

State of California
California Regional Water Quality Control Board
Central Valley Region

IN THE MATTER OF:)
)
Sacramento Area Sewer District)
10060 Goethe Road)
Sacramento, CA 95827) Settlement Agreement and Stipulation For
) Entry of Administrative Civil Liability Order
) No. R5-2017-0503

**Settlement Agreement and Stipulation
for Entry of Administrative Civil Liability
Order**

This Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order (“Settlement Agreement” or “Stipulation”) 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 and the State Water Resources Control Board Office of Enforcement (Prosecution Team), and the Sacramento Area Sewer District (District or Discharger) (collectively known as the Parties) and is presented to the Central Valley Water Board, or its delegate, for adoption as an order by settlement, pursuant to Government Code section 11415.60. This Settlement Agreement provides stipulations for settlement of administrative civil liability assessed to the District under California Water Code section 13385, including agreement and support for an administrative civil liability order consistent with the Settlement Agreement as provided immediately after the stipulations of the Parties (Stipulated Order).

A. Recitals

1. The Sacramento Area Sewer District operates a sanitary sewer collection system serving more than one million people in the Sacramento Region. The District is regulated by the State Water Resources Control Board (State Water Board) Order No. 2006-0003-DWQ, Statewide General Waste Discharge Requirements for Sanitary Sewer Systems (2006 General Order) and State Water Board Order No. 2013-0058-EXEC (2013 General Order).
2. On 19 October 2015, the Discharger notified Central Valley Water Board staff and other agencies of a spill of raw sewage into Arcade Creek near 6601 Thalia Way in Citrus Heights. The Discharger’s contractor had installed a 10-inch temporary sewer bypass across Arcade Creek on October 16th, and then left for the weekend. Rain fell during the early morning hours of October 17th, the creek

flow increased, and a joint in the pipe separated, spilling sewage into the creek. No one inspected the sewer bypass or noticed the spill until the contractor returned to work at 7:00 am on October 19th.

3. The Discharger submitted a 1 December 2015 report describing the spill and its response. In summary, the Discharger assumed that the spill began at 5:00 am on October 17th and ended at 7:10 am on October 19th. The Discharger estimated that 188,125 gallons of raw sewage flowed into Arcade Creek. A temporary downstream dam was constructed at 12:40 pm on October 19th, and a temporary upstream dam was constructed at on October 20th. The Discharger's work logs show that it finished pumping the sewage from Arcade Creek at 1:30 pm on October 23rd, and the Discharger states that the 188,125 gallon spill was recovered. However, Central Valley Water Board staff maintains that full recovery of an entire spill volume within the creek would be infeasible three days after the spill occurred given that rain fell and the creek flow increased during this time of the spill.
4. The District has taken further actions to prevent such spills in the future, including requiring contractors to inspect bypass pipes more frequently, both during dry weather and wet weather. District staff also inspects bypass pipes more frequently.
5. In addition to the above spill, although the Discharger has made continual progress in reducing the number of spills, the Discharger has a history of intermittent sanitary sewer overflows to surface waters. Between 1 March 2012 and 1 October 2016, the Discharger has reported that the sanitary sewer overflows were due to operational and structural failures, including root intrusion, grease deposition, and presence of debris. As listed on Attachment A of this Agreement, not counting the October 17-19, 2015 spill, a total of 79 spills occurred over 122 days, with a volume discharged of 300,236 gallons discharged to surface water.
6. Water Code section 13385 provides that any person who violates the General Permit or a requirement of Clean Water Act section 301 may be subject to administrative civil liability of up to \$10,000 for each day the violation occurs, and up to \$10 per gallon of waste discharged but not cleaned up over 1,000 gallons. The Prosecution Team's pursuit of Administrative Civil liability is based on its conclusion that the Discharger violated the General Order and the federal Clean Water Act by discharging wastes into waters of the United States.
7. The State Water Board adopted Resolution No. 2009-0083, thereby adopting the Water Quality Enforcement Policy (Enforcement Policy), which became effective on May 20, 2010 after being approved by the Office of Administrative Law. The Enforcement Policy establishes a methodology for assessing administrative civil liability that addresses factors outlined in Water Code section 13385(e), which

water boards are required to consider when imposing civil liability pursuant to section 13385.

8. The Parties have engaged in settlement negotiations and agree to settle the matter without administrative or civil litigation by presenting this Stipulation to the Central Valley Water Board for adoption as an order pursuant to government Code section 11415.60. To resolve by consent and without further administrative proceedings the alleged violation of Water Code Section 13385 as set forth herein in Attachment A, the Parties have agreed to the imposition of **TWO HUNDRED TWENTY-THREE THOUSAND FIVE HUNDRED AND THIRTY-NINE DOLLARS (\$223,539.00)** in administrative liability against the District. The District shall pay this amount in the manner described in Stipulation 2, no later than 30 days following the Central Valley Water Board's adoption of this Order.
9. During the settlement discussions between the Parties, the Parties discussed the application of the Enforcement Policy, including adjustments to factors regarding the District's culpability and cooperation. The Prosecution Team presented its analysis of the information and the application of the Enforcement Policy. The Prosecution team acknowledges the Discharger has a robust spill notification and response program. Attachments A and B were prepared by the Prosecution Team. Although the Parties do not agree on each of the statements in Attachment B, the Parties agreed upon and accepted the application of the factors as expressed in Attachment B, the penalty methodology, for purposes of this Settlement Agreement.
10. The Prosecution Team finds that the resolution of the alleged violation is fair, reasonable, and fulfills its enforcement objectives, that no further action is warranted concerning the alleged violation described above and in Attachments A and B, except as provided in the Stipulation, and that this Stipulation is in the best interest of the public.

B. STIPULATIONS

The Parties stipulate to the following:

1. **Jurisdiction:** The Parties agree that the Central Valley Water Board has subject matter jurisdiction over the violation described herein and personal jurisdiction over the Parties to this Settlement Agreement.
2. **Administrative Civil Liability:** The Discharger hereby agrees to the imposition of **TWO HUNDRED TWENTY-THREE THOUSAND FIVE HUNDRED AND THIRTY-NINE DOLLARS (\$223,539.00)** by the Central Valley Water Board to resolve the alleged Water Code violations in the following manner:
 - a. Within 30 days of adoption of the Stipulated Order, the Discharger shall remit **ONE HUNDRED ELEVEN THOUSAND SEVEN HUNDRED SIXTY-**

NINE DOLLARS AND FIFTY CENTS (\$111,769.50) in the form of a check made payable to the “*State Water Resources Control Board Cleanup and Abatement Account*”. The Discharger shall indicate on the check “*ACL Order No. R5-2017-0503*” and send it to the following address: State Water Resources Control Board; Division of Administrative Services, ATTN: ACL Payment; P.O. Box 1888; Sacramento, California 95812-1888. A copy of the check shall be transmitted electronically to Wendy Wyels at Wendy.Wyels@waterboards.ca.gov.

- b. The remaining **ONE HUNDRED ELEVEN THOUSAND SEVEN HUNDRED SIXTY-NINE DOLLARS AND FIFTY CENTS (\$111,769.50)** of this administrative civil liability shall be suspended pending completion of a supplemental environmental project as set forth in Attachment C, which is incorporated herein by reference. The suspended liability will become due and payable if the initial required monetary assessment (\$111,769.50) is not paid within the required 30 days.
3. **Supplemental Environmental Project (SEP) Description.** The Discharger, following consultation with Central Valley Water Board staff, has proposed the “*Fruitridge Road and Stockton Boulevard PCE Plume, Public Water Connection and Well Abandonment*” SEP. The project consists of connecting private residences that are within the general vicinity of the intersection of Fruitridge Road and Stockton Boulevard, and that are currently dependent on contaminated (as defined herein) private domestic wells for drinking water and in-home use, to a public water supply. A well will be considered “contaminated” for purposes of the Settlement Agreement and SEP if the PCE concentration is greater than 5 parts per billion (ppb). While most residences in the area have previously been connected to public water, an unknown number are still reliant on private domestic wells for their water supply. If connecting the residences to public water does not exhaust SEP funding, remaining funds within the SEP maximum will be used to abandon contaminated domestic wells whose owner has been converted to a public system. The priority for abandonment will be based on measured PCE concentration; location and depth of the well; and the extent to which sources of PCE in the area have impacted multiple private domestic wells. However, abandonment will occur only if the landowner agrees to the abandonment. The SEP, the Discharger’s agreement to conduct the SEP, and any action pursuant to the SEP, are subject to Stipulation 13.
4. **Discharger Agrees to Implement Project.** The Discharger represents that: 1) it will spend the SEP amount as described in this Settlement Agreement; 2) it will provide a certified, written report to the Regional Water Board consistent with the terms of this Settlement Agreement detailing the implementation of the SEP, and 3) within 30 days of the completion of the SEP, it will provide written certification, under penalty of perjury of the laws of the state, that the Discharger followed all applicable environmental laws and regulations in the implementation of the SEP, including but not limited to the California Environmental Quality Act (CEQA), the

federal Clean Water Act and the Porter-Cologne Act. The Discharger agrees that the Central Valley Water Board has the right to require an audit of the funds expended to implement the SEP.

