Fish and Game and the Department of Water Resources (DWR). This includes distribution of our project findings to initiating the process toward integrating these beneficial sites into regional Basin Plan Amendments and Integrated Regional Management Plans.

To distribute safer fish consumption advisories CIEA and project partners will complete new advisories using the CDPH/OEHHA advisory model and distribute them at community events, in Tribal newsletters, by digital media, at Tribal offices and through local health clinics. Our project goal is to reach 800 families with safer fishing information.
<table>
<thead>
<tr>
<th>Milestone</th>
<th>Tasks</th>
<th>Deliverables</th>
</tr>
</thead>
</table>
| 25%       | • 1<sup>st</sup> of four Project Partner Coordination Meeting  
• Watershed community use survey  
• Distribution of survey to seven (7) Tribes and at four (4) community events  
• Data review and identify data gaps  
• GIS overlay  
• Rank waters based on community surveys, water quality and known toxicity in fish  
• Coordinate with community use                                                                                                                                                   | • Watershed Survey to identify priorities & water quality targets (fish tissue standards)  
• Survey results from 7 Tribes and communities  
• 1<sup>st</sup> Waterbodies and Traditional Use Ranking Report: with existing status and data gaps  
• Identify two (2) to three (3) regionally preferred sites for sampling  
• Provide 2<sup>nd</sup> quarter Check-in call with Rose Foundation |
| 50%       | • 2<sup>nd</sup> Project Partner Coordination Meeting  
• Create fish sampling plan  
• Gather fish tissue samples (3 samples per species – total of 25) and send to lab(s) for testing  
• Re-evaluate ranking with GIS overlay and toxin source evaluation.  
• Identify two (3) safest fishing locations                                                                                                                                          | • Complete Fish sampling plan  
• Compile Fish tissue sampling results to complete data sets  
• 2<sup>nd</sup> Waterbodies and Traditional Use Ranking Report: with updated status, safest fishing locations  
• Provide mid-year progress report, 2<sup>nd</sup> quarter to Rose Foundation |
| 75%       | • 3<sup>rd</sup> Project Partner Coordination Meeting  
• Provide findings to regional Tribes  
• Initiate entry into regional Basin Plan amendments  
•                                                                                                                     | • Provide findings to seven (7) regional Tribes  
• Provide 3<sup>rd</sup> quarter Check-in call with Rose Foundation |
| 100%      | • 4<sup>th</sup> Project Partner Coordination Meeting  
• Provide 800 families and communities with confirmed safer fishing location information about their region                                                                                 | • Create two (2) new advisories for regional safer advisories  
• Complete tabling and distribution of advisories reaching 800 families  
• End-year Report to Rose Foundation |

See attached Project Budget