

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2017-0537

IN THE MATTER OF

LINDA COUNTY WATER DISTRICT
WASTEWATER TREATMENT PLANT
YUBA AND SUTTER COUNTIES

This Complaint is issued to the Linda County Water District (hereafter Discharger) pursuant to California Water Code (Water Code) section 13385, which authorizes the imposition of Administrative Civil Liability, Water Code section 13323, which authorizes the Executive Officer to issue this Complaint and Water Code section 7, which authorizes the delegation of the Executive Officer's authority to a deputy, in this case the Assistant Executive Officer. This Complaint is based on allegations that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Order R5-2012-0034 (NPDES CA0079651).

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

1. The Discharger owns and operates the Linda County Wastewater Treatment Plant (Facility), wastewater collection, treatment, and disposal system, which provides sewerage service to the community of Linda and portions of unincorporated Yuba County south of Marysville. Tertiary treated municipal wastewater is discharged to both the Feather River and to evaporation/percolation ponds that lie within the 100-year flood plain of the Feather River, a water of the United States. The ponds discharge directly to the Feather River during floods, and have hydraulic continuity with the Feather River.
2. In order to regulate discharges from the Facility, on 7 June 2012, the Central Valley Water Board issued WDRs Order R5-2012-0034, which became effective on 27 July 2012, and rescinded WDRs Order R5-2006-0096, except for enforcement purposes.
3. On 28 March 2016, the Assistant Executive Officer of the Central Valley Water Board issued Administrative Civil Liability Complaint (ACLC) R5-2016-0517 for mandatory minimum penalties (MMPS) for effluent violations (identified in Attachment A to ACLC R5-2016-0517) that occurred from 1 July 2015 through 31 December 2015. The Discharger paid the civil liability and the Board considers these effluent violations specifically listed in Attachment A to ACLC R5-2016-0517 to be resolved.
4. On 2 February 2017, Central Valley Water Board staff issued a draft Record of Violations (ROV) to the Discharger for the period from 1 January 2016 through 30 November 2016. The Discharger responded to the ROV and requested adding violations through 1 April 2017 as they were aware they had more effluent limit violations occur after November 2016. Board staff agreed and therefore this Complaint extends the ROV period through 30 April 2017; five additional pH and two chlorine residual violations were found in addition to those cited in the ROV.
5. On 11 February 2017, the Department of Water Resources (DWR) began releasing water from the Oroville Reservoir to establish additional freeboard to protect the emergency spillway. From 12 February 2017 through 21 February 2017, Yuba County officials issued emergency evacuation orders for Linda County due to the Oroville emergency spillway collapsing and threatened flooding near the Feather River. During the process of DWR increasing flows into the Feather River and

staff not being present at the Facility due to the evacuation order, the Facility's disposal ponds were inundated by the Feather River. The Discharger required two additional days after the evacuation order was lifted to return the Facility back to normal operations. Therefore, pursuant to Water Code section 13385(j)(1)(B), Board staff have deemed violations, which occurred during the evacuation and the following two days, are not subject to mandatory minimum penalties (MMPs) because an evacuation order was in place for the County. The unanticipated and grave nature of the dam emergency rendered management of the wastewater treatment facility impossible for a brief period of time. In addition, it took the Discharger two additional days after the evacuation order was lifted to return to normal operations.

6. This Complaint addresses administrative civil liability for effluent violations that occurred during the period from 1 January 2016 through 30 April 2017. These violations are specifically identified in Attachment A to this Complaint as subject to MMPs. Attachment A to this Complaint is attached hereto and incorporated herein by this reference.
7. Water Code section 13385(h) and (i) require assessment of mandatory penalties and state, in part, the following:

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

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

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

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

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

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

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

8. Water Code section 13323 states, in part:

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

9. WDRs Order R5-2012-0034, Effluent Limitations IV.2. include, in part, the following effluent limitations:

a. The Discharger shall maintain compliance with the effluent limitations specified in Table 7:

Table 7. Effluent Limitations- Discharge Point No.001 and 002 (5.0 MGD)

Parameter	Units	Effluent Limitation				
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
pH	Standard Units	--	--	--	6.5 ²	8.0
Dichlorobromomethane	µg/L	22	--	32	--	--

² Instantaneous minimum pH is limited to 6.0 standard units for Discharge Point No.002 only, because of the soil beneath the ponds ability to buffer pH and other environmental factors like temperature change.

