

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL COAST REGION

SETTLEMENT AGREEMENT AND STIPULATION FOR ENTRY OF  
ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R3-2014-0008  
IN THE MATTER OF  
CAMBRIA COMMUNITY SERVICES DISTRICT  
SAN LUIS OBISPO COUNTY

This Settlement Agreement and Stipulation for entry of Administrative Civil Liability Order (Stipulated Order or Order) is entered into by and between the Assistant Executive Officer of the California Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board), on behalf of the Central Coast Water Board Prosecution Team (Prosecution Team), and Cambria Community Services District (Discharger) (collectively known as the Parties) and is presented to the Central Coast Water Board, or its delegee, for adoption as an order by settlement, pursuant to Government Code section 11415.60.

**Recitals**

1. On or about August 29, 2013, Central Coast Water Board Prosecution Team issued a pre-issuance settlement communication to the Cambria Community Services District, for alleged violations of the Statewide Waste Discharge Requirements for Sanitary Sewer Systems, State Water Resources Control Board Order No. 2006-2003-DWQ (General Order).
2. The August 29, 2013 communication alleged that Discharger had three sanitary sewer overflow (SSO) events in 2011, in violation of the General Order. Staff presented its recommended penalty in accordance with the penalty methodology in the Enforcement Methodology and 13385(e).
3. The parties engaged in confidential settlement negotiations, which ultimately resolved this matter. A discussion of the modified penalty factors which the parties ultimately agreed upon is attached hereto as Attachment A; it is presented in Excel format as Exhibit B.

**Regulatory Considerations**

4. The Prosecution Team has concluded that the Discharger has violated Water Code section 13385 for the unauthorized discharges that occurred on January 2, 2011, October 6, 2011, and December 17, 2011. The Central Coast Water Board may assess administrative civil liability based on CWC Section 13385 for such violations.
5. Water Code Section 13385(a)(5) states: A person who violates any of the following shall be liable civilly in accordance with this section: (5) A requirement of Section 301, 302, 306, 307, 308, 318, 401, or 405 of the Federal Clean Water Act (33 U.S.C. Sec. 1311, 1312, 1316, 1317, 1318, 1341, or 1345), as amended. The Discharger is in violation of Section 13385(a)(5) for failing to prevent SSOs and discharging in violation of the Clean Water Act.

6. Water Code Section 13385(c)(1) states: "Civil liability may be imposed administratively by the state board or regional board pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 in an amount not to exceed the sum of both of the following: (1) Ten thousand dollars (\$10,000) for each day in which the violation occurs. (2) Where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) multiplied by the number of gallons by which the volume discharged by not cleaned up exceeds 1,000 gallons."
7. Water Code Section 13385(e) provides: "In determining the amount of any liability imposed pursuant under this section, the regional board, the state board, or the superior court, as the case may be, shall take into account the nature, circumstances, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on its ability to continue its business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters that justice may require. At a minimum, liability shall be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation."

#### Settlement

8. The Parties have engaged in confidential settlement negotiations and agree to settle the matter without administrative hearing or civil litigation and by presenting this Stipulated Order to the Central Coast Water Board, or its delegee, for adoption as an order by settlement pursuant to Government Code section 11415.60. The Prosecution Team believes that the resolution of the alleged violations is fair and reasonable and fulfills its enforcement objectives, that no further action is warranted concerning the violations alleged herein and that this Stipulated Order is in the best interests of the public.
9. The Parties are agreeing to resolve this matter for \$226,826.60, with a portion of the settlement proceeds going toward an Enhanced Compliance Action (ECA). A full discussion of the penalty calculation factors, found in the State Water Resources Control Board's (State Water Board) *Water Quality Enforcement Policy*, can be found in Attachment A, along with the factors that were modified through discussion and exchange of information by the Parties. The proposed ECA, which was developed in consultation with the Prosecution Team, is attached hereto as Exhibit C.

#### Stipulations

The Parties stipulate to the following:

1. **Administrative Civil Liability:** The Discharger hereby agrees to the imposition of an administrative civil liability totaling **two hundred twenty-six thousand, eight**

**hundred twenty-six dollars and sixty cents (\$226,826.60).** Not more than 30 days after the entry of an Order approving this Settlement Agreement by the Central Coast Water Board, the Discharger must pay by check to the State Water Board *Cleanup and Abatement Account* one-half of this amount, or \$113,413.30. The Discharger shall indicate on the check the number of this Stipulation and Order and send it to the State Water Resources Control Board, Division of Administrative Services, Accounting Branch, 1001 I street, 18<sup>th</sup> Floor, Sacramento, California 95814, and shall send a copy of the check to Julie Macedo, State Water Resources Control Board, Office of Enforcement, 1001 I Street, 16<sup>th</sup> Floor, Sacramento, CA 95814.

