
Central Valley Regional Water Quality Control Board

5 March 2018

Michael R. Davies
General Manager
Town of Discovery Bay CSD
18000 Willow Lake Road
Discovery Bay, CA 94505

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ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2018-0514 FOR ASSESSMENT OF MANDATORY MINIMUM PENALTIES, TOWN OF DISCOVERY BAY COMMUNITY SERVICES DISTRICT, WASTEWATER TREATMENT PLANT, CONTRA COSTA COUNTY

Enclosed is an Administrative Civil Liability Complaint (Complaint), issued pursuant to California Water Code section 13385, for violations of Waste Discharge Requirements (WDRs) R5-2014-0073-01 (NPDES CA00078590) by the Town of Discovery Bay Community Services District (Discharger) occurring from its Wastewater Treatment Plant (Facility). The Complaint charges the Discharger with administrative civil liability in the amount of **fifteen thousand (\$15,000)**, which represents the sum of accrued mandatory minimum penalties for effluent limitation violations (identified in Attachment A of the Complaint) that occurred between 1 May 2013 and 30 December 2017. The Complaint alleges one electrical conductivity violation, one nitrite plus nitrate violation, four total coliform violations, and four biological oxygen demand (BOD) violations.

On 26 January 2018, Central Valley Water Board staff issued the Discharger a draft Record of Violations (ROV) for the period 1 May 2013 through 30 November 2017. On 6 February 2018, the Discharger agreed with the violations but made corrections to some of the violations listed in the ROV. Board staff agreed with the corrections made by the Discharger and has incorporated the corrections into this Complaint. On 22 February 2017, Board staff issued the Discharger a *Self-Monitoring Report Review letter and Notice of Violation* (NOV) and identified four additional effluent biochemical oxygen demand (BOD) violations that occurred during the month of December 2017. On 2 March 2018, the Discharger responded to the NOV and requested that the BOD violations be dismissed. The Discharger contends that the analytical result for BOD on 19 December 2017 is anomalous and not representative of actual discharge on that day. The sample was re-analyzed for chemical oxygen demand which confirmed that the BOD contained in the sample was indeed elevated. In addition the response included a letter from FGL Environmental (Laboratory) which stated “...*FGL Environmental is unable to add any additional insight to why this anomalous result occurred. We acknowledge that this high BOD level has not occurred in any prior years of service to Veolia N.A., nor has it occurred since. In fact, the BOD result from the very next day of sampling, returned to a normal, acceptable level...*” Although, Board staff appreciate the Discharger’s response for why they believed the sample result should not be cited as a violation, the response does not negate the validity of the BOD laboratory results which indicate that effluent limit exceedances occurred. Board staff considered all the responses provided by the Discharger and continue to allege the BOD violations in Attachment A to the Complaint. This Complaint extends the ROV period though 31

December 2017; the four additional BOD violations that were alleged in the 22 February 2018 NOV are included in this Complaint.

Pursuant to Water Code section 13323, the Discharger may:

- Pay the proposed administrative civil liability and waive its right to a hearing (Option #1 on the attached waiver form);
- Ask that the hearing be postponed to facilitate settlement discussions or for other reasons (Options #2 or #3 on the attached waiver form); or,
- Contest the Complaint and/or enter into settlement discussions without signing the enclosed waiver.

If the Central Valley Water Board does not receive a signed waiver by **29 March 2018**, a hearing will be scheduled for the **31 May/ 1 June 2018** Board meeting in Rancho Cordova. This hearing will be governed by the attached Hearing Procedures, which have been approved by the Board Chair for use in adjudicating matters such as this one. Any objections to the Hearing Procedures must be received by Stephanie Yu, whose contact information is listed in the Hearing Procedures, by **5 p.m. on 15 March 2018**.

If the Discharger chooses to sign the waiver and pay the assessed civil liability, this will be considered a tentative settlement of the violations. Payment must be received by **29 March 2018**. The Discharger shall indicate on the check the number of this Complaint and send it to the State Water Resources Control Board, Accounting Office, Attn: ACL Payment, PO Box 1888, Sacramento, California, 95812-1888. The check shall be made payable to the *State Water Pollution Cleanup and Abatement Account*. The waiver and a copy of the check must also be mailed to the Central Valley Water Board at 11020 Sun Center Drive #200, Rancho Cordova, CA, 95670 attention to Howard Hold by **29 March 2018**.

The settlement will be considered final pending a 30-day comment period, starting from the date this Complaint is issued. Interested parties may comment on the proposed action during this period by submitting written comments to the Central Valley Water Board staff person listed below. Should the Central Valley Water Board receive new information or comments during this comment period, the Assistant Executive Officer may withdraw the complaint, return payment, and issue a new complaint. If the Central Valley Water Board does not hold a hearing on the matter, and if the terms of the final settlement are not significantly different from those proposed in the enclosed Complaint, then there will not be additional opportunities for public comment on the proposed settlement.

In order to conserve resources, this letter transmits paper copies of the documents to the Discharger only. Interested persons may download the documents from the Central Valley Water Board's Internet website at:

http://www.waterboards.ca.gov/centralvalley/tentative_orders/

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

If you have any questions or comments regarding the Administrative Civil Liability Complaint, please contact Kari Holmes at (916) 464-4623 or Kari.Holmes@waterboards.ca.gov.



HOWARD HOLD, Acting Supervisor
Compliance and Enforcement Section

Enclosures (3): ACLC R5-2018-0514
Waiver Form
Hearing Procedures

cc w/o encl: Kenneth Greenberg, USEPA, Region 9, San Francisco
David Boyers, Office of Enforcement, SWRCB, Sacramento
Pamela Creedon, Central Valley Water Board Advisory Team, Rancho Cordova
Stephanie Yu, Office of Chief Counsel, SWRCB, Sacramento
Adam Laputz, Central Valley Water Board Advisory Team, Sacramento
Carol Oz, Department of Fish and Game, Region 2, Rancho Cordova
San Joaquin County Environmental Health Department, Stockton
Bill Jennings, California Sportfishing Protection Alliance, Stockton
Jae Kim, Tetra Tech, Fairfax, VA
Berny Saddler, P.O. Box 1600, Discovery Bay, Ca 94505
Virgil Koehne, Water & Wastewater Manager, 1800 Willow Lake Rd, Discovery Bay, CA 94505