10. WDRs Order R5-2012-0034, Effluent Limitations IV.A.2.d. include, in part, the following effluent limitations:

d. Total Residual Chlorine-Discharge Point No.001 Only. Effluent total residual chlorine shall not exceed:

- i. 0.011 mg/L, as a 4-day average; and
- ii. 0.019 mg/L, as a 1-hour average.

11. WDRs Order R5-2012-0034, Effluent Limitations IV.A.2.e. include, in part, the following effluent limitations:

e. Total Coliform Organisms. Effluent total coliform organisms shall not exceed:

- i. 2.2 most probable number (MPN) per 100 mL, as 7-day median;
- ii. 23 MPN/100 mL, more than once in any 30-day period; and
- iii. 240 MPN/100 mL, at any time

12. According to the Discharger’s self-monitoring reports, the Discharger committed one (1) serious Group II violation of the above effluent limitations contained in WDRs Order R5-2012-0034, as shown in Attachment A. This violation is defined as serious because measured concentrations of Group II constituents exceeded maximum prescribed levels in WDRs Order R5-2012-0034 by 20 percent or more. The mandatory minimum penalty for this violation is **three thousand dollars (\$3,000)**.

13. According to the Discharger’s self-monitoring reports, the Discharger committed nineteen (19) non-serious violations of the above effluent limitations contained in WDRs Order R5-2012-0034, as shown in Attachment A. Ten (10) of these non-serious violations are not subject to mandatory penalties because the Discharger was granted protection from mandatory penalties during a 90-day start-up period as provided by Water Code section 13385(j)(1)(D)(i). Four (4) of these non-serious violations are not subject to mandatory penalties because these violations fall within the

first three violations in a 180-day period, thus are not subject to mandatory penalties. Five (5) of the non-serious violations are subject to mandatory penalties under Water Code section 13385 subdivision (i)(1) because these violations were preceded by three or more effluent limit violations within a 180-day period. The mandatory minimum penalty for these violations is **fifteen thousand (\$15,000)**.

14. The total amount of the mandatory penalties assessed for the alleged effluent limitation violations is **eighteen thousand dollars (\$18,000)**. As stated herein, a detailed list of the alleged effluent violations is included in Attachment A. This Complaint addresses administrative civil liability for violations that are specifically identified as subject to mandatory minimum penalties in Attachment A.
15. On 21 December 2015, the Executive Officer designated Andrew Altevogt, Assistant Executive Officer, as the Lead Prosecution Officer for all enforcement matters originating in the Central Valley Region. The 21 December 2015 Delegation of Authority also authorizes Andrew Altevogt to issue Administrative Civil Liability Complaints.
16. Issuance of this Administrative Civil Liability Complaint to enforce Water Code Division 7, Chapter 5.5 is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code section 21000 et seq.), in accordance with California Code of Regulations, title 14, section 15321(a)(2).

THE LINDA COUNTY WATER DISTRICT IS HEREBY GIVEN NOTICE THAT:

1. The Assistant Executive Officer of the Central Valley Water Board proposes that the Discharger be assessed an Administrative Civil Liability in the amount of **eighteen thousand dollars (\$18,000)**.
2. A hearing on this matter will be held at the Central Valley Water Board meeting scheduled on **19/20 October 2017**, unless the Discharger does one of the following by **17 August 2017**.
 - a) Waives the hearing by completing the attached form (checking off the box next to Option 1) and returning it to the Central Valley Water Board. In addition, submits payment for the proposed civil liability of **eighteen thousand dollars (\$18,000)** to the State Water Board with a copy of the check to the Central Valley Water Board; or
 - b) Requests to engage in settlement discussions by checking the box next to Option 2 on the attached form, and returning it to the Board along with a letter describing the issues to be discussed. The Central Valley Water Board must agree to the postponement; or
 - c) Requests to delay the hearing by checking off the box next to Option 3 on the attached form, and returning it to the Board along with a letter describing the proposed length of delay and the issues to be discussed. The Central Valley Water Board must agree to the postponement.
3. If a hearing on this matter is held, the Central Valley Water Board will consider whether to affirm, reject, or modify the proposed Administrative Civil Liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. If this matter proceeds to hearing, the Assistant Executive Officer reserves the right to amend the proposed amount of civil liability to conform to the evidence presented, including but not limited to, increasing the proposed amount to account for the costs of enforcement (including staff, legal and