2. **Agreement of Discharger to Fund, Report, and Guarantee Implementation of ECA:** The remaining one-half of the administrative liability, or \$113,413.30, shall be put toward an Enhanced Compliance Action (ECA) approved by the Central Coast Water Board. The ECA is described on Exhibit C. In accordance with the Enforcement Policy, ECA funds are considered a suspended liability until the ECA has been fully implemented. (Enforcement Policy, pg. 30) Discharger represents that (1) it will fund the ECA in the amount described in this Stipulation; (2) it will remain liable for the for the ECA suspended liability until the ECA is completed and accepted by the Central Coast Water Board in accordance with the terms of this Stipulation. Discharger agrees that the Central Coast Water Board has the right to require an audit of the funds expended by it to implement the ECA.
3. **Central Coast Water Board Acceptance of Completed ECA.** Upon the Discharger's satisfaction of its ECA obligations under this Stipulation and the completion of the ECA and any audit requested by the Central Coast Water Board, Central Coast Water Board staff shall send Discharger a letter recognizing satisfactory completion of its ECA obligations. This letter shall terminate any further ECA obligations of Discharger and result in the permanent waiver of the ECA suspended liability.
4. **Failure to Expend all ECA Suspended Liability Funds on the Approved ECA:** In the event that Discharger is not able to demonstrate to the reasonable satisfaction of the Central Coast Water Board staff that the entire ECA suspended liability has been spent to complete the components of the ECA for which Discharger is financially responsible, Discharger shall pay the difference between the ECA suspended liability and the amount Discharger can demonstrate was actually spent on the ECA as an administrative civil liability. Discharger shall pay this remainder within 30 days of its receipt of notice of the Central Coast Water Board's determination that Discharger has failed to demonstrate that the entire ECA suspended liability has been spent to complete the ECA components.
5. **Compliance with Applicable Laws:** The Discharger understands that payment of administrative civil liability in accordance with the terms of this Stipulated Order and/or compliance with the terms of this Stipulated Order is not a substitute for compliance with applicable laws, and that continuing violations of the type alleged in the April 3, 2013 Notice of Violation (NOV) may subject it to further enforcement, including additional administrative civil liability.

6. **Party Contacts for Communications related to Stipulated Order:**

For the Central Coast Water Board:

Harvey Packard  
Central Coast Regional Water Quality Control Board  
895 Aerovista Place, Suite 101  
San Luis Obispo, CA 93401  
(805) 542-4639

Julie Macedo - Counsel  
Office of Enforcement  
State Water Resources Control Board  
1001 I Street, 16th Floor  
Sacramento, CA 95812  
(916) 323-6847

For the Discharger:

Cambria Community Services District  
Jerry Gruber, General Manager  
P.O. Box 65  
Cambria, CA 93428

Tim Carmel – Counsel  
Carmel & Naccasha LLP  
1410 Marsh Street  
San Luis Obispo, CA 93401  
(805) 546-8015

7. **Attorney's Fees and Costs:** Except as otherwise provided herein, each Party shall bear all attorneys' fees and costs arising from the Party's own counsel in connection with the matters set forth herein.
8. **Matters Addressed by Stipulation:** Upon the Central Coast Water Board's, or its delegee's, adoption of this Stipulated Order, this Order represents a final and binding resolution and settlement of the violations alleged in the NOV pursuant to Water Code section 13385. The provisions of this Paragraph are expressly conditioned on the full payment of the administrative civil liability, in accordance with Stipulation Paragraph 1 herein.
9. **Publicity.** Should Discharger or its agents or subcontractors publicize one or more elements of the ECA, they shall state **in a prominent manner** that the project is being partially funded as part of the settlement of an enforcement action by the Central Coast Water Board against Discharger.
10. **Public Notice:** The Discharger understands that this Stipulated Order will be noticed for a 30-day public review and comment period prior to consideration by the Central Coast Water Board, or its delegee. If significant new information is received that reasonably affects the propriety of presenting this Stipulated Order

to the Central Coast Water Board, or its delegee, for adoption, the Executive Officer may unilaterally declare this Stipulated Order void and decide not to present it to the Central Coast Water Board, or its delegee. The Discharger agrees that it may not rescind or otherwise withdraw its approval of this proposed Stipulated Order.

11. **Addressing Objections Raised During Public Comment Period:** The Parties agree that the procedure contemplated for the Central Coast Water Board's adoption of the settlement by the Parties and review by the public, as reflected in this Stipulated Order, will be adequate. In the event procedural objections are raised prior to the Stipulated Order becoming effective, the Parties agree to meet and confer concerning any such objections, and may agree to revise or adjust the procedure as necessary or advisable under the circumstances.
12. **No Waiver of Right to Enforce:** The failure of the Prosecution Team or Central Coast Water Board to enforce any provision of this Stipulated Order shall in no way be deemed a waiver of such provision, or in any way affect the validity of the Order. The failure of the Prosecution Team or Central Coast Water Board to enforce any such provision shall not preclude it from later enforcing the same or any other provision of this Stipulated Order.
13. **Interpretation:** This Stipulated Order shall be construed as if the Parties prepared it jointly. Any uncertainty or ambiguity shall not be interpreted against any one Party.
14. **Modification:** This Stipulated Order shall not be modified by any of the Parties by oral representation made before or after its execution. All modifications must be in writing, signed by all Parties, and approved by the Central Coast Water Board.
15. **If Order Does Not Take Effect:** In the event that this Stipulated Order does not take effect because it is not approved by the Central Coast Water Board or its delegee, or is vacated in whole or in part by the State Water Board or a court, the Parties acknowledge that they expect to proceed to a contested evidentiary hearing before the Central Coast Water Board to determine whether to assess administrative civil liabilities for the underlying alleged violations, unless the Parties agree otherwise. The Parties agree that all oral and written statements and agreements made during the course of settlement discussions will not be admissible as evidence in the hearing. The Parties agree to waive any and all objections based on settlement communications in this matter, including, but not limited to:
  - a. Objections related to prejudice or bias of any of the Central Coast Water Board members or their advisors and any other objections that are premised in whole or in part on the fact that the Central Coast Water Board members or their advisors were exposed to some of the material facts and the Parties' settlement positions as a consequence of reviewing the Stipulation and/or the Order, and therefore may have formed impressions or conclusions prior to any contested evidentiary hearing on the NOV in this matter; or

