

ORDER NO. R5-2017-0520
ACCEPTANCE OF SETTLEMENT OFFER AND WAIVER OF RIGHT TO A HEARING
FOR
CITY OF MODESTO
COLLECTION SYSTEM SEWAGE OVERFLOWS
STANISLAUS COUNTY

By signing below and returning this *Acceptance of Settlement Offer and Waiver of Right to Hearing (Acceptance and Waiver)* to the Central Valley Water Board, the City of Modesto (Discharger) hereby accepts the Settlement Offer described in the letter dated 25 January 2017 and titled *Offer to Settle Administrative Civil Liability, City of Modesto Sewage Overflows, Modesto, Stanislaus County* and waives the right to a hearing before the Central Valley Water Board to dispute the alleged violations described in the Settlement Offer and its enclosures. This settlement Offer, if adopted, resolves the 72 discharges of raw sewage to land between 1 January 2013 and 31 December 2016, in addition to the two spills of raw sewage to surface water identified in the Penalty Calculation Methodology.

The Discharger agrees that the Settlement Offer shall serve as a complaint pursuant to Article 2.5 of the Water Code and that no separate complaint is required for the Central Valley Water Board to assert jurisdiction over the alleged violations. The Discharger agrees to perform the following:

- Pay an administrative civil liability in the sum of **\$185,186 (one hundred eighty five thousand one hundred eighty six dollars)** by cashier's check or certified check made payable to the "*State Water Resources Control Board Cleanup and Abatement Account*". This payment shall be deemed payment in full of any civil liability pursuant to Water Code section 13385 that might otherwise be assessed for violations described in the Settlement Offer and its enclosures.

The Discharger understands that by signing this *Acceptance and Waiver*, the Discharger has waived its right to contest the allegations in the Settlement Offer and the civil liability amount for the alleged violation(s). The Discharger understands that this *Acceptance and Waiver* does not address or resolve any liability for any violation not specifically identified in the Settlement Offer and its enclosures.

Upon execution by the Discharger, the *Acceptance and Waiver* shall be returned to the following address:

Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, Suite A
Rancho Cordova, CA 95670
Attention: Wendy Wyels, Supervisor, Enforcement Section

The Discharger understands that this *Acceptance and Waiver*, prior to being formally endorsed by the Central Valley Water Board Executive Officer (acting as head of the Advisory Team), will be published for a 30-day public comment period.

If no comments are received within the notice period that cause the Prosecution Team to reconsider the Settlement Offer, then the Prosecution Team will present this *Acceptance and Waiver* to the Central Valley Water Board's Executive Officer for formal endorsement on behalf of the Central Valley Water Board.

The Discharger understands that if significant comments are received in opposition to the settlement, then the offer may be withdrawn by the Prosecution Team. If the Settlement Offer is withdrawn, then

the Discharger will be notified and the Discharger's waiver pursuant to the *Acceptance and Waiver* will also be treated as withdrawn. The unresolved violation(s) will be addressed in a formal enforcement action. An administrative civil liability complaint may be issued and the matter may be set for a hearing.

The Discharger understands that once this *Acceptance and Waiver* is formally endorsed and an Order Number is inserted, then the full payment is a condition of this *Acceptance and Waiver*. An invoice will be sent upon endorsement, and full payment will be due within 30 days of the date of the invoice.

I hereby affirm that I am duly authorized to act on behalf of and to bind the Discharger in the making and giving of this *Acceptance and Waiver*.

City of Modesto

By: Original Signed By William Wong

Title: Acting Director of Utilities

Date: 7/28/2017

IT IS SO ORDERED, pursuant to California Water Code section 13385.

By: Original Signed by
Pamela Creedon, Executive Officer

Date: 7/28/2017