5. **Progress Reports and Inspection Authority.** The Discharger shall provide reports of progress to the Central Valley Water Board as described in Attachment C. The Discharger shall permit inspection of the SEP Project by the Board staff at any reasonable time during normal business hours without notice.
6. **Certification of Performance of Work:** On or before **1 March 2018**, the Discharger shall submit a report, submitted under penalty of perjury of the laws of the state, stating that the SEP has been completed in accordance with the terms of this Settlement Agreement. Such documentation may include photographs, invoices, receipts, certifications, and other materials reasonably necessary for the Central Valley Water Board to evaluate the completion of the SEP and the costs incurred by the Discharger.
7. **Extension:** The Assistant Executive Officer may extend the deadlines contained in the SEP if the Discharger demonstrates that unforeseeable circumstances have created delays, provided that the Discharger continues to undertake all appropriate measures to meet the deadlines and makes the extension request in advance of the expiration of the deadline. The Discharger shall make any deadline extension request in writing at least 30-days prior to the deadline. Any request for an extension not responded to in writing by the Board shall be deemed denied. The Discharger must obtain explicit approval from the Assistant Executive Officer for any significant departures from the project described in Attachment C. Failure to obtain written approval for any significant departures will result in the assessment of the actual cost difference between the portion of the project completed in conformity with the SEP described in Attachment C and the total amount of the suspended penalty.
8. **Regional Board Acceptance of Completed SEP:** Upon the Discharger's satisfaction of its obligations under this Settlement Agreement, the completion of the SEP and any audits, the Assistant Executive Officer shall issue a letter stating that all obligations under the Settlement Agreement and Stipulated Order have been completed. The issuance of this letter shall terminate any further obligations of the Discharger and/or the Implementing Party under this Settlement Agreement and the Stipulated Order and permanently suspend the remaining penalty amount.
9. **Failure to Expend SEP Suspended Liability Funds on SEP:** In the event that the Discharger is not able to demonstrate to the reasonable satisfaction of the Central Valley Water Board staff that it has spent the entire SEP Amount (i.e., \$111,769.50) for the completed SEP, then within 30 days of notification by Board staff, the Discharger shall pay the difference between the Suspended Administrative Civil Liability and the amount that the Discharger can demonstrate

was actually spent on the SEP, as an additional administrative civil liability amount.

10. **Publicity Associated with SEP:** Whenever the Discharger or its agents or the Implementing Party publicizes one or more elements of the SEP, they shall state in a **prominent manner** that the project is being undertaken as part of the settlement of an enforcement action by the Central Valley Water Board against the Discharger.
11. **Scope of Order:** Upon adoption by the Central Valley Water Board, or its delegate, the Stipulated Order represents a final and binding resolution and settlement of all claims, violations, or causes of action alleged or which could have been asserted based on the specific facts, events, or circumstances, alleged or identified in this Settlement Agreement against the Discharger or any party identified in Stipulation 14 as of the effective date of this Stipulated Order. All liability associated with events identified in Attachments A and B is being imposed against the Discharger notwithstanding the potential responsibility of other parties whose actions or inactions may, in whole or in part, brought about such liability. Nothing in this Settlement Agreement or the Stipulated Order shall preclude the Discharger from seeking recovery from any third party of all or any part of its payments under Stipulation 2 or any other costs incurred associated with the events identified in Attachments A and B. Nor shall anything in this Settlement Agreement or the Stipulated Order be construed to reflect a determination relative to the liability or non-liability of any such third party to the Discharger or the amount or proportional amount of any such liability. The provisions of this Paragraph are expressly conditioned on the Discharger's full payment of the administrative civil liability by the deadline specified in Stipulation 2.
12. **Waiver of Hearing:** The Discharger has been informed of its rights provided by Water Code section 13323, subdivision (b), and hereby waives its right to a hearing before the Central Valley Water Board prior to the adoption of the Order.
13. **Denial of Liability:** Neither this Settlement Agreement (including all Attachments), nor any payment made pursuant to the Stipulated Order, shall constitute evidence of, or be construed as, a finding, adjudication, or acknowledgement of any fact, law, or liability, nor shall it be construed as an admission of violation of any law, rule, or regulation, by the Discharger. However, this Settlement Agreement and Stipulated Order and/or any actions of payment pursuant to the Stipulated Order may constitute evidence in actions seeking compliance with the Stipulated Order. The Stipulated Order may be used as evidence of a prior enforcement action in future unrelated enforcement actions by the Central Valley Water Board against the Discharger.
14. **Release and Covenant not to Sue the Discharger:** Upon the full payment of the **TWO HUNDRED TWENTY-THREE THOUSAND FIVE HUNDRED AND THIRTY-NINE DOLLARS (\$223,539.00)** as required in Stipulation 2, the Central Valley Water Board shall and does release, discharge, and covenant not to sue the Discharger, including its officers, elected board members, agents, directors, employees, contractors, subcontractors, attorneys, representatives, predecessors-

in-interest, and successors and assigns for any and all claims or cause of action, including for civil penalties or administrative oversight costs, of every kind and nature whatsoever, in law and equity, whether known or unknown, suspected or unsuspected, foreseen or unforeseen, which arise out of or are related to this action.

15. **Release and Covenant not to Sue Central Valley Water Board:** Upon the effective date of adoption of the Stipulated Order, the Discharger shall and does release, discharge, and covenant not to sue or pursue any civil or administrative claims against the Central Valley Water Board, including its officers, board members, agents, directors, employees, contractors, subcontractors, attorneys, representatives, predecessors-in-interest, and successors and assigns for any and all claims or causes of action, of every kind and nature whatsoever, in law and equity, whether known or unknown, suspected or unsuspected, foreseen or unforeseen, which arise out of or are related to this action.
16. **Public Notice:** The Parties agree that the Settlement Agreement, as signed by the Parties, will be noticed for a 30-day public comment period prior to being presented to the Central Valley Water Board, or its delegate, for adoption in the Stipulated Order. In the event objections are raised during the public review and comment period, the Parties agree to meet and confer concerning any such objections, and may mutually agree to revise or adjust the proposed Settlement Agreement. Except in such an event, the Discharger agrees that it will not rescind or otherwise withdraw its approval of this Settlement Agreement. The Central Valley Water Board, or its delegate, may, under certain circumstances, require a public hearing regarding the Settlement Agreement.
17. **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 Settlement Agreement, will be adequate. In the event procedural objections are raised prior to the entry of the Stipulated Order, the Parties agree to meet and confer concerning any such objections, and may mutually agree to revise or adjust the procedure as necessary or advisable under the circumstances. However, agreement to such revisions or adjustments shall not require Discharger to pay any amount in excess of that set forth in this Settlement Agreement. If significant new information is received that reasonably affects the propriety of presenting this Stipulated Order to the Central Valley Water Board, or its delegate, for adoption, the Assistant Executive Officer may unilaterally declare this Settlement Agreement void and decide not to present it to the Central Valley Water Board, or its delegate
18. **Order not Adopted/Vacated:** In the event that the Stipulated Order does not take effect because it is not adopted by the Central Valley Water Board's delegate, or is vacated in whole or in part by the State Water Board or a court, the Discharger acknowledges that the Prosecution Team may proceed to a contested evidentiary hearing before the Central Valley Water Board to determine whether to assess administrative civil liability for the underlying alleged violations, or may continue to pursue settlement. The Central Valley Water Board, or its delegate, may, under certain circumstances, require a public hearing regarding the Settlement Agreement. In the event of the Stipulated Order being vacated by the State Water Board or a court, unless waived by the Discharger in writing, the Central Valley

Water Board shall refund to the Discharger, the amounts in Stipulation 2, provided that the Discharger had paid the amount per this Settlement Agreement. The Parties agree that all oral and written statements and agreements made during the course of settlement discussions, including this Settlement Agreement and all Attachments, will not be admissible as evidence in any subsequent administrative or judicial proceeding or hearing. The Parties also agree to waive the following objections related to their efforts to settle this matter:

- 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, except that Discharger may object to members of the Prosecution Team serving as advisors to the Central Valley Water Board in any such subsequent administrative or judicial proceeding or hearing; 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.

19. **Appeals:** Upon adoption of the Stipulated Order, the Discharger waives its right to appeal the Stipulated Order to the State Water Board, a California Superior Court and/or any California appellate level court. Nothing in this Settlement Agreement, however, shall be construed to prevent the Discharger from participating as parties or interveners in any appeal of the Stipulated Order or any other order brought by a third party before any California court of law or the State Water Board.