- b. Laches or delay or other equitable defenses based on the time period for administrative or judicial review to the extent this period has been extended by these settlement proceedings.
16. **No Admission of Liability:** In settling this matter, the Discharger does not admit to any of the findings in the NOV and/or this Stipulated Order, or that it has been or is in violation of the Water Code, or any other federal, state, or local law or ordinance; however, the Discharger recognizes that this Stipulated Order may be used as evidence of a prior enforcement action consistent with Water Code section 13327.
17. **Waiver of Hearing:** The Discharger has been informed of the rights provided by CWC section 13323(b), and hereby waives its right to a hearing before the Central Coast Water Board prior to the adoption of the Stipulated Order.
18. **Waiver of Right to Petition:** The Discharger hereby waives its right to petition the Central Coast Water Board's adoption of the Stipulated Order as written for review by the State Water Board, and further waives its rights, if any, to appeal the same to a California Superior Court and/or any California appellate level court.
19. **Covenant Not to Sue:** The Discharger covenants not to sue or pursue any administrative or civil claim(s) against any state agency or the State of California, its officers, board members, employees, representatives, agents, or attorneys arising out of or relating to any violation alleged herein.
20. **Central Coast Water Board is Not Liable:** Neither the Central Coast Water Board members nor the Central Coast Water Board staff, attorneys, or representatives shall be liable for any injury or damage to persons or property resulting from acts or omissions by the Discharger, its directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Stipulated Order.
21. **Authority to Bind:** Each person executing this Stipulated Order in a representative capacity represents and warrants that he or she is authorized to execute this Stipulated Order on behalf of and to bind the entity on whose behalf he or she executes the Order.
22. **No Third Party Beneficiaries.** This Stipulated Order is not intended to confer any rights or obligations on any third party or parties, and no third party or parties shall have any right of action under this Stipulated Order for any cause whatsoever.
23. **Effective Date:** This Stipulated Order shall be effective and binding on the Parties upon the date the Central Coast Water Board, or its delegee, enters the Order.
24. **Counterpart Signatures:** This Stipulated Order 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.

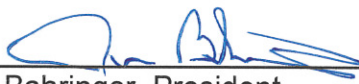
**IT IS SO STIPULATED.**

California Regional Water Quality Control Board Prosecution Team  
Central Coast Region

By:   
Michael J. Thomas  
Assistant Executive Officer

Date: 1-13-14

Cambria Community Services District

By:   
Jim Bahringer, President  
Board of Directors

Date: 1/6/2014

**Order of the Central Coast Water Board**

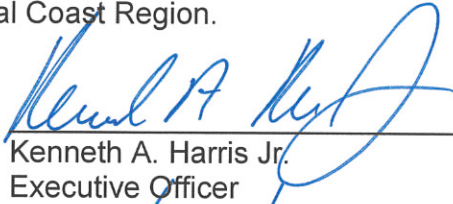
1. In adopting this Stipulated Order, the Central Coast Water Board or its delegee has considered, where applicable, each of the factors prescribed in CWC sections 13327, 13351 and 13385(e). The consideration of these factors is based upon information and comments obtained by the Central Coast Water Board's staff in investigating the allegations concerning the dischargers discussed herein or otherwise provided to the Central Coast Water Board or its delegee by the Parties and members of the public.
2. This is an action to enforce the laws and regulations administered by the Central Coast Water Board. The method of compliance with this enforcement action consists entirely of payment of an administrative penalty. As such, the Central Coast Water Board finds that issuance of this Order is not considered subject to the provisions of the California Environmental Quality Act (CEQA) as it will not result in a direct or reasonably foreseeable indirect physical change in the environment and is not considered a "project" (Public Resources Code 21065, 21080(a); 15060(c)(2),(3); 150378(a), Title 14, of the California Code of Regulations). In addition, the Central Coast Water Board finds that issuance of this Order is also exempt from the provisions of CEQA in accordance with section 15321(a)(2), Title 14, of the California Code of Regulations as an enforcement action by a regulatory agency and there are no exceptions that would preclude the use of this exemption. To the extent that the payment of a portion of the administrative liability as a SEP would trigger CEQA review, the possible activities by the SEP administrator are not yet known. If the implementation may result in

significant impacts on the environment, the appropriate lead agency will address the CEQA requirements prior to approval of any work plan.

3. The terms of the foregoing Stipulation are fully incorporated herein and made part of this Order of the Central Coast Water Board.

Pursuant to CWC sections 13323, 13350, 13385 and Government Code section 11415.60, **IT IS HEREBY ORDERED** by the California Regional Water Quality Control Board, Central Coast Region.