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

Original signed by

ANDREW ALTEVOGT, Assistant Executive Officer

24 July 2017

DATE

Attachment A: Record of Violations

**WAIVER FORM
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

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

I am duly authorized to represent the Linda County Water District (hereafter Discharger) in connection with Administrative Civil Liability Complaint R5-2017-0537 (hereafter Complaint). I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served. The person who has been issued a complaint may waive the right to a hearing."

- (OPTION 1: Check here if the Discharger waives the hearing requirement and will pay in full.)**
- a. I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board.
 - b. I certify that the Discharger will remit payment for the proposed civil liability in the full amount of **eighteen thousand dollars (\$18,000)** by check that references "ACL Complaint R5-2017-0537" made payable to the *State Water Pollution Cleanup and Abatement Account*. Payment must be received by the State Water Resources Control Board, Accounting Office, Attn: ACL Payment at PO Box 1888, Sacramento, California, 95812-1888 by **17 August 2017**. The waiver and a copy of the check must be submitted to the Central Valley Water Board at 11020 Sun Center Drive #200, Attn: Howard Hold, Rancho Cordova, California, 95670 by **17 August 2017**.
 - c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after a 30-day public notice and comment period. Should the Central Valley Water Board receive significant new information or comments during this comment period, the Central Valley Water Board's Assistant Executive Officer may withdraw the complaint, return payment, and issue a new complaint. I also understand that approval of the settlement will result in the Discharger having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
 - d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.
- (OPTION 2: Check here if the Discharger waives the 90-day hearing requirement in order to engage in settlement discussions.)** I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board within 90 days after service of the complaint, but I reserve the ability to request a hearing in the future. I certify that the Discharger will promptly engage the Central Valley Water Board Prosecution Team in settlement discussions to attempt to resolve the outstanding violation(s). By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing so that the Discharger and the Prosecution Team can discuss settlement. The Discharger must provide a letter describing the issues to be discussed in settlement. It remains within the discretion of the Central Valley Water Board to agree to delay the hearing. Any proposed settlement is subject to the conditions described above under "Option 1."
- (OPTION 3: Check here if the Discharger waives the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines. Attach a separate sheet with the amount of additional time requested and the rationale.)** I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board within 90 days after service of the complaint. By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing and/or hearing deadlines so that the Discharger may have additional time to prepare for the hearing. It remains within the discretion of the Central Valley Water Board to approve the extension.

(Print Name and Title)

(Signature)

(Date)

ATTACHMENT A
R5-2017-0537
RECORD OF VIOLATIONS FOR ASSESSING MANDATORY MINIMUM PENALTIES
Correction to Attachment A
LINDA COUNTY WATER DISTRICT
WASTEWATER TREATMENT PLANT

RECORD OF VIOLATIONS (1 January 2016 – 30 April 2017) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Program R5-2012-0034)