20. **Effect of Stipulated Order:** Except as expressly provided in this Settlement Agreement, nothing in the 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. Nothing in this Settlement Agreement or Stipulated Order shall constitute a waiver of any position, or preclude any party from asserting any position, in any future proceeding or context.

21. **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 the Discharger or their respective directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Settlement Agreement, 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 their respective directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Settlement Agreement.

- 22. No Waiver of Right to Enforce:** The failure of the Prosecution Team or Central Valley Water Board to enforce any provision of this Settlement Agreement shall in no way be deemed a waiver of such provision, or in any way affect the validity of this Settlement Agreement. 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 Settlement Agreement. No oral advice, guidance, suggestions, or comments by employees or officials of any Party regarding matters covered under this Settlement Agreement shall be construed to relieve any Party regarding matters covered in this Settlement Agreement. This Settlement Agreement relates only to the subjective matter hereof, including administrative civil liability for the violations listed in Attachments A and B. The Central Valley Water Board reserves all rights to take additional enforcement actions, including without limitation the issuance of administrative civil liability complaints or orders for violations other than those addressed by this Settlement Agreement.
- 23. Regulatory Changes:** Nothing in this Settlement Agreement 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.
- 24. Third Party Claims.** Nothing in this Settlement Agreement shall be deemed to create any rights in favor of, or to inure to the benefit of, any third party or parties, or to waive or release any claim against a third party or defense or limitation against third party claims.
- 25. Authority to Enter Settlement Agreement:** Each person executing this Settlement Agreement in a representative capacity represents and warrants that he or she is authorized to execute this Settlement Agreement on behalf of and to bind the entity on whose behalf he or she executes the Settlement Agreement.
- 26. Integration:** This Settlement Agreement constitutes the entire agreement between the Parties and may not be amended or supplemented except as provided for in this Settlement Agreement.
- 27. Modification:** This Stipulated Order shall not be modified by oral representation whether made before or after the execution of this Stipulated Order. All modifications made before execution of the Stipulated Order must be made in writing and approved by the Discharger and the Central Valley Water Board Prosecution Team.
- 28. Interpretation:** This Settlement Agreement 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.
- 29. Effective Date:** The effective date of the Settlement Agreement and Stipulated Order shall be the date on which the Stipulated Order is adopted by the Central Valley Water Board or its delegate.
- 30. Disputes:** In the event of a dispute, the Discharger, as appropriate, shall file a "Notice of Dispute" with the Executive Officer or the Executive Officer's Designee

within ten (10) days of discovery of the problem. The Central Valley Water Board and Discharger shall then attempt to negotiate a resolution of such claim and, if appropriate, process an amendment to implement the terms of any such resolution. If the Central Valley Water Board and the Discharger are unable to resolve the dispute, the decision of the Executive Officer or the Executive Officer Designee shall be final, unless appealed to a court of competent jurisdiction.

31. **Counterpart Signatures:** This Settlement Agreement 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.
32. **Incorporated Attachments:** Subject to Recital 9 and Stipulations 13, and other terms and conditions and Stipulations of this Settlement Agreement, Attachments A through C are incorporated by reference and are made fully a part of this Settlement Agreement as though set forth herein.

IT IS SO STIPULATED¹:

Original Singed by _____
Andrew Altevogt, Assistant Executive Officer
Central Valley Water Board
Prosecution Team

1/26/2017

Date

Original Singed by _____
Prabhakar Somavarapu
District Engineer
Sacramento Area Sewer District

1/23/2017

Date

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

**Administrative Civil Liability
Order**

HAVING CONSIDERED THE PARTIES' STIPULATIONS, AS SET FORTH IN THE ABOVE SETTLEMENT AGREEMENT, THE CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD, BY AND THROUGH ITS EXECUTIVE OFFICER, FINDS THAT:

1. In adopting this Order, the Central Valley Regional Water Quality Control Board ("Central Valley Water Board") or its Delegate has assessed a penalty in accordance with Water Code section 13385 and the Enforcement Policy.
2. The Settlement Agreement resolves an action brought to enforce the laws and regulations administered by the Central Valley Water Board. The Central Valley Water Board, acting through its Executive Officer, finds that issuance of this 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.

PURSUANT TO SECTION 13385 OF THE CALIFORNIA WATER CODE AND SECTION 11415.60 OF THE CALIFORNIA GOVERNMENT CODE, THE EXECUTIVE OFFICER HEREBY APPROVES THE ABOVE SETTLEMENT AGREEMENT AND ADOPTS THIS ORDER, THE EFFECT OF WHICH SHALL BE TO IMPOSE ADMINISTRATIVE CIVIL LIABILITY CONSISTENT WITH, AND SUBJECT TO ALL TERMS AND CONDITIONS OF, THE ABOVE SETTLEMENT AGREEMENT.

Original Signed By
Pamela Creedon
Executive Officer

3/7/2017
Date

Attachments:

- A. Reported Category 1 Sanitary Sewer Overflows 1 March 2012 through 1 October 2016
- B. Penalty Calculation Factors
- C. SEP Description

Attachment A to Settlement Agreement R5-2017-0503
Reported Category 1 Sanitary Sewer Overflows
1 March 2012 through 1 October 2016
Sacramento Area Sewer District Wastewater Collection System, Sacramento County

Spill Start Date	Spill End Date	Days	Spill Location	Gallons Discharged to Surface Water	Gallons Recovered from Surface Water	Gallons Not Recovered, Less 1,000 Gallons	Cause of Spill	Liability at \$10,000/day	Liability at \$10/gallon	Maximum Penalty
3/19/12	3/19/12	1	Not Stated	1,120	1,120	0	Root intrusion	\$10,000	\$0	\$10,000
3/20/12	3/20/12	1	8235 Post Rd, Fair Oaks	8,897	8,897	0	Debris-General	\$10,000	\$0	\$10,000
4/13/12	4/13/12	1	4124 Joy Ln, Carmichael	270	0	0	Grease deposition	\$10,000	\$0	\$10,000
5/10/12	5/10/12	1	4949 Heatherdale Ln, Carmichael	20	20	0	Grease deposition	\$10,000	\$0	\$10,000
8/7/12	8/7/12	1	Not Stated	4,600	4,600	0	Grease deposition	\$10,000	\$0	\$10,000
8/14/12	8/14/12	1	8336 Fair Oaks Blvd, Sacramento	20	20	0	Root intrusion	\$10,000	\$0	\$10,000
9/4/12	9/4/12	1	Not Stated	608	608	0	Grease deposition	\$10,000	\$0	\$10,000
10/19/12	10/19/12	1	Not Stated	4,700	4,700	0	Grease deposition	\$10,000	\$0	\$10,000
10/30/12	10/30/12	1	Not Stated	800	800	0	Root intrusion	\$10,000	\$0	\$10,000
12/2/12	12/2/12	1	7261 10th St, Rio Linda	4,215	0	3,215	Grease deposition	\$10,000	\$32,150	\$42,150
12/23/12	12/23/12	1	7108 Palabin Wy, Rio Linda	803	803	0	Not Stated	\$10,000	\$0	\$10,000

Attachment A to Settlement Agreement R5-2017-0503
Reported Category 1 Sanitary Sewer Overflows
1 March 2012 through 1 October 2016
Sacramento Area Sewer District Wastewater Collection System, Sacramento County

Spill Start Date	Spill End Date	Days	Spill Location	Gallons Discharged to Surface Water	Gallons Recovered from Surface Water	Gallons Not Recovered, Less 1,000 Gallons	Cause of Spill	Liability at \$10,000/day	Liability at \$10/gallon	Maximum Penalty
12/24/12	12/24/12	1	8606 Danridge Dr, Un-incorporated Area	155	39	0	Grease deposition	\$10,000	\$0	\$10,000
2/10/13	2/10/13	1	Not Stated	6,840	6,840	0	Grease deposition	\$10,000	\$0	\$10,000
2/16/13	2/16/13	1	Not Stated	2,070	2,070	0	Root intrusion	\$10,000	\$0	\$10,000
2/20/13	2/20/13	1	Not Stated	2,180	2,180	0	Grease deposition	\$10,000	\$0	\$10,000
2/22/13	2/22/13	1	Not Stated	3,250	3,250	0	Root intrusion	\$10,000	\$0	\$10,000
5/21/13	5/21/13	1	690 Fair Oaks Blvd, Sacramento	490	490	0	Grease deposition	\$10,000	\$0	\$10,000
7/14/13	7/14/13	1	Not Stated	299	299	0	Grease deposition	\$10,000	\$0	\$10,000
8/19/13	8/20/13	1	7972 Arcadia Dr, Citrus Heights	16,371	16,371	0	Grease deposition	\$10,000	\$0	\$10,000
10/4/13	10/5/13	1	8436 Gaylor Wy, Carmichael	750	750	0	Grease Deposition	\$10,000	\$0	\$10,000
10/13/13	10/13/13	1	Not Stated	1,404	1,404	0	Root Intrusion	\$10,000	\$0	\$10,000
10/14/13	10/14/13	1	5656 Auburn Blvd, Sacramento	18,300	18,300	0	Grease Deposition	\$10,000	\$0	\$10,000