By:

  
\_\_\_\_\_  
Kenneth A. Harris Jr.  
Executive Officer

Date:

2/14/2014



# ATTACHMENT A

## CAMBRIA COMMUNITY SERVICES DISTRICT

Cambria CA, San Luis Obispo County

Administrative Civil Liability Order No. R3-2014-0008

### SETTLEMENT MODIFICATIONS REFLECTED HEREIN

In collaboration with State Water Board and Central Coast Regional Water Board staff, the following summary of factors provides factual and analytical evidence to support the proposed Administrative Civil Liability (ACL) complaint against Cambria Community Services District (Discharger) for three (3) illegal discharges of sewage occurring in calendar year 2011.

#### **1.0 Discharger Information**

The Discharger is a special services Discharger that provides sewage collection and wastewater treatment services to approximately 6,000 residents of Cambria, San Luis Obispo County. Discharger owns and operates its sanitary sewer collection system (regulated under SWRCB Order No.2006-003) and a 1.0 mgd wastewater treatment facility (regulated under WDR Order No. 01-100).

#### **2.0 Application of Water Board's Enforcement Policy<sup>1</sup>**

On November 17, 2009, the State Water Board adopted Resolution No. 2009-0083 amending the Water Quality Enforcement Policy (Enforcement Policy). The Enforcement Policy was approved by the Office of Administrative Law and became effective on May 20, 2010. The Enforcement Policy establishes a methodology for assessing administrative civil liability. Use of the methodology addresses the factors in CWC section 13385(e). Water Code section 13385(e) requires the Regional Water Board to consider several factors when determining the amount of civil liability to impose, including "...the nature, circumstances, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on its ability to continue its business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters that justice may require."

Pursuant to the penalty calculation methodology set forth in the Enforcement Policy, following is a summary for calculating monetary assessments for the subject (three) illegal discharges of sewage to the waters of the United States that occurred in year 2011. Corresponding scores for each factor are presented in Attachment B, which shows the monetary assessment of the proposed ACL complaint.

#### **SSO Violation #1**

Date: January 2, 2011

Alleged Cause of SSO: *High Inflow/Infiltration in the collection system due to series of storm events coupled with equipment (pump) failures at the influent pump station of the treatment plant.*

SSO Event Description: *Discharger claims high Inflow/Infiltration (I/I) due to series of storm events that inundated the influent pump station and caused the SSO. Additionally, the emergency standby pump was initially inoperable due to incorrect piping installation of hydraulic pump (piping was reversed) from prior service maintenance (3-4 years ago). SSO duration was estimated at 90 minutes.*

- Discharger reported the following onsite precipitation data:

<sup>1</sup> Water Board's Adopted Enforcement Policy available at: [http://www.swrcb.ca.gov/water\\_issues/programs/enforcement/policy.shtml](http://www.swrcb.ca.gov/water_issues/programs/enforcement/policy.shtml)

- January 2, 2011 – 2.2 inches
- December 29, 2010 – 1.59 inches
- Prior 17-day period (Dec. 17, 2010 – Jan. 2, 2011), total rainfall = 11.88 inches, which was over half the total annual rainfall in the area.
- NOAA (National Oceanic and Atmospheric Administration) data:
  - Equivalent to 5-10 year frequency (based on a 20-day duration).

**Factor 1: Harm of Potential Harm to Beneficial Uses (BU)**

- 3 – Moderate (5 is maximum value that may be selected if beach closures >5 days)
  - Moderate threat to BUs (impacts are reasonably expected and likely to attenuate without appreciable acute or chronic effects) – 1-mgd facility with large I/I and discharge point close to Ocean (large water body); ratio SSO to I/I – approximately 0.25.
  - Warning signs posted.
  - Rainfall/storm data review indicates approximately storm event of ~5 to 10 year frequency based on 20-day duration.

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

- 3 – An above-moderate risk or direct threat to potential receptors
  - Bacteria, viruses, nutrients, TSS, etc.

**Factor 3: Susceptibility to Cleanup of Abatement**

- 1 – Less than 50% susceptible to cleanup or abatement.
- Large spill couldn't be cleaned or abated.
- None recovered (SSO spilled from Shamel Park storm drain into Santa Rosa Creek and Pacific Ocean).

**Deviation from Requirement**

- Moderate – the intended effectiveness of the requirement has been partially compromised.
- The SSO permit requirement was not met and the effectiveness of the requirement was only partially achieved (duration of SSO event was minimized due to immediate availability of personnel onsite – only 1-mgd facility).

**Volume Discharged, gallons**

- 256,600
  - Based on Discharger's response to NOV (increased from 150,000 gals. reported in CIWQS).
  - Discharger used engineering calculations (pump curves, size of wet well, etc.) to calculate new discharge volume (submitted in response to 13267/NOV letter).
  - 255,600 gallons used (256,600 gallons based on Discharger's NOV response, less first 1,000 gallons spilled and not cleaned up).

**Volume Assessment**

- For large volume discharge, the score is adjusted to \$2.00 per gallon due to combined stormwater/sewage discharge. Additionally, Water Boards have discretionary authority to apply \$10 per gallon allowed by statutes.

**Culpability**

- 1.1 (multiplying factor range - 0.5 to 1.5)

- Discharger failed to perform preventive maintenance of bypass valve to equalization basins since 1996. Bypass valve was shut/broken when forced open.
- Discharger failed to check operation of standby hydro pump since it was serviced 3-4 years prior to SSO event (piping for hydro motor was reversed).
- No records of preventive maintenance of standby pumps.
- Immediate response (operator was on duty at the time of spill); other operators/support personnel were at the scene to help.

