

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION**

In the Matter of:

**City of Jackson
Sanitary Sewer System
Amador County**

ORDER R5-2017-0506

**SETTLEMENT AGREEMENT AND
STIPULATION FOR ENTRY OF
ADMINISTRATIVE CIVIL LIABILITY ORDER**

Introduction

1. 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 Valley Region (Central Valley Water Board), on behalf of the Central Valley Water Board Prosecution Team (Prosecution Team), and the City of Jackson (Discharger) (collectively known as the Parties) and is presented to the Central Valley Water Board, or its delegee, for adoption as an order by settlement, pursuant to Government Code section 11415.60.

Recitals

Background

2. The Discharger owns and operates a sanitary sewer collection system (collection system) that serves the City of Jackson. The Discharger's collection system consists of approximately 31 miles of sewer pipeline and three pump stations. Sewage from the collection system is routed to the City of Jackson's Wastewater Treatment Plant (Facility), which is regulated under Waste Discharge Requirements (WDRs Order R5-2013-0146-01. Treated domestic, commercial and industrial wastewater is discharged to Jackson Creek, a water of the United States, and tributary to Lake Amador within the Mokelumne River watershed.
3. On 2 May 2006, the State Water Board adopted the *Statewide General Waste Discharge Requirements for Sanitary Sewer Systems Order No. 2006-0003-DWQ* (SSS General Order) to provide a consistent, state-wide regulatory approach to address sanitary sewer overflows (SSOs). The SSS General Order require public agencies that own or operate sanitary sewer systems to develop and implement sewer system management plans and to report all SSOs through a public database.
4. The Monitoring and Reporting Program (MRP) of the SSS General Order describes the monitoring, record keeping, reporting, and public notification requirements which a Discharger must implement whenever an SSO occurs. On 20 February 2008, the State Water Board's Executive Director adopted a revised MRP to rectify early notification deficiencies and ensure that first responders are notified in a timely manner. On 6 August 2013, the State Water Board's Executive Director adopted Order WQ 2013-

0058-EXEC, which replaced the previous MRP and contained more specific reporting requirements.

5. The Discharger was enrolled under the SSS General Order on 19 October 2006 (WDID #5SSO10895) and is therefore required to operate and maintain its collection system to prevent spills, and to report SSOs in compliance with requirements of the SSS General Order and applicable MRP.
6. In response to a 17 December 2015 anonymous complaint that the Discharger was not properly reporting SSOs, on 26 January 2016, Board staff met with the Discharger's Public Works Superintendent and collection system maintenance staff. Staff reviewed records to determine whether the City was complying with the SSS General Order and MRP, and identified a number of alleged violations.
7. As a result of the inspection, a 26 February 2016 Notice of Violation and Water Code Section 13267 Order for Technical Reports was issued. The alleged violations included failure to report SSOs, failure to adequately train collection system staff, failed to fully implement the *Sewer System Management Plan (SSMP)*, and SSO record keeping inadequacies. The 13267 Order required the Discharger to submit a *Sanitary Sewer Overflow Summary Report* that listed all SSOs from the collection system. In addition, it required the Discharger to submit a *Collection System Staff Training Procedures and Time Schedule*, an *Up-to-date Sewer System Management Plan and SSMP Work Plan*, and an *Infiltration and Inflow (I/I) Reduction Report*. The Discharger was also required to properly report SSOs.
8. On 14 June 2016, the Prosecution Team sent the Discharger a letter offering to enter into settlement negotiations (pre-ACL letter) related to alleged violations of the SSS General Order.
9. The Prosecution Team alleges violations described below and in Attachments A and B, which are incorporated by reference here, regarding the SSS General Order requirements for a Sanitary Sewer Management Plan and reporting requirements for Sanitary Sewer Overflows.

Sanitary Sewer Management Plan

10. Provisions D.11 and D.13 of the SSS General Order required the Discharger to develop and implement a Sewer System Management Plan (SSMP). The plan was to be complete and approved by the Discharger's governing body by 2 May 2010. The Discharger certified that it was completed on 29 April 2010¹.
11. The Prosecution Team alleges the following violations:
 - a. As described in Provision D.13 of the SSS General Order, the goal of the SSMP is to "*provide a plan and schedule to properly manage, operate, and maintain all parts of the sanitary sewer system. This will help reduce and prevent SSOs, as well as mitigate any SSOs that do occur.*" Provision D.13 also lists the specific

¹ Per the "SSO-Sewer System Management Plan (SSMP)" page in the City of Jackson CS account in CIWQS.

items which must be included in the SSMP. Board staff's review of the Discharger's 29 April 2010 SSMP identified a number of alleged deficiencies, including inadequate identification of responsible staff to implement the SSMP; inadequate operation and maintenance program; inadequate training for staff; no emergency response plan, no program to address fats, oil and grease; no capital improvement plan; no tracking or audits of its SSMP; and no required updates to the SSMP. These alleged deficiencies are further described in Attachment A.