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1 March 2012 through 1 October 2016
Sacramento Area Sewer District Wastewater Collection System, Sacramento County

Spill Start Date	Spill End Date	Days	Spill Location	Gallons Discharged to Surface Water	Gallons Recovered from Surface Water	Gallons Not Recovered, Less 1,000 Gallons	Cause of Spill	Liability at \$10,000/day	Liability at \$10/gallon	Maximum Penalty
11/12/13	11/13/13	1	3900 Sierra Gold Dr, Antelope	25,030	25,030	0	Grease Deposition	\$10,000	\$0	\$10,000
11/13/13	11/14/13	1	1724 Mercury Wy, Un-incorporated Area	1,077	1,077	0	Root Intrusion	\$10,000	\$0	\$10,000
11/22/13	11/22/13	1	3220 Barberry Ln, Un-incorporated Area	336	336	0	Grease Deposition	\$10,000	\$0	\$10,000
11/22/13	11/22/13	1	2900 Channel Ct, Un-incorporated Area	67	67	0	Grease Deposition	\$10,000	\$0	\$10,000
12/1/13	12/2/13	1	4101 Kenneth Ave, Sacramento	25	0	0	Root Intrusion	\$10,000	\$0	\$10,000
12/20/13	12/20/13	1	8661 Elk Grove Blvd, Elk Grove	2,540	2,540	0	Debris from Construction	\$10,000	\$0	\$10,000

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1 March 2012 through 1 October 2016
Sacramento Area Sewer District Wastewater Collection System, Sacramento County

Spill Start Date	Spill End Date	Days	Spill Location	Gallons Discharged to Surface Water	Gallons Recovered from Surface Water	Gallons Not Recovered, Less 1,000 Gallons	Cause of Spill	Liability at \$10,000/day	Liability at \$10/gallon	Maximum Penalty
12/20/13	12/20/13	1	2636 Carmichael Wy, Un-incorporated Area	11,100	11,100	0	Grease Deposition	\$10,000	\$0	\$10,000
12/29/13	12/31/13	3	4977 King Arthur Pl, Sacramento	596	596	0	Root intrusion	\$30,000	\$0	\$30,000
1/16/14	1/17/14	1	5716 San Juan Ave, Citrus Heights	101	101	0	Root Intrusion	\$10,000	\$0	\$10,000
2/15/14	2/16/14	2	5216 Garfield Ave, Sacramento	1,900	1,900	0	Root Intrusion	\$20,000	\$0	\$20,000
4/15/14	4/15/14	1	2150 Auburn Blvd, Sacramento	9,351	9,351	0	Grease Deposition	\$10,000	\$0	\$10,000
5/1/14	5/1/14	1	5579 Latin Wy, Citrus Heights	1,546	1,546	0	Root Intrusion	\$10,000	\$0	\$10,000
5/20/14	5/20/14	1	6200 Whitelock Pkwy, Elk Grove	12,156	12,156	0	Air Relief Valve/Blow-Off Valve Failure	\$10,000	\$0	\$10,000

Attachment A to Settlement Agreement R5-2017-0503
Reported Category 1 Sanitary Sewer Overflows
1 March 2012 through 1 October 2016
Sacramento Area Sewer District Wastewater Collection System, Sacramento County

Spill Start Date	Spill End Date	Days	Spill Location	Gallons Discharged to Surface Water	Gallons Recovered from Surface Water	Gallons Not Recovered, Less 1,000 Gallons	Cause of Spill	Liability at \$10,000/day	Liability at \$10/gallon	Maximum Penalty
5/26/14	5/26/14	1	8744 Santa Ridge Circle, Elk Grove	11,500	11,500	0	Debris-Rags	\$10,000	\$0	\$10,000
6/24/14	6/24/14	1	Not Stated	43,364	43,364	0	Pipe Structural Problem/Failure - Installation	\$10,000	\$0	\$10,000
8/6/14	8/6/14	1	7795 Antelope Rd, Citrus Heights	2,575	2,575	0	Grease Deposition	\$10,000	\$0	\$10,000
11/3/14	11/3/14	1	7136 Terrel, Citrus Heights	1,640	1,640	0	Root Intrusion	\$10,000	\$0	\$10,000
11/4/14	11/4/14	1	9431 Twin Lakes Ave., Un-incorporated Area	738	738	0	CS Maintenance Caused Spill/Damage	\$10,000	\$0	\$10,000
11/10/14	11/10/14	1	4739 Pasadena Ave, Sacramento	1,800	1,800	0	Grease Deposition	\$10,000	\$0	\$10,000
11/24/14	11/24/14	1	7000 Sunrise Blvd, Citrus Heights	820	820	0	Grease Deposition	\$10,000	\$0	\$10,000

Attachment A to Settlement Agreement R5-2017-0503
Reported Category 1 Sanitary Sewer Overflows
1 March 2012 through 1 October 2016
Sacramento Area Sewer District Wastewater Collection System, Sacramento County

Spill Start Date	Spill End Date	Days	Spill Location	Gallons Discharged to Surface Water	Gallons Recovered from Surface Water	Gallons Not Recovered, Less 1,000 Gallons	Cause of Spill	Liability at \$10,000/day	Liability at \$10/gallon	Maximum Penalty
12/11/14	12/11/14	1	3849 Clover Ln, Sacramento	1,066	0	66	Debris-General	\$10,000	\$660	\$10,660
12/29/14	1/19/15	22	6164 Shadow Ln, Citrus Heights	2,289	2,289	0	Root Intrusion	\$220,000	\$0	\$220,000
1/4/15	1/4/15	1	Not Stated	26,030	26,030	0	Root Intrusion	\$10,000	\$0	\$10,000
1/7/15	1/8/15	1	4833 Kenneth Ave, Fair Oaks	41	41	0	Root Intrusion	\$10,000	\$0	\$10,000
1/17/15	1/17/15	1	Not Stated	3,746	3,746	0	Grease Deposition	\$10,000	\$0	\$10,000
2/6/15	2/6/15	1	6937 Landis Ave, Carmichael	624	0	0	Inappropriate Discharge to CS	\$10,000	\$0	\$10,000
2/15/15	2/23/15	9	7845 Sayonara Dr, Citrus Heights	4,589	4,589	0	Root Intrusion	\$90,000	\$0	\$90,000
2/18/15	2/18/15	1	4901 Saint Lynn Ln, Carmichael	3,554	3,554	0	Root Intrusion	\$10,000	\$0	\$10,000
4/6/15	4/6/15	1	2257 Fair Oaks Blvd, Sacramento	791	68	0	Root Intrusion	\$10,000	\$0	\$10,000

Attachment A to Settlement Agreement R5-2017-0503
Reported Category 1 Sanitary Sewer Overflows
1 March 2012 through 1 October 2016
Sacramento Area Sewer District Wastewater Collection System, Sacramento County

Spill Start Date	Spill End Date	Days	Spill Location	Gallons Discharged to Surface Water	Gallons Recovered from Surface Water	Gallons Not Recovered, Less 1,000 Gallons	Cause of Spill	Liability at \$10,000/day	Liability at \$10/gallon	Maximum Penalty
4/7/15	4/7/15	1	5700 Primrose Dr, Citrus Heights	92	0	0	Grease Deposition	\$10,000	\$0	\$10,000
4/7/15	4/7/15	1	1530 Fulton Ave, Sacramento	4,525	0	3,525	Grease Deposition	\$10,000	\$35,250	\$45,250
5/4/15	5/4/15	1	7772 Old Auburn Rd, Citrus Heights	25	25	0	Root Intrusion	\$10,000	\$0	\$10,000
7/21/15	7/21/15	1	3 Park Sierra Lane, Un-incorporated Area	2,695	2,695	0	Debris from Construction	\$10,000	\$0	\$10,000
9/1/15	9/1/15	1	9800 Elk Grove Florin Rd, Elk Grove	82	82	0	Root Intrusion	\$10,000	\$0	\$10,000
9/27/15	9/27/15	1	2025 North Ave, Sacramento	108	108	0	Debris-General	\$10,000	\$0	\$10,000
10/9/15	10/10/15	2	7051 Dolan Wy, Citrus Heights	1	1	0	Root Intrusion	\$20,000	\$0	\$20,000
11/8/15	11/8/15	1	7051 Dolan Wy, Citrus Heights	905	0	0	Root Intrusion	\$10,000	\$0	\$10,000

Attachment A to Settlement Agreement R5-2017-0503
Reported Category 1 Sanitary Sewer Overflows
1 March 2012 through 1 October 2016
Sacramento Area Sewer District Wastewater Collection System, Sacramento County