### **Cleanup and Cooperation**

- 1.0 (multiplying factor range – 0.75 to 1.5)
  - Discharger was proactive in returning to compliance by implementing preventive maintenance on standby equipment; hiring APT Water to perform phased CCTV of pipelines to determine condition of pipelines and identify sources of I/I; hiring additional operator/personnel.
  - Discharger posted warning signs during/after the SSO event to alert public but no attempt to recover SSO spilled into Santa Rosa Creek (fully flowing into Pacific Ocean). However, no samples were collected to analyze for any water quality impacts (SSMP containing SOPs was not available until it was adopted on May 24, 2012).
  - Discharger submitted technical report and other requested information on time; however, some information/data provided in the technical report were conflicting and/or misleading (e.g., conflicting information as to the duration of other SSO events, contents of the report did not fully describe/answer the information requested in the 13267/NOV letter (lacks supporting information), OE staff has to request additional information for clarification/verification).

### **History of Violations**

- 1.1 (repeat violations)
  - (July 2007-2013 period) total of 10 SSOs - 7 Cat 1, 3 Cat 2.
  - Discharger had one category 1 SSO discharge after the 2011 SSOs (spill volume 7,200 gal. at Croyden Lane Easement).
  - NOV (4/10/2012) for failure to certify SSMP elements.
  - Other WWTP violations (WDR violations) nitrates, TDS, non-submittal of monthly/annual reports, suspended solids, etc.

### **Ability to Pay**

Cambria Community Services District Independent Auditor's Report and Financial Statements for the year ending June 30 indicates it has the potential ability to pay an ACL of up to at least \$500,000. The financial statements show current assets as \$7,572,441, current liabilities as \$1,146,473, and current net assets as \$6,425,968. Therefore, there does not appear to be an inability to pay the proposed penalty. The burden for this factor now shifts to the Discharger to provide evidence to the Prosecution Team to consider as an affirmative defense.

**Settlement consideration: This affirmative defense is waived by virtue of reaching a settlement.**

### **Economic Benefit**

- Economic benefits include the cost of treating spilled sewage (estimated at \$37 per month per household; \$0.006/gallon, therefore cost to treat would be \$1,319) – based on 2 persons per household and 120 gal/day/person.

### **Other Factors As Justice May Require**

**Settlement consideration: Staff costs waived by the Prosecution Team as a condition of settlement.**

## **SSO Violation #2**

Date: October 6, 2011

Alleged Cause of SSO: *Root intrusion/blockage of 8-inch pipe segment along easement of Oakhurst and Sheffield.*

SSO Event Description: *Discharger received odor complaint from resident; found source of SSO from manhole located in the wooded area of the above easement; initially reported as one month SSO duration but modified to 14 days (latest updated report dated August 1, 2013); SSO volume changed from 55,000 gallons to 81,200 gallons based on recalculated water usage of upstream connections.*

### **Factor 1: Harm of Potential Harm to BUs**

- 3 – Minor (slow flow over 14 days – mostly absorbed into ground of wooded area, potential impacts to BUs but no appreciable harm, discharge from a manhole #PK-6034 located within a wooded easement area between Oakhurst and Sheffield.
  - Odor complaints from homeowners/neighbors (nuisance issue).

**Settlement consideration: Harm factor reduced to 2 and volume amount adjusted to 42,000 gallons after CCSD provided additional materials which indicated that the spill impacts were below moderate for the groundwater and the concrete storm water catch basin affected by the spill. The amount was adjusted to 42,000 gallons since CCSD provided statements that there was only a partial blockage of the pipe and therefore lower than the original estimate.**

### **Factor 2: Physical, Chemical, Biological or Thermal Characteristics of the Discharge**

- 3 – Above-moderate risk or direct threat to potential receptors
  - Odor complaints by neighbors.
  - SSO spill area not accessible by public; unknown discharge to surface water.
  - Risk to groundwater quality (2 weeks of discharge).

### **Factor 3: Susceptibility to Cleanup of Abatement**

- 1 – Less than 50% susceptible to cleanup or abatement.
  - Spill was only contained/cleaned during the response day.
  - None recovered (SSO spilled from Shamel Park storm drain into Santa Rosa Creek and Pacific Ocean.)

### **Deviation from Requirement**

- Moderate – the intended effectiveness of the requirement has been partially compromised.
  - The SSO permit requirement was not met and the effectiveness of the requirement was only partially achieved.

### **Volume Discharged, gallons**

- 81,200
  - Based on Discharger's updated report dated August 1, 2013 (increased from 55,000 gals. as reported in technical report - response to 13267/NOV letter dated April 3, 2013).
  - Discharger recalculated SSO volume based on upstream users' water meters.

- 80,200 gallons used (81,200 gallons based on Discharger's NOV response, less first 1,000 gallons spilled and not cleaned up).

**Settlement consideration: The penalty was recalculated using 41,000 gallons (42,000 – 1,000) after additional documentation showed the pipe was only partially blocked.**

### **Volume Assessment**

- No, but duration of spill was 14 days (based on August 1, 2013 updated report); reported by citizen on October 27, 2011 due to odor nuisance.
- For large volume discharge, the score can be adjusted to \$2.00 per gallon due to combined stormwater/sewage discharge. Additionally, Water Boards have discretionary authority to apply \$10 per gallon allowed by statutes. For this particular spill, the score was adjusted to \$4.00 per gallon. While it was not considered a "high volume discharge," on balance, adjusting Violation #2 and Violation #3 to \$4.00 a gallon resulted in a fair penalty, and provided the Discharger with a greater benefit than calculating Violation #2 at \$10.00 a gallon and Violation #3 at \$2.00 a gallon. This is accomplished through Step 7, "other factors as justice may require," of the penalty methodology.

