

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2018-0512

MANDATORY PENALTY
IN THE MATTER OF

CITY OF WILLIAMS
WILLIAMS WASTEWATER TREATMENT PLANT
COLUSA COUNTY

This Complaint is issued to the City of Williams (Discharger) pursuant to California Water Code (Water Code) section 13385, which authorizes the imposition of Administrative Civil Liability (ACL) and Water Code section 13323 which authorizes the Executive Officer to issue this Complaint and Water Code section 7, which authorizes the delegation of the Executive Officer's authority to a deputy, in this case the Assistant Executive Officer. This Complaint is based on allegations that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Order R5-2014-0078 (NPDES CA0077933).

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

1. The Discharger owns and operates the City of Williams Wastewater Treatment Plant (Facility) which provides sewerage service to the community of Williams in Colusa County. Treated municipal wastewater is discharged to Salt Creek, a water of the United States.
2. On 5 December 2008, effective 5 December 2008, the Central Valley Water Board issued WDRs Order R5-2008-0185 which contained new requirements and rescinded Order R5-01-049, except for enforcement purposes. On 13 August 2009, the Board issued Amended Order R5-2008-0185-01.
3. On 6 June 2014, effective 1 August 2014, the Central Valley Water Board issued WDRs Order R5-2014-0078 which contained new requirements and rescinded Order R5-2008-0185, except for enforcement purposes.
4. On 6 June 2014, the Board adopted Time Schedule Order (TSO) R5-2014-0079, which allows the Discharger to implement additional actions to comply with nitrate plus nitrite final effluent limits. On 22 August 2016 in a technical report submitted by the Discharger, monitoring data was provided supporting the fact that operational adjustments had achieved compliance with the nitrate plus nitrite final effluent limits specified in Order R5-2014-0078. The Discharger is in full compliance with final effluent limitation for nitrate plus nitrite contained in its current WDRs; therefore, TSO R5-2014-0079 was rescinded on 7 April 2017 by Order R5-2017-0055.
5. On 13 September 2013, the Assistant Executive Officer of the Central Valley Water Board issued Administrative Civil Liability Complaint (ACLC) R5-2013-0580 for mandatory minimum penalties (MMPs) for an effluent aluminum violation which occurred between 1 April 2012 and 30 April 2013. The Discharger was allowed to apply the entire penalty of \$3,000 towards a compliance project. On 22 July 2013, the Discharger submitted documentation showing that it had spent approximately \$4,200 making repairs to the tertiary filter system and providing onsite training to staff to optimize filter operations. The repairs and training eliminated the need to use an aluminum based coagulant at high dosages to reduce turbidity, and therefore prevented future aluminum violations.

6. This Complaint addresses administrative civil liability for effluent violations that occurred between 1 May 2013 to 31 December 2017. These violations are specifically identified in Attachment A to this Complaint as subject to mandatory minimum penalties. Attachment A to this Complaint is attached hereto and incorporated herein by this reference.
7. On 5 February 2018, Central Valley Water Board staff issued the Discharger a draft Record of Violations (ROV) for the period 1 May 2013 through 31 December 2017. The Discharger responded on 28 February 2018 and disagreed with the date of total coliform violations on 16 November 2017 and 17 November 2017. Board staff corrected the violations to reflect the correct date of 7 November 2017 and 8 November 2017. The Discharger also had concerns with the 31 May 2013 cyanide violation that was reported value was 0.0051 µg/L. Board staff reviewed the data and found that the cyanide violation will remain as a violation because the reported value of 0.0051 mg/L converts to 5.1 µg/L, which is above the effluent limitation of 4.3 µg/L. Board staff has extended the period through 31 January 2018; four additional ammonia nitrogen violations, which are subject to MMPs, have been found other than those cited in the ROV.
8. Water Code section 13385(h) and (i) require assessment of mandatory penalties and state, in part, the following:

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

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

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

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

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

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

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

9. Water Code section 13323 states, in part:

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

10. WDRs Order R5-2008-0185-01 Final Effluent Limitations—Discharge Point 001 IV.A.1.a. state in part:
- a. The Discharger shall maintain compliance with the effluent limitations specified in Table 6:

Table 6. Effluent Limitations

Parameter	Units	Effluent Limitations				
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
Cyanide	µg/L	4.3	--	8.5	--	--

11. WDRs Order R5-2014-0078, Final Effluent Limitations—Discharge Point 001 IV.A.1.a. state in part:
- a. The Discharger shall maintain compliance with the effluent limitations specified in Table 4:

Table 4. Effluent Limitations

Parameter	Units	Effluent Limitations				
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
Ammonia Nitrogen, Total (as N)	mg/L	0.9	--	1.8	--	--
	lbs/day ¹	3.8	--	7.5	--	--

¹ Based on an average dry weather flow of 0.5 MGD.