Spill Start Date	Spill End Date	Days	Spill Location	Gallons Discharged to Surface Water	Gallons Recovered from Surface Water	Gallons Not Recovered, Less 1,000 Gallons	Cause of Spill	Liability at \$10,000/day	Liability at \$10/gallon	Maximum Penalty
11/9/15	11/9/15	1	7020 Gumwood Cr, Citrus Heights	3	0	0	Root Intrusion	\$10,000	\$0	\$10,000
11/13/15	11/13/15	1	5700 Whitelock Pkwy, Elk Grove	6,190	6,190	0	Pipe Structural Problem/Failure	\$10,000	\$0	\$10,000
1/8/16	1/11/16	3	5933 York Glen Ln., Sacramento	637	637	0	Debris-General	\$30,000	\$0	\$30,000
1/14/16	1/14/16	1	8651 Winding Way, Fair Oaks	46	46	0	Grease deposition	\$10,000	\$0	\$10,000
1/23/16	1/23/16	1	9400 Redwater Dr., Antelope	1,825	1,825	0	Grease deposition	\$10,000	\$0	\$10,000
1/25/16	1/25/16	1	2237 Hurley Way, Sacramento	1,740	1,740	0	Grease deposition	\$10,000	\$0	\$10,000
2/3/16	2/3/16	1	2251 Watt Ave., Sacramento	120	120	0	Root Intrusion	\$10,000	\$0	\$10,000
2/7/16	2/7/16	1	5466 Burr Oak Way, Fair Oaks	5,430	5,430	0	Root Intrusion	\$10,000	\$0	\$10,000

Attachment A to Settlement Agreement R5-2017-0503
Reported Category 1 Sanitary Sewer Overflows
1 March 2012 through 1 October 2016
Sacramento Area Sewer District Wastewater Collection System, Sacramento County

Spill Start Date	Spill End Date	Days	Spill Location	Gallons Discharged to Surface Water	Gallons Recovered from Surface Water	Gallons Not Recovered, Less 1,000 Gallons	Cause of Spill	Liability at \$10,000/day	Liability at \$10/gallon	Maximum Penalty
2/21/16	2/21/16	1	7209 Gail Way, Fair Oaks	728	728	0	Grease deposition	\$10,000	\$0	\$10,000
3/6/16	3/8/16	2	Corner of Richman and Lawnwood, Sacramento	1,282	0	282	Grease deposition	\$20,000	\$2,820	\$22,820
3/10/16	3/14/16	5	6713 Risata Way, Elk Grove	931	0	0	Root Intrusion	\$50,000	\$0	\$50,000
3/13/16	3/14/16	1	10401 Rockingham Dr., Rancho Cordova	612	0	0	Root Intrusion	\$10,000	\$0	\$10,000
7/9/16	7/9/16	1	3133 Becerra Way, Sacramento	314	314	0	Root Intrusion	\$10,000	\$0	\$10,000
8/11/16	8/11/16	1	2625 Fulton Ave., Sacramento	2	2	0	Pipe Structural Problem/Failure	\$10,000	\$0	\$10,000
8/29/16	9/1/16	3	4145 Central Ave., Fair Oaks	21,600	15,600	5,000	Root Intrusion	\$30,000	\$50,000	\$80,000

Attachment B to Stipulated Agreement R5-2017-0503
Penalty Calculation Factors
Sacramento Area Sewer District, Sacramento County

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 (CWC) section 13385(e). 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.

VIOLATION 1: 17-19 OCTOBER 2015 SPILL

State Board Order 2006-0003-DWQ prohibits any SSO that results in the discharge of sewage to surface waters, and prohibits SSOs that cause nuisance conditions.

On 19 October 2015, the Discharger notified Board staff and other agencies of a spill or raw sewage into Arcade Creek near 6601 Thalia Way in Citrus Heights. The Discharger's contractor had installed a 10-inch temporary sewer bypass across Arcade Creek on October 16th, and then had left for the weekend. Rain fell during the early morning hours of October 17th, the creek flow increased, and a joint in the pipe separated, spilling sewage into the creek. No one inspected the sewer bypass or noticed the spill until the contractor returned to work at 7:00 am on October 19th.

The Discharger was unable to use the most accurate methods to calculate the spill volume, since the spill was not discovered until a couple of days later. Based on the best information available to the Discharger available at that time, the Discharger assumed that the spill began at 5:00 am on October 17th (based on the start of rainfall and expected time for the creek to rise) and flowed at a rate of 62.5 gpm (based on a dry-weather hydraulic model for the pipe segment) until stopped by the contractor at 7:10 am on October 19th. The Discharger estimates that 188,125 gallons of raw sewage flowed into Arcade Creek.

The Discharger submitted a 1 December 2015 report describing the spill and its response. The Discharger states that it took field measurements to determine how far the spill had travelled downstream. However, these measurements are not described or quantified in the report. Based on the measurements, a temporary downstream dam was constructed at 12:40 pm on October 19th, and a temporary upstream dam was constructed at on October 20th. The Discharger's work logs show that it finished pumping the sewage from Arcade Creek at 1:30 pm on October 23rd, and the Discharger states that the 188,125 gallon spill was recovered.

The Discharger states that to prevent such spills in the future, it has "... *increased the frequency of monitoring the gravity bypass systems at all project locations with active bypasses in place. During dry weather, SASD required the contractors to inspect the bypass systems every 12 hours or less. During a rain event, SASD staff will inspect*

active bypass systems every 6 hours or less. SASD staff will also evaluate the criteria for future bypass plans and monitoring of bypass operations.”

Step 1 – Potential for Harm for Discharge Violations

The “potential harm to beneficial uses” factor considers the harm that may result from exposure to the pollutants in the illegal discharge, while evaluating the nature, circumstances, extent, and gravity of the violation(s). A three-factor scoring system is used for each violation or group of violations: (1) the potential for harm to beneficial uses; (2) the degree of toxicity of the discharge; and (3) whether the discharge is susceptible to cleanup or abatement.

Factor 1: Harm or Potential Harm to Beneficial Uses.

A score between 0 and 5 is assigned based on a determination of whether the harm or potential for harm to beneficial uses ranges from negligible (0) to major (5). During the 17-19 October 2015 incident, raw sewage was discharged to Arcade Creek, a tributary to the Sacramento River. The designated beneficial uses of the Sacramento River and its tributaries that could be impacted by the unauthorized discharge include municipal and domestic supply, irrigation supply, contact and non-contact recreation, warm and cold freshwater habitat, warm and cold migration, warm and cold spawning, wildlife habitat, and navigation.

Raw sewage spilled directly to Arcade Creek. Discharges of sewage to surface water must typically be treated to a high standard to prevent adverse impacts to aquatic life. Toxicity is the degree to which a substance can damage a living or non-living organism. Toxicity can refer to the effect on a whole organism, such as an animal, bacterium, or plant, as well as the effect on a substructure of the organism, such as a cell or an organ. In this case, the discharge consisted of raw sewage, which contains pathogens, nitrogen, ammonia, and biological oxygen demand. The discharge was into a small creek with typically low flow in the fall months, so there was little opportunity for dilution and therefore additional contact time with sensitive species. Fish are highly sensitive to even small concentrations of ammonia.

On October 19th, three days after the spill began, the Discharger collected water samples upstream and downstream of the spill. Results are shown in the table below. Based on the analytical results, the upstream samples were influenced by the spill (it is noted that the Discharger’s spill report states that the spill moved upstream as well as downstream). The downstream results either show the extent of the spill or that the spill had become diluted with natural water in Arcade Creek.

Constituent	Upstream, about 60 feet (influenced by spill)	At spill origin	Downstream, about 1.75 miles
Total coliform organisms, MPN/100 ml	54,000,000	54,000,000	5,400,000
Biochemical oxygen demand, mg/L	75	1,600	15
Ammonia –N, mg/L	12	15	0.44

The Water Board has issued NPDES permits for two nearby wastewater treatment plants¹, both of which discharge into relatively small creeks. These permits require that the effluent be treated such that the BOD does not exceed 20 mg/L as a daily maximum, ammonia-N does not exceed 2.2 or 2.9 as a daily maximum, and total coliform organisms do not exceed 240 MPN/100 ml. Based on the limits in the NPDES discharge permits as compared to the analytical data provided by the Discharger, the spill resulted in at least a moderate potential harm to beneficial uses. "Moderate" is defined as "impacts are observed or reasonably expected and impacts to beneficial uses are moderate and likely to attenuate without appreciable acute or chronic effects." Therefore a score of 3, moderate, is assigned for this factor.

Factor 2: The Physical, Chemical, Biological or Thermal Characteristics of the Discharge.