### **Culpability**

- 1.2 (multiplying factor range – 0.5 to 1.5)
  - Discharger failed to perform root control cleanup and/or conduct routine inspections of pipelines; unknown date when the pipeline was last cleaned; "out of sight, out of mind" issue (manhole was inaccessible due to wooded area and hillside location).
  - No records of regular root control and/or cleaning activities.

### **Cleanup and Cooperation**

- 1.2 (1.5 max) it took an entire month for the discharge to be discovered, investigated, and remedied. This led to the selection of 1.2, which serves to increase the base liability.
- However, the Discharger was active in returning to compliance by removing the roots in the pipes and placing the pipe segment for regular cleaning and/or root removal, which resulted in the maximum factor not being selected.

**Settlement consideration: While it did take two weeks to discover the spill, the location was remote and difficult to access. Once discovered, it was investigated promptly. CCSD provided photographs and documentation indicating that their work, once the spill was located, was effective. This caused the Prosecution Team to lower this factor to a 1.1**

### **History of Violations**

- 1.1 (repeat violations)
  - (July 2007-2013 period) total of 10 SSOs - 7 Cat 1, 3 Cat 2
  - Discharger had one category 1 SSO discharge after the 2011 SSOs (spill volume 7,200 gal. at Croyden Lane Easement)
  - NOV (4/10/2012) for failure to certify SSMP elements.
  - Other WWTP violations (WDR violations) nitrates, TDS, non-submittal of monthly/annual reports, suspended solids, etc.

### **Ability to Pay**

- See above analysis; there does not appear to be an inability to pay the recommended penalty for the three illegal discharges.

**Settlement consideration: This affirmative defense is waived by virtue of reaching a settlement.**

**Economic Benefit**

- Includes the cost of treating spilled sewage (estimated at \$37 per month per household; \$0.006/gallon, therefore cost to treat would be \$330) – based on 2 persons per household and 120 gal/day/person.
- 

**Other Factors As Justice May Require**

- Gallon assessment reduced to \$4.00/gallon for SSOs 2 and 3. The Prosecution Team felt that, while these were not high volume spills, they did merit some reduction from the \$10.00/gallon calculation. On balance, \$4.00 resulted in an appropriate overall penalty for deterrence purposes.

**Settlement consideration: Staff costs waived by the Prosecution Team as a condition of settlement.**

**SSO Violation #3**

Date: December 17, 2011

Alleged Cause of SSO: *Failure of Automatic Transfer Switch (ATS) to operate standby power generator during a power grid outage*

SSO Event Description: *A power grid outage occurred at the plant; ATS failed to operate standby power generator resulting to influent pump station shutdown; influent wastewater overflowed at the lowest manhole upstream of plant located in the northern Shamel Park parking area for approximately 35 minutes duration.*

**Factor 1: Harm of Potential Harm to BUs**

- 3 – Moderate (5 is maximum value that may be selected if beach closures >5 days)
  - Moderate threat to BUs (impacts are reasonably expected and likely to attenuate without appreciable acute or chronic effects.
  - Unknown if warning signs posted.

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

- 3 – An above-moderate risk or direct threat to potential receptors
  - Bacteria, viruses, nutrients, TSS, etc.

**Factor 3: Susceptibility to Cleanup of Abatement**

- 1 – Less than 50%
  - Large spill couldn't be cleaned or abated.
  - None recovered (SSO spilled from northern area of Shamel Park into Santa Rosa Creek via storm drains and into Pacific Ocean.)

**Deviation from Requirement**

- Moderate – the intended effectiveness of the requirement has been partially compromised.
  - The SSO permit requirement was not met and the effectiveness of the requirement was only partially achieved.
  - Response was delayed due to failure of auto dialer (call to operators).

**Volume Discharged, gallons**

- 34,125
  - Based on Discharger's response to NOV (increased from 14,000 gals. reported in CIWQS).
  - Discharger used influent flow rate to calculate new discharge volume with 35 minute SSO duration (submitted in response to 13267/NOV letter).
  - 33,125 gallons used (34,125 gallons based on Discharger's NOV response, less first 1,000 gallons spilled and not cleaned up).

### **Volume Assessment**

- For large volume discharge, the score can be adjusted to \$2.00 per gallon due to combined stormwater/sewage discharge. Additionally, Water Boards have discretionary authority to apply \$10 per gallon allowed by statutes. For this particular spill, the score was adjusted to \$4.00 per gallon because the Prosecution Team felt that the selection of \$2.00 would result in an inappropriately small penalty for the three illegal discharges. See also "Volume Assessment" comment for SSO Violation #2." This was accomplished through step 7 "other factors as justice may require" of the methodology.

### **Culpability**

- 1.1 (max)
  - Discharger failed to perform preventive maintenance of auto dialer system also failed to conduct routine tests/PMs of automatic transfer switch to ensure that emergency power generator works during power failures.
  - No records of preventive maintenance or tests.