12. WDRs Order R5-2014-0078, Final Effluent Limitations IV.A.1.d., include, in part, the following effluent limitations:
- f. **Total Coliform Organisms.** Effluent total coliform organisms shall not exceed the following, with compliance measured at Monitoring Location UVS-002:
- i. 2.2 most probable number (MPN) per 100 mL, as a 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.
13. According to the Discharger’s self-monitoring reports, the Discharger committed nine (9) Group I serious violations and eight (8) non-serious violations of the above effluent limitations contained in WDRs Order R5-2014-0078 as shown in Attachment A. Three (3) of the non-serious violations fall within the first three violations in a 180-day period, thus is not subject to mandatory minimum penalties. The other five (5) 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 nine (9) Group 1 serious violations are defined as serious, because the measured concentration of the Group I constituents exceeded

the maximum prescribed levels by more than 40 percent. The mandatory minimum penalty for these violations is **forty-two thousand dollars (\$42,000)**.

14. The total amount of the mandatory penalties assessed for the alleged effluent violations is **forty-two thousand dollars (\$42,000)**. 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 in Attachment A as subject to mandatory minimum penalties.
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 CITY OF WILLIAMS 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 **forty-two thousand dollars (\$42,000)**.
2. A hearing on this matter will be held at the Central Valley Water Board meeting scheduled for **31 May 2018/ 1 June 2018**, unless the Discharger does one of the following by **29 March 2018**:
 - 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 **forty-two thousand dollars (\$42,000)** 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.

ANDREW ALTEVOGT, Assistant Executive Officer

5 March 2018

DATE

Attachment A: Record of Violations

**WAIVER FORM
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

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

I am duly authorized to represent the City of Williams (hereafter Discharger) in connection with Administrative Civil Liability Complaint R5-2018-0512 (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 **forty-two thousand dollars (\$42,000)** by check that references "ACL Complaint R5-2018-0512" 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 **29 March 2018**. The waiver and a copy of the check must be submitted to the Central Valley Water Board, Attn: Howard Hold, at 11020 Sun Center Drive #200, Rancho Cordova, California, 95670 by **29 March 2018**.
- c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after a 30-day public notice and comment period. Should the Central Valley Water Board receive significant new information or comments during this comment period, the Central Valley Water Board's Assistant Executive Officer may withdraw the complaint, return payment, and issue a new complaint. I also understand that approval of the settlement will result in the Discharger having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
- d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

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

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

(Print Name and Title)

(Signature)

(Date)

**ATTACHMENT A
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2018-0512**

**City of Williams
City of Williams Wastewater Treatment Plant**

RECORD OF VIOLATIONS (1 May 2013 – 31 January 2018) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Program R5-2014-0078)

	<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>
1	31-May-13	Cyanide, Total (as CN)	µg/L	4.3	5.1	Monthly Average	3	961855
2	7-Nov-17	Total Coliform	MPN/100ml	2.2	4.5	7-Day Median	3	1038373
3	8-Nov-17	Total Coliform	MPN/100ml	2.2	4.5	7-Day Median	3	1038376
4	20-Nov-17	Ammonia Nitrogen, Total	mg/L	1.8	4.2	Maximum Daily	1	1035744
5	20-Nov-17	Ammonia Nitrogen, Total	lbs/day	7.5	12.9	Maximum Daily	1	1038371
6	22-Nov-17	Ammonia Nitrogen, Total	mg/L	1.8	6.3	Maximum Daily	1	1035743
7	22-Nov-17	Ammonia Nitrogen, Total	lbs/day	7.5	21	Maximum Daily	1	1038372
8	13-Dec-17	Total Coliform	MPN/100ml	2.2	4	7-Day Median	4	1038380
9	18-Dec-17	Total Coliform	MPN/100ml	2.2	4	7-Day Median	4	1038382
10	18-Dec-17	Ammonia Nitrogen, Total	mg/L	1.8	4.5	Maximum Daily	1	1038377
11	18-Dec-17	Ammonia Nitrogen, Total	lbs/day	7.5	12.7	Maximum Daily	1	1038378
12	19-Dec-17	Total Coliform	MPN/100ml	2.2	4	7-Day Median	4	1038383
13	20-Dec-17	Ammonia Nitrogen, Total	mg/L	1.8	2.3	Maximum Daily	1	1038379
14	29-Jan-2018	Ammonia Nitrogen, Total	mg/L	1.8	6.8	Maximum Daily	1	1038892
15	29-Jan-2018	Ammonia Nitrogen, Total	lbs/day	7.5	23.2	Maximum Daily	1	1038890
16	31-Jan-2018	Ammonia Nitrogen, Total	mg/L	1.8	2.7	Maximum Daily	4	1039055
17	31-Jan-2018	Ammonia Nitrogen, Total	lbs/day	7.5	8.7	Maximum Daily	4	1039056

**ATTACHMENT A
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2018-0512**

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.

<u>VIOLATIONS AS OF:</u>	<u>1/31/2018</u>
Group I Serious Violations:	9
Group II Serious Violations:	0
Non-Serious Violations Not Subject to MMPs:	3
<u>Non-Serious Violations Subject to MMPs:</u>	<u>5</u>
Total Violations Subject to MMPs:	14

Mandatory Minimum Penalty
(9 Group I Serious Violations + 5 Non-Serious Violations Subject to MMPs) x \$3,000 = \$42,000