A score between 0 and 4 is assigned based on a determination of the risk or threat of the discharged material. "Potential receptors" are those identified considering human, environmental, and ecosystem exposure pathways. In this case, the sanitary sewer overflows were raw sewage, and as such are known to contain highly elevated concentrations of coliform organisms, biochemical oxygen demand, and ammonia, as confirmed by the Discharger's water samples. Elevated levels of these constituents can lead to low dissolved oxygen in the receiving water, impacts to aquatic life, and impacts to human health. The Discharger also de-watered 1.75 miles of Arcade Creek in an attempt to recover the sewage. This dewatering would have had a detrimental effect on the aquatic life in the creek. Because the discharged material possesses "an above-moderate risk or a direct threat to potential receptors," a score of 3 was assigned for this factor.

Factor 3: Susceptibility to Cleanup or Abatement.

A score of 0 is assigned for this factor if 50% or more of the discharge is susceptible to cleanup or abatement. A score of 1 is assigned if less than 50% of the discharge is susceptible to cleanup or abatement. This factor is evaluated regardless of whether the discharge was actually cleaned up or abated by the discharger. In this case, the Discharger asserts that the entire spill was cleaned up. While it is probable that a portion of the spill was recovered, Board staff contends that less than 50% of the discharge was susceptible to cleanup or abatement, as described below. Therefore, a score of 1 was assigned to this factor.

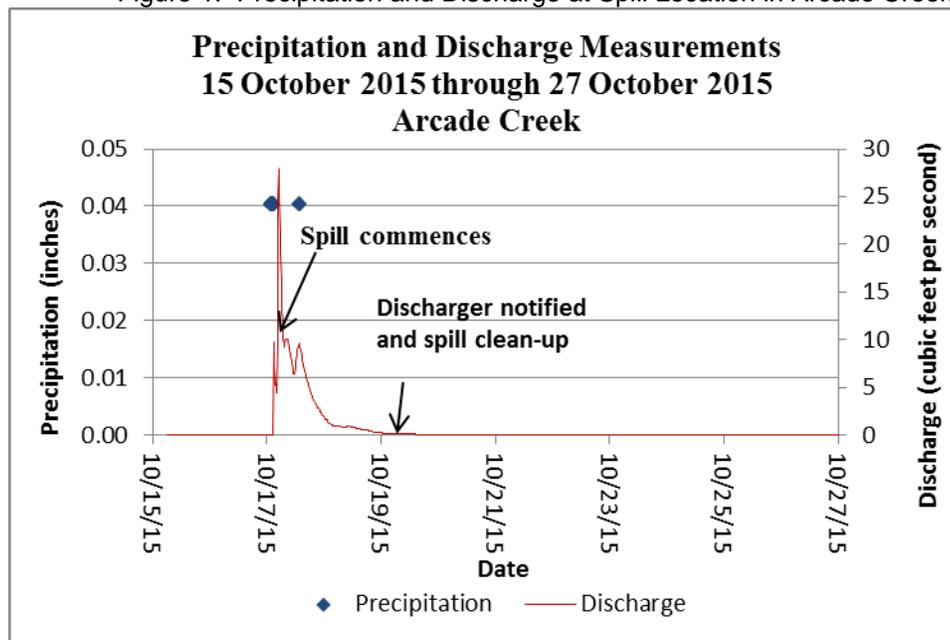
Central Valley Water Board staff maintains that full recovery of an entire spill volume within the creek would be infeasible three days after the spill occurred given prevailing precipitation and flow conditions. To confirm conditions along Arcade Creek at the time of the spill, precipitation and discharge measurements were obtained from the California

¹ City of Roseville, Dry Creek Wastewater Treatment Plant, Order R5-2014-0049 and City of Roseville, Pleasant Grove Wastewater Treatment Plant, Order R5-2014-0051.

Department of Water Resources precipitation gage AMC and United States Geological Survey stream gage 11447360 for the time period of 15 October to 30 October 2015.²

Figure 1 displays precipitation and discharge data obtained from both gages. A rain event coincided with the break in the pipeline, so it is expected that a portion of the sewage moved downstream with the increased flow of the creek. The Discharger states that it took field measurements three days after the spill began in an effort to find the edge of the plume. However, there is no additional information in the record to explain how or why the Discharger thought it had determined the extent of the plume. As shown in Figure 1, the flow in the creek had subsided substantially by the time the Discharger knew about the spill and began taking measurements. Therefore, it is expected that a portion of the sewage seeped into the soil and/or groundwater as the water flow receded. And finally, the Discharger's 1 December 2015 spill report states that the creek was flushed with 1.7 million gallons of water. With this volume of water used for flushing, it was not possible for the Discharger to determine the amount of sewage that was recovered. For these reasons, Board staff has assigned a score of 1 to the Susceptibility to Cleanup factor.

Figure 1: Precipitation and Discharge at Spill Location in Arcade Creek



² California Department of Water Resources, California Data Exchange Center, Arcade Creek at Winding Way (Precipitation Station AMC) http://cdec.water.ca.gov/cgi-progs/staMeta?station_id=AMC; United States Geological Survey stream gage, Arcade Creek near Del Paso Heights, CA (stream gage 11447360) http://waterdata.usgs.gov/nwis/uv?site_no=11447360

Final Score – “Potential for Harm”

The scores of the three factors are added to provide a Potential for Harm score for each violation or group of violations. In this case, a **final score of 7** was calculated. The total score is then used in Step 2, below.

Step 2 – Assessment for Discharge Violations

This step addresses administrative civil liabilities for the spills based on both a per-gallon and a per-day basis.

1. Per Gallon Assessment for Discharge Violation

When there is a discharge, the Central Valley Water Board is to determine an initial liability amount on a per gallon basis using the Potential for Harm score and the Extent of Deviation from Requirement of the violation.

The Potential for Harm Score was determined in Step 1, and is 7. In this case, the Central Valley Water Board finds the Extent of Deviation from Requirement is “moderate” because the WDRs prohibit any sanitary sewer overflow that results in a discharge of raw sewage to waters of the United States. Table 1 of the Enforcement Policy (p. 14) is used to determine a “per gallon factor” based on the total score from Step 1 and the level of Deviation from Requirement. For this particular case, the factor is 0.20. This value of 0.20 is multiplied by the volume of discharge and the days of discharge, as described below.

The Enforcement Policy allows for a reduction in the maximum penalty amount of \$10 per gallon for high volume discharges. Although the Discharger probably recovered a portion of spill, it is not possible to determine the exact volume that remained in the environment and Board staff is using the full volume in the penalty calculation. The 17-19 October 2015 spill incident of 188,125 gallons is considered “high volume” based on the total gallons discharged and therefore reduction to \$2/gallon has been applied in this case. CWC section 13385(c)(2) states that the civil liability amount is to be based on the number of gallons discharged but not cleaned up³, over 1,000 gallons for each spill event. Of the 188,125 gallons spilled, a total of 187,125 gallons were discharged in excess of 1,000 gallons into waters of the United States.

The Per Gallon Assessment is as follows:
 0.20 factor from Table 1 x 187,125 gallons x \$2 per gallon = \$74,850

³ The Discharger states that the entire spill was cleaned up but Board staff contends that this was not possible. The Discharger has not provided any information as to the volume of water removed from the creek, and of that, the volume due to rainwater and flushing. It is not possible to calculate the exact volume that was cleaned up, and therefore staff has made the reasonable determination to use the entire volume of the spill in the calculation. This allows the high volume discount to be applied, works to the benefit of the Discharger, and provides a more reasonable penalty. If a majority of the spill had been cleaned up, then the high volume discount could not be applied and the penalty amount would be higher.

2. Per Day Assessment for Discharge Volume

When there is a discharge, the Central Valley Water Board is to determine an initial liability amount on a per day basis using the same Potential for Harm and the Extent of Deviation from Requirement that were used in the per-gallon analysis. The “per day” factor (determined from Table 2 of the Enforcement Policy) is 0.20. The spill event took place over 3 days, commencing on 17 October 2015 at 0500 hours and stopping on 19 October 2015 at 0710 hours.

The Per Day Assessment is as follows:
0.20 factor from Table 2 x 3 days x \$10,000 per day = \$6,000

Initial Liability Amount: The value is determined by adding together the per gallon assessment and the per day assessment. For this case, the total is \$74,850 + \$6,000 for a total initial liability amount of \$80,850.

Step 3 – Per Day Assessment for Non-Discharge Violation

The Enforcement Policy states that the Board shall calculate an initial liability for each non-discharge violation. In this case, this factor does not apply because this violation is related to the discharge of raw sewage water, and the liability was determined in Step 2.

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 compliance history. 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 negligent behavior. The 17 October 2015 spill event resulted from a rain event, negligence in non-inspection of a temporary pipeline across a creek during and immediately following a rain event, and inadequate oversight of a contractor. If the Discharger and/or contractor had conducted adequate oversight of this construction project, this spill would have been avoided or would have been significantly less. The Discharger and its contractor are fully culpable for this spill and therefore a multiplier value of at least 1.2 is appropriate.