### **Cleanup and Cooperation**

- 1 (1.5 max)
- Discharger replaced the auto dialer and ATS; conducting routine preventative maintenance tasks.
- Discharger submitted technical report and other requested information on time; however, some information/data provided in the technical report were conflicting and/or misleading (e.g., conflicting information as to the duration of other SSO events, contents of the report did not fully describe/answer the information requested in the 13267/NOV letter (lacks supporting information), OE staff had to request additional information for clarification/verification.

### **History of Violations**

- 1.1 (repeat violations)
  - (July 2007-2013 period) total of 10 SSOs - 7 Cat 1, 3 Cat 2
  - Recent SSO, Jan. 30, 2013 – spill volume 7,200 gals Cat 1 (Croyden Lane Easement)
  - NOV (4/10/2012) for failure to certify SSMP elements.
  - Other WWTP violations (WDR violations) nitrates, TDS, non-submittal of monthly/annual reports, suspended solids, etc.

### **Ability to Pay**

- See above analysis; there does not appear to be an inability to pay the recommended penalty for the three illegal discharges.

**Settlement consideration: This affirmative defense is waived by virtue of reaching a settlement.**

### **Economic Benefit**

- Includes at a minimum the cost of treating spilled sewage (estimated at \$37 per month per household; \$0.006/gallon, therefore cost to treat would be \$205) – based on 2 persons per household and 120 gal/day/person.

**Other Factors As Justice May Require**

- Gallon assessment reduced to \$4.00/gallon for SSOs 2 and 3. The Prosecution Team felt that, while these were not high volume spills, they did merit some reduction from the \$10.00/gallon calculation. On balance, \$4.00 resulted in an appropriate overall penalty for deterrence purposes.

**Settlement consideration: Staff costs waived by the Prosecution Team as a condition of settlement.**

**3.0 Recommendation**

Final Settlement Amount: \$226,826.60 with ECA approved by Prosecution Team (50%); volume modified (see SSO #2)



**Instructions**

1. Select Potential Harm for Discharge Violations
2. Select Characteristics of the Discharge
3. Select Susceptibility to Cleanup or Abatement
4. Select Deviation from Standard
5. Click "Determine Harm & per Gallon/Day..."
6. Enter Values into the Yellow highlighted fields

Select Item **3 = Moderate**  
 Select Item **3 = Discharged material poses above moderate**  
 Select Item **< 50% of Discharge Susceptible to Cleanup or A**  
 Select Item **Moderate**

Select Item **2 = Below Moderate**  
 Select Item **3 = Discharged material poses above moderate**  
 Select Item **< 50% of Discharge Susceptible to Cleanup or A**  
 Select Item **Moderate**

Select Item **3 = Moderate**  
 Select Item **3 = Discharged material poses above moderate**  
 Select Item **< 50% of Discharge Susceptible to Cleanup or A**  
 Select Item **Moderate**

Discharger Name:		Cambria Community Services District		Violation 1		Violation 2		Violation 3	
Discharge Violations	Step 1	Potential Harm Factor (Generated from Button)	7		6		7		
	Step 2	Per Gallon Factor (Generated from Button)	0.2		0.15		0.2		
		Gallons	255,600		41,000		33,125		
		Statutory / Adjusted Max per Gallon (\$)	2.00		10.00		10.00		
	<b>Total</b>			\$ 102,240		\$ 61,500		\$ 66,250	
	Step 3	Per Day Factor (Generated from Button)	0.2		0.15		0.2		
Days		1		14		1			
Statutory Max per Day		10000.00		10000.00		10000.00			
<b>Total</b>			\$ 2,000		\$ 21,000		\$ 2,000		
Non-Discharge Violations	Step 3	Per Day Factor							
		Days							
		Statutory Max per Day							
		<b>Total</b>			\$ -		\$ -		\$ -
<b>Initial Amount of the ACL</b>			\$ 104,240.00	\$ 82,500.00	\$ 68,250.00				
Admitt Factors	Step 4	Culpability	1.1	\$ 114,664.00	1.2	\$ 99,000.00	1.1	\$ 75,075.00	
		Cleanup and Cooperation	1	\$ 114,664.00	1.1	\$ 108,900.00	1	\$ 75,075.00	
		History of Violations	1.1	\$ 126,130.40	1.1	\$ 119,790.00	1.1	\$ 82,582.50	
<b>Step 5 Total Base Liability Amount</b>			\$ 328,502.90						
Step 6	Ability to Pay & to Continue in Business	1	\$ 328,502.90						
Step 7	Other Factors as Justice May Require	\$ (101,676)	\$ 226,826.60						
	Staff Costs		\$ 226,826.60						
Step 8	Economic Benefit	\$ 1,854	\$ 226,826.60						
Step 9	Minimum Liability Amount	\$ 2,039							
	Maximum Liability Amount	\$ 3,457,250							
<b>Step 10 Final Liability Amount</b>			\$ 226,826.60						