	<u>Date</u>	<u>Parameter</u>	<u>Units</u>	<u>WDRs Limit</u>	<u>Measured</u>	<u>Period</u>	<u>Remarks</u>	<u>CIWQS</u>
*	19-Aug-15	Total Coliform	MPN/100mL	2.2	7.8	7-day Median	4	996503
*	2-Nov-15	Biochemical Oxygen Demand	mg/L	20	21	Daily Maximum	4	1000893
1†	15-Dec-15	pH	S.U.	6.0	5.9	Instantaneous Minimum	5	1002677
2†	20-Jan-16	pH	S.U.	6.0	5.9	Instantaneous Minimum	5	1003646
3†	21-Jan-16	pH	S.U.	6.0	5.8	Instantaneous Minimum	5	1003639
4†	22-Jan-16	pH	S.U.	6.0	5.9	Instantaneous Minimum	5	1003645
5†	23-Jan-16	pH	S.U.	6.0	5.9	Instantaneous Minimum	5	1003642
6†	27-Jan-16	Total Coliform	MPN/100mL	23	49	More than once in 30-day period	5	1003644
7†	27-Jan-16	Total Coliform	MPN/100mL	2.2	23	7-day Median	5	1003641
8†	28-Jan-16	Total Coliform	MPN/100mL	2.2	23	7-day Median	5	1003643
9†	31-Jan-16	pH	S.U.	6.0	5.8	Instantaneous Minimum	5	1003640
10†	1-Feb-16	pH	S.U.	6.0	5.8	Instantaneous Minimum	5	1005245
11	6-Mar-16	pH	S.U.	6.0	4.7	Instantaneous Minimum	3	1006375
12	10-Mar-16	pH	S.U.	6.0	5.9	Instantaneous Minimum	3	1006373
13	24-Mar-16	Total Coliform	MPN/100mL	2.2	4.5	7-day Median	4	1006372
14	29-Mar-16	Total Coliform	MPN/100mL	23	240	More than once in 30-day period	4	1006371
15	29-Mar-16	Total Coliform	MPN/100mL	2.2	7.8	7-day Median	4	1006374
16	30-Mar-16	Total Coliform	MPN/100mL	2.2	7.8	7-day Median	4	1006376
17	6-Apr-16	pH	S.U.	6.0	5.9	Instantaneous Minimum	4	1008100
18	31-Aug-16	Dichlorobromomethane	µg/L	22	26.5	Monthly Average	2	1013246
19	30-Sep-16	Dichlorobromomethane	µg/L	22	25	Monthly Average	3	1014210
20	30-Nov-16	Dichlorobromomethane	µg/L	22	25.5	Monthly Average	3	1017021
21	17-Feb-17	pH	S.U.	6.5	6.4	Instantaneous Minimum	6	1022834
22	18-Feb-17	pH	S.U.	6.5	6.4	Instantaneous Minimum	6	1022838
23	20-Feb-17	pH	S.U.	6.5	6.4	Instantaneous Minimum	6	1022835
24	21-Feb-17	pH	S.U.	6.5	6.4	Instantaneous Minimum	6	1022837
25	22-Feb-17	pH	S.U.	6.5	6.4	Instantaneous Minimum	6	1022833

**ATTACHMENT A
R5-2017-0537**

RECORD OF VIOLATIONS FOR ASSESSING MANDATORY MINIMUM PENALTIES

26	22-Feb-17	Chlorine Residual	mg/L	0.019	0.42	1-Hour Average	6	1022839
27	23-Feb-17	Chlorine Residual	mg/L	0.019	0.19	1-Hour Average	6	1022836

* Supporting violations addressed in ACLC R5-2016-0517.

† The previous ROV issued on 1 August 2016, which assessed violations during the period from 1 January 2016 through 31 May 2016, did not include these violations. The violations are included in this ACL to present a complete record of violations during the period from 1 January 2016 through 31 January 2017.

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. Not subject to a mandatory minimum penalty because the Discharger was granted the 90-day start-up period allowed under CWC section 13385(j)(1)(D)(i) for new biological treatment from 16 November 2015 through 14 February 2016.
6. Not subject to mandatory minimum penalty because an evacuation order was issued from 12 February 2017 through 21 February 2017 due to the Oroville Spillway collapse. In addition, it took the Discharger two additional days after the evacuation order was lifted to return to normal operations.

VIOLATIONS AS OF:	4/30/17
Group I Serious Violations:	0
Group II Serious Violations:	1
Non-Serious Violations Not Subject to MMPs:	4
Non-Serious Violations Subject to MMPs:	5
90-Day Start-Up Grace Period – Not Subject to MMPs	10
Evacuation Order-Not Subject to MMPs	7
Total Violations Subject to MMPs:	6

Mandatory Minimum Penalty = (1 Group II Serious Violation + 5 Non-Serious Violations Subject to MMPs) x \$3,000 = \$18,000