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 cooperated by providing prompt notification to Board staff and other agencies, once it had been made aware of the incident. The Discharger also took undertook significant voluntarily efforts to clean up the spill. According to the Discharger's SSO Technical Report, a new pipeline was put online on 26 October 2015 and the failed temporary gravity bypass pipeline system was removed. The Discharger has changed its protocol and is now requiring bypass pipeline systems to be inspected every 12 hours for dry weather conditions and every six hours in wet weather conditions. Therefore, the Discharger was given a multiplier value of 1.0.

History of Violations

When there is a history of repeat violations, the Enforcement Policy requires a minimum multiplier of 1.1 to be used. This Discharger has a history of sanitary sewer overflows. On 2 July 2008, the Executive Officer of the Central Valley Water Board issued Administrative Civil Liability Complaint (ACLC) R5-2008-0545 for sanitary sewer overflows that occurred between 2 November 2006 and 14 April 2008. The ACLC was in the amount of \$201,000. The spill history in the ACLC included a raw sewage spill that occurred on 13 February 2008 of over 700,000 gallons to Arcade Creek after a pipeline that bridged the creek collapsed. In addition, Central Valley Water Board staff issued 12 Notice of Violations (NOVs) for certified sanitary sewer overflow reports submitted to the CIWQS database by the Discharger between 11 January 2011 and 10 November 2014. Each directs the Discharger to take all necessary actions to remediate future sanitary sewer overflows and comply with the WDRs. For the 17-19 October 2015 spill event, the Discharger was given a value of 1.1.

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 2.

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

Total Base Liability Amount, Violation 1

$$\begin{aligned} & \$80,850 \times 1.2 \times 1.0 \times 1.1 = \$106,722 \\ & \text{Total Base Liability Amount, Violation 1} = \$106,722 \end{aligned}$$

VIOLATION 2: REMAINING CATEGORY 1 SPILLS OCCURRING FROM 1 MARCH 2012 TO 20 NOVEMBER 2015

State Board Order 2006-0003-DWQ requires the Discharger to properly manage, operate, and maintain its sanitary sewer system and ensure the system operators are

adequately trained and possess adequate knowledge, skills, and abilities (Provision D.8). The Discharger has a history of intermittent sanitary sewer overflows attributable to management, operation, and maintenance problems within its sanitary sewer collection system. Between 1 March 2012 and 1 October 2016, the Discharger has attributed multiple sanitary sewer overflows to operational and structural failures, including root intrusion, grease deposition, and presence of debris. As listed on Attachment A of this Stipulated Agreement, a total of 79 spills occurred over 122 days, with a volume discharged of 300,236 gallons discharged to surface water. Because each incident resulted from similar causes, they will be considered together instead of individually under this violation category. (Note that the 17-19 October 2015 spill is not included as part of this violation).

Step 1 – Potential for Harm for Discharge Violations

The “potential harm to beneficial uses” factor considers the harm that may result from exposure to the pollutants in the illegal discharge, while evaluating the nature, circumstances, extent, and gravity of the violation(s). A three-factor scoring system is used for each violation or group of violations: (1) the potential for harm to beneficial uses; (2) the degree of toxicity of the discharge; and (3) whether the discharge is susceptible to cleanup or abatement.

Factor 1: Harm or Potential Harm to Beneficial Uses.

A score between 0 and 5 is assigned based on a determination of whether the harm or potential for harm to beneficial uses ranges from negligible (0) to major (5). Raw sewage was discharged to multiple surface waters or spilled in a location where it potentially would be discharged to surface waters. A score of 3 was assigned to this factor as the majority of the spills were cleaned up.

Factor 2: The Physical, Chemical, Biological or Thermal Characteristics of the Discharge.

A score between 0 and 4 is assigned based on a determination of the risk or threat of the discharged material. A score of 3 was assigned for this factor for the same reasons as discussed in Violation 1.

Factor 3: Susceptibility to Cleanup or Abatement.

A score of 0 is assigned for this factor if 50% or more of the discharge is susceptible to cleanup or abatement. A score of 1 is assigned if less than 50% of the discharge is susceptible to cleanup or abatement. This factor is evaluated regardless of whether the discharge was actually cleaned up or abated by the discharger. For this violation, a factor of 0 was used, as the Discharger reports that in most cases the entire volume of the spill was recovered.

Final Score – “Potential for Harm”

The scores of the three factors are added to provide a Potential for Harm score for each violation or group of violations. In this case, **a final score of 6 was** calculated. The total score is then used in Step 2, below.

Step 2 – Assessment for Discharge Violations

This step addresses administrative civil liabilities for the spills based on both a per-gallon and a per-day basis.

1. Per Gallon Assessment for Discharge Violation

When there is a discharge, the Central Valley Water Board is to determine an initial liability amount on a per gallon basis using the Potential for Harm score and the Extent of Deviation from Requirement of the violation.

The Potential for Harm Score was determined in Step 1, and is 6. In this case, the Central Valley Water Board finds the Extent of Deviation from Requirement is “minor” because the Discharger’s general intent is to follow the WDRs. Table 1 of the Enforcement Policy (p. 14) is used to determine a “per gallon factor” based on the total score from Step 1 and the level of Deviation from Requirement. For this particular case, the factor is 0.08.

California Water Code section 13350(a) states that a person in violation of a waste discharge requirement is civilly liable. CWC section 13350(e)(1)(B) states that the civil liability calculated on for a per gallon basis shall not exceed \$10 for each gallon of waste discharged. Therefore, a civil liability of \$10/gallon has been applied in this case. CWC section 13385(c)(2) states that the civil liability amount is to be based on the number of gallons discharged but not cleaned up, over 1,000 gallons for each spill event. As shown on Attachment A, a total of 12,088 gallons were discharged in excess of 1,000 gallons and not cleaned up.

The Per Gallon Assessment is calculated as on a per-gallon basis is as follows:
 $0.08 \text{ factor from Table 1} \times 12,088 \text{ gallons} \times \$10 \text{ per gallon} = \$9,670$

2. Per Day Assessment for Discharge Volume

When there is a discharge, the Board is to determine an initial liability amount on a per day basis using the same Potential for Harm and the Extent of Deviation from Requirement that were used in the per-gallon analysis. The “per day” factor (determined from Table 2 of the Enforcement Policy) is 0.08. Spill events occurring between 1 March 2012 and 20 November 2015 took place over 122 days.

The Per Day Assessment is as follows:
 $0.08 \text{ factor from Table 2} \times 122 \text{ days} \times \$10,000 \text{ per day} = \$97,600$

Initial Liability Amount: The value is determined by adding together the per gallon assessment and the per day assessment. For this case, the total is $\$9,670 + \$97,600$ for a total initial liability amount of \$107,270.

Step 3 – Per Day Assessment for Non-Discharge Violation

The Enforcement Policy states that the Board shall calculate an initial liability for each non-discharge violation. In this case, this factor does not apply because all of the violations are related to the discharge of raw sewage water, and the liability was determined in Step 2.

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 compliance history. 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 negligent behavior. The raw sewage spills were mainly attributed by the Discharger to operational and structural failures. Although the Discharger has a Capital Improvement Program and procedures to maintain the pipeline, the spills still occurred. However, the Discharger states that it was able to recover the majority of the spills. Therefore, it is appropriate to assign a multiplier of 1.1 to the Culpability factor.

Cleanup and Cooperation

This factor reflects the extent to which a discharger voluntarily cooperated in returning to compliance and correcting environmental damage. The Discharger has a robust spill notification and response program. Therefore, the Discharger was assigned a neutral multiplier value of 0.9.

History of Violations

When there is a history of repeat violations, the Enforcement Policy requires a minimum multiplier of 1.1 to be used. On 2 July 2008, the Executive Officer of the Central Valley Water Board issued ACLC R5-2008-0545 for sanitary sewer overflows that occurred between 2 November 2006 and 14 April 2008. The ACLC was in the amount of \$201,000. The spill history in the ACLC included a raw sewage spill that occurred on 13 February 2008 of over 700,000 gallons to Arcade Creek after a pipeline that bridged the creek collapsed. In addition, Central Valley Water Board staff issued 12 NOVs for sanitary sewer overflow reports submitted by the Discharger between 11 January 2011 and 10 November 2014. Each NOV directs the Discharger to take all necessary actions to remediate future sanitary sewer overflows and implement the WDRs. The Discharger was assigned a multiplier of 1.1.

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 2.

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

Total Base Liability Amount, Violation 2

$$\begin{aligned} & \$107,270 \times 1.1 \times 0.9 \times 1.1 = \$116,817 \\ & \text{Total Base Liability Amount, Violation 2} = \$116,817 \end{aligned}$$

COMBINED TOTAL BASE LIABILITY AND FACTORS APPLIED TO BOTH VIOLATIONS

The total base liability is the sum of the calculated liabilities for Violations 1 and 2 is \$223,539.