**Penalty Day Range Generator**

Start Date of Violation=

End Date of Violation=

Maximum Days Fined (Steps 2 & 3) =  Days

Minimum Days Fined (Steps 2 & 3) =  Days

## ATTACHMENT C

### CAMBRIA COMMUNITY SERVICES DISTRICT ECA SUMMARY San Luis Obispo County

#### Attachment to Settlement Agreement and Stipulation Order R3-2014-0008

#### Enhanced Compliance Action: Wastewater Treatment Plant Improvement Project

**Background.** The CCSD wastewater treatment plant is a secondary, extended-aeration, activated sludge plant, which also includes a raw sewage lift station, in-line screenings shredders, grit removal, secondary clarifiers, holding basins, an effluent pumping station, aerobic sludge digesters, and a sludge screw press. The aeration tanks and related aerators experience operating inefficiencies due to fouling, which occurs when the macerated rags and other inert materials recombine and collect on the aeration headers and diffusers. In addition, the existing influent pumps and grit removal process capacity has been exceeded during past wet weather events, which results in operators installing a temporary make-shift portable pump and hose while also bypassing portions of the headworks area. Besides the existing plant deficiencies, the RWQCB staff have expressed concerns over nitrates within the plant effluent. The CCSD also desires to further evaluate providing Title 22 recycled water, which was described within an earlier 2004 report<sup>1</sup>.

**Project Objectives.** To address plant deficiencies, the need for de-nitrification, and to provide future Title 22 recycled water, a comprehensive evaluation of the wastewater treatment plant and an associated preliminary design is being proposed as an enhanced compliance action (ECA) project. This project will evaluate the plant as a whole, and make specific recommendations to improve its performance, with an emphasis on de-nitrification. The work completed will include an engineering report describing the evaluation process and related data used in the evaluation, the results, conclusions, and recommendations for improvements. Recommendations shall include engineering cost estimates for the various categories of improvements, including; 1) influent pumping, screening removal, grit removal, and related headworks modifications; 2) improvements to emergency power supply and instrumentation alarms and controls; 3) supervisory control and data acquisition system improvements; 4) improvements to flow equalization and wet weather flow storage and control; 5) aeration basin modifications, aeration piping and recycled sludge piping modifications, blower upgrades, and dissolved oxygen control improvements to provide for denitrification; 6) secondary clarifier improvements; 7) unit process additions and possible modifications to provide Title 22 compliant recycled water, 8) sludge digestion and disposal improvements; and, 9) an alternate point of effluent discharge during the late dry season to prevent or minimize a negative gradient condition between the effluent percolation ponds and up-gradient potable well field.

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<sup>1</sup> Final Report, Task 3: Recycled Water Distribution System Master Plan, Cambria Community Services District, Kennedy/Jenks Consultants, July 2004

Following review and concurrence of the comprehensive evaluation report by the CCSD and RWQCB, a 10-percent design report with drawings will be completed. The 10-percent design will include updated cost estimates for the various components, design criteria, process tank and piping layouts, a plant hydraulic profile, major equipment specifications, major equipment single line electrical control diagrams, and process and instrumentation control diagrams. This work will then be incorporated into updates to the CCSD's financing and rate plan, which will include analysis of the CCSD's cash flow and ability to fund the proposed improvements, potential rate adjustments and other means to finance the proposed improvements, and the timing for the improvements as related to the Proposition 218 process and other associated financing requirements. For the purpose of satisfying the ECA requirements of \$113,413.30, the District will complete the comprehensive WWTP evaluation and 10-percent design. District ECA project activity, description, schedule, and budget are listed below.

<b>Activity</b>	<b>ECA Project Task Description or Goal</b>	<b>Schedule in Months</b>	<b>Budget/Cost \$</b>
CCSD Board Approves Mid-Year Budget Amendment	Board will need to approve an amendment to the existing FY2013/2014 wastewater budget for the planned ECA tasks	1	Not applicable
Complete a Request for Proposals	This task will include meeting with RWQCB staff to review the proposed scope of work.	1	Not applicable
Receive & evaluate proposals	Proposals will be solicited from qualified firms, evaluated, and a consulting services agreement will be presented to the CCSD Board for approval.	2	
Complete plant evaluation	Consultant will perform plant inspections, gather data, interview key staff, conduct review meetings, and complete comprehensive engineering evaluation report.	4	45,000
Presentation and acceptance of Engineering report	The engineering report will be presented to the CCSD Board for their consideration and review. Recommended changes will be evaluated and incorporated into a final report as necessary.	1	8,000
Complete 10-percent design.	A 10-percent design report and drawings will be completed on the WWTP improvement recommendations.	4	55,000
Presentation and acceptance of 10-percent design	The 10-percent design report will be presented to the CCSD Board for their consideration and review. Recommended changes will be evaluated and incorporated into a final report as necessary.	1	5,000

report.			
Quarterly progress reports	Quarterly progress reports will be submitted to the RWQCB and SWRCB staff describing the project work completed to date to fulfill the ECA project requirements.	Due 3 months after project start and each trimester month.	Not applicable
Final Report to SWRCB	A final report will summarize all tasks completed, an analysis of the success of the ECA project, and post-project accounting of the expenditures. The accounting shall demonstrate whether the final cost of the successfully completed ECA project is less than, equal to, or more than the suspended liability amount of \$113,413.30.	2 Due within 3 months following final CCSD Board acceptance of the 10-percent design report.	Not applicable
<b>Total</b>		<b>16</b>	<b>\$113,413.30</b>

1. Completion of the project tasks requiring CCSD Board approval have assumed the item will be accepted or approved as part of the Board's regular meeting agenda. Should an item require a follow up Board review or approval, an additional month will be required for each subsequent Board review.
2. Barring unforeseen conditions/uncontrollable delays, the project, including final project completion report development and submittal to the SWRCB, will be completed within 16 months.