Step 6 - Ability to Pay and Ability to Continue in Business

The ability to pay and to continue in business factor must be considered when assessing administrative civil liabilities. The Enforcement Policy states that if the Water Board has sufficient financial information to assess the Discharger's ability to pay the Total Base Liability or to assess the effect of the Total Base Liability on the Discharger's ability to continue in business, then the Total Base Liability amount may be adjusted downward.

In this matter, the Discharger is an ongoing entity with the ability to raise revenue to satisfy the liability proposed through the imposition of fees and taxes. In addition, a review of the Sacramento Area Sewer District's 2015-2016 Final Budget (http://www.sacsewer.com/sites/main/files/file-attachments/2015-16_budget_book.pdf) shows that the District has a balanced budget which includes \$1 million for contingencies and \$4 million in reserve. Review of the publicly available financial information shows the Discharger has incoming revenue and there is no information presented to date that would evidence the inability to pay.

Step 7 – Other Factors as Justice May Require

If the Central Valley Water Board believes that the amount determined using the above factors is inappropriate, the amount may be adjusted under the provision for "other factors as justice may require" but only if express findings are made to justify this. Board staff has spent over 100 hours on this case, but the Prosecution Team chooses not to include these costs in the liability.

Step 8 – Economic Benefit

Pursuant to CWC section 13385(e), civil liability, at a minimum, must be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation.

In general, the raw sewage discharges were due to blockage from root intrusion, grease deposition, or presence of debris, but also pump station, valve and/or pipeline failures, power outages, and operator error. The large spill on October 17-19, 2015 was due to negligent failure to inspect a temporary structure for over 50 hours after a rain event. The Discharger's cost savings from the failure to inspect is minimal. Other discharges could have been prevented by exercising more effective operation and maintenance activities, or increased inspections. The cost savings for these spill events is likely minimal, given that as a result of this liability, the Discharger is expected to take actions to prevent these overflows in the future. Therefore, the proposed liability exceeds any economic benefit accrued by the Discharger.

Final adjusted liability

The final adjusted liability is \$223,539.

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.

Water Code maximum liability amount for Violation 1 is \$1,901,250 and the maximum liability amount for Violation 2 is \$1,340,880. Therefore, the maximum liability for both violations is \$3,242,130.

Water Code and Enforcement Policy minimum liability amount: minimal, and less than the proposed penalty

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. Using the Penalty Calculation Methodology, as described above, the penalty proposed penalty is \$223,539.

ATTACHMENT C
TO STIPULATED ORDER R5-2017-0503
SACRAMENTO AREA SEWER DISTRICT
DESCRIPTION OF SUPPLEMENTAL ENVIRONMENTAL PROJECT (SEP)

Project Title: Fruitridge Road and Stockton Boulevard PCE Plume, Public Water Connection and Well Abandonment

Geographic Area of Interest: Within the general vicinity of the intersection of Fruitridge Road and Stockton Boulevard, Sacramento, California

Name and Contact Information for Responsible Entity:

Steve Nebozuk, P.E.
Senior Civil Engineer, Policy and Planning
Sacramento Area Sewer District (SASD)
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Sacramento, CA 95827
Tel: 916.876.6118
E-mail: nebozuks@sacsewer.com

Estimated Project Cost: A maximum of \$111,769.50 will be allocated to this SEP. The primary activity under the SEP consists of connecting residences still reliant on contaminated private domestic drinking water wells in the subject area to an appropriate public water system. The total direct cost for connecting each private residence to public water is estimated at \$10,000. If connecting residences to a public water system does not exhaust the total SEP amount, remaining SEP funds will be allocated to destroying contaminated private domestic wells of landowners who have been connected to the public water system under the SEP and who also agree to the destruction of the well. The estimated cost to properly abandon a contaminated private domestic well is \$20,000. Other costs, including investigations to identify residences requiring a public water connection, are not included in the cost of the SEP.

Project Description: The proposed SEP consists of connecting private residences that are within the general vicinity of the intersection of Fruitridge Road and Stockton Boulevard, and that are currently dependent on contaminated private domestic wells for drinking water and in-home use, to a public water supply. A well will be considered "contaminated" if the PCE concentration is greater than 5 parts per billion (ppb). While most residences in the area have previously been connected to public water, an unknown number are still reliant on private domestic wells for their water supply. If connecting the residences to public water does not exhaust SEP funding, remaining funds within the SEP maximum will be used to abandon contaminated domestic wells whose owner has been converted to a public system. The priority for abandonment will be based on measured PCE concentration; location and depth of the well; and the extent to which sources of PCE in the area have impacted multiple private domestic wells. However, abandonment will occur only if the landowner agrees to the abandonment.

Procedurally, once all residences still relying on private domestic drinking water wells have been connected to a public water system (or all residences who agree to be connected), if the SEP funding has not been exhausted for such connections, Central Valley Water Board staff will identify which of those private wells pose the greatest threat to spread or aggravate the PCE groundwater contamination within the Project area. Depending on the amount of funds remaining in the SEP following completion of the water replacement portion of the project, the highest-threat wells will be properly destroyed. The well owner must have agreed to be connected to the public water supply and must agree to have their well abandoned.

Water Body, Beneficial Use, or Pollutant Addressed by the Project: Connection of residences still dependent on private domestic wells within the PCE plume will have the immediate effect of eliminating a direct exposure route of the PCE currently present in shallow groundwater. In addition, reduction or elimination of pumping within the plume will help reduce downward migration of contaminated groundwater from shallower zones to the deeper zones in which the domestic wells are screened. This will help to protect the beneficial use of deeper groundwater zones in nearby areas which are currently sources of drinking water for public water systems.

Destruction of private domestic wells within the PCE plume will prevent abandoned wells from becoming vertical conduits for contamination, and will help to reduce migration of the PCE plume.

Project Tasks, Budget, and Deliverables:

1. Identification of Wells to Be Connected. Investigations are currently ongoing to identify locations requiring a connection to a public water supply. At least one location is known, and up to 10 locations are anticipated. As part of this investigation, a catalogue of abandoned wells in the area will also be developed. The work identified in this task is being jointly coordinated by SASD, the Water Board, and the Sacramento County Environmental Management Department.

Estimated Cost: The cost of this task is not part of this SEP.

First Deliverable: A list of locations requiring connections to public water, determined as of 15 March. This deliverable also functions as the First Quarter 2017 Progress Report.

Due Date: 1 April 2017

Second Deliverable: A list of locations requiring connections to public water, determined as of 15 June. This deliverable also functions as the Second Quarter 2017 Progress Report.

Due Date: 1 July 2017

2. Water Connection Project. The list developed in Task 1 will be provided to the City of Sacramento or other local water purveyor. The water purveyor and/or SASD will ensure that the resident is agreeable to being connected to the public water supply. SASD will ensure that the City or water purveyor performs the work required to connect residences to public water.

Estimated Cost: Up to \$111,769.50, depending on number of connections required.

Deliverable: An Interim Project Report will be submitted, and shall contain (a) evidence of the connections which have been completed, (b) documentation showing that SASD has paid the invoices of the City, water purveyor, or contractor, (c) a list of locations that still need to be connected, and (d) an accounting that shows the remaining amount of funds left in the SEP. This deliverable also functions as the Third Quarter 2017 Progress Report.

Due Date: **1 November 2017**

3. Further Water Connection and Potential Well Destruction. SASD will include an update of any remaining activities from Task 2. If SEP funds are still available after connecting residents to public water, RWQCB staff will provide SASD with a list of the private domestic wells which pose the greatest threat to spread or aggravate the PCE groundwater contamination within the Project area. The Discharger will contract with a well destruction firm to properly abandon as many wells as possible, up to the remaining SEP funds. The property owner must have agreed to have the well abandoned. Wells shall be properly abandoned in accordance with Sacramento County requirements.

Estimated Cost: The estimated cost for the well destruction portion of the SEP is uncertain; the actual amount will be dependent upon whether there are funds remaining after the private residences have been hooked up to public water. If so, the amount for well abandonment would be up to the amount equal to the difference between \$111,769.50 and the cost incurred by SASD for connecting residences to public water.

Deliverable: Include update of activities in Tasks 2 and 3. Provide status of any well abandonments have been completed, including completed Sacramento County well destruction permits. This deliverable also functions as the Fourth Quarter 2017 Progress Report.

Due Date: **1 February 2018.**

4. Final Project Report. The final project report is to include a summary of work completed on the Project and all funds expended on the Project. The report will include copies of contractor invoices and documentation showing that the invoices were paid by SASD. The accounting will clearly show whether the final cost of the SEP is less than, equal to, or more than the suspended liability amount. The following statement must be included above the signature line of the report: *"I certify under penalty of perjury that the foregoing is true and correct."*

Estimated Cost: The cost of this task is not part of this SEP.

Deliverables: Provide Final Report to RWQCB staff.

Due Date: **1 March 2018**