- b. As required by section D.13 of the SSS General Order, the Discharger's SSMP was to be completed and adopted by the City Council by 2 May 2010. Although the Discharger certified that the document was completed on time, staff alleges that it is missing crucial sections, lacks details, does not meet the intent of the SSS General Order, and was not implemented. Therefore, the City has been in violation of the requirement to complete and implement a SSMP that meets the conditions of the SSS General Order for 1,826 days (between 2 May 2010 and 2 May 2015, when the document was to be updated).
 - c. Section D.14 of the SSS General Order requires that the SSMP be updated every five years. The Discharger has failed to update its SSMP and therefore has been in violation of SSS General Order for 608 days (between 3 May 2015 and 31 December 2016, the date through which violations were calculated).
 - d. The Discharger is alleged to have been in violation of Sections D.13 and D.14 of the SSS General Order for a total of 2,434 days.
12. The Discharger is currently in the process of updating its SSMP in order to comply with the SSS General Order and is working to come into compliance with the SSS General Order.

Sanitary Sewer Overflow Reporting

13. The Monitoring and Reporting Program of the SSS General Order specifies monitoring and reporting requirements to be implemented by the Discharger, which includes recording keeping, reporting, and public notification. In particular, the Discharger is required to submit either of the following into the state-wide CIWQS² database: (a) a description of each SSO and supporting information, or (b) if no spills occurred during a month, then a "No Spill Certification" report. MRP Provision C.4.iii requires that "No Spill Certifications" be submitted under penalty of perjury.
14. On 26 January 2016, Board staff met with the Discharger's Public Works Superintendent and collection system maintenance staff to determine whether the City was complying with the SSS General Order and MRP. Based on statements made during the meetings³ by the Legally Responsible Official (LRO)⁴ and four collection system staff members, the

² The California Integrated Water Quality System (CIWQS) allows online submittal of information by Dischargers within certain programs and makes data available to the public through reports. CIWQS is publicly available at: <http://www.waterboards.ca.gov/ciwqs/publicreports.shtml>

³ Documented in the Central Valley Water Board memorandum dated 9 February 2016 from Kari Holms and Mohammed Farhad to Wendy Wyels.

⁴ The Legally Responsible Official is the person who has been designated by the Discharger to submit and certify reports into CIWQS.

Prosecution alleges that the Discharger did not report all of the SSOs required to be reported by the SSS General Order that occurred from June 2012 through December 2015. Board staff's review of the maintenance staff's timesheets and daily logs found that SSOs had occurred but not been reported. Staff's review found that the Discharger has submitted monthly "No Spill Certification" reports in CIWQS every month between June 2012 and December 2015 except for the month of April 2015. All reports were submitted under penalty of perjury.

15. Based on the information provided by the Discharger's staff, the Prosecution Team alleges that the Discharger has violated the SSS General order in that they failed to report SSOs to CIWQs; provided fraudulent "No Spill Certifications;" failed to notify the State Office of Emergency, the local health officer, or the Central Valley Regional Water Quality Control Board of SSOs ; and failed to keep the required records regarding SSOs and responses for a period of five years.
16. The Prosecution Team alleges that the Discharger knowingly submitted inappropriate, fraudulent reports for SSOs that occurred for 34 out of the 48 months that were reviewed. The Prosecution Team utilized the information provided in interviews and subsequent to the 26 February 2016 Water Code 13267 Order to determine that SSOs occurred for the months in which the Discharger's maintenance staff recorded a "sewer plug", a call-out, or overtime hours on their timesheets. These alleged violations are further described in Attachment B to this Stipulated Order.
17. Since the Prosecution Team and the Discharger have begun discussing these allegations, the Discharger had appointed a new LRO and has complied with the requirements of the MRP.

Regulatory Considerations

18. Water Code section 13267, subdivision (a) provides that

A regional board, in establishing or reviewing any water quality control plan or waste discharge requirements, or in connection with any action relating to any plan or requirement authorized by this division, may investigate the quality of any waters of the state within its region.

19. Water Code section 13267, subdivision (b)(1) provides that

In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the

reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.

20. Water Code section 13268, subdivision (b)(1) states:

Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (a) in an amount which shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs.

21. Pursuant to Water Code section 13327, in determining the amount of discretionary civil liability, the Central Valley Water Board is required to take into consideration the nature, circumstance, 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 ability to continue in 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 as justice may require.

Settlement

22. The Parties have engaged in confidential settlement negotiations and agree to settle the matter without administrative or civil litigation by presenting this Stipulated Order to the Central Valley Water Board, or its delegee, for adoption as an order by settlement pursuant to Government Code section 11415.60. To resolve the violations by consent and without further administrative proceedings, the Parties have agreed to the imposition of administrative civil liability in the amount of **one hundred and forty-eight thousand nine hundred and fifty dollars (\$148,950.00)** in administrative civil liability against the Discharger.

23. The Central Valley Water Board Prosecution Team believes that the resolution of the alleged violation 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 interest of the public.

Stipulations

The Parties stipulate to the following:

24. **Administrative Civil Liability:** Without admitting the truth of any violations alleged in this Stipulated Order, the Discharger hereby agrees to the imposition of **one hundred and forty-eight thousand nine hundred and fifty dollars (\$148,950.00)** in administrative civil liability to the Central Valley Water Board to resolve the violations alleged in this Stipulated Order. The ACL shall be paid to the State Water Board *Cleanup and Abatement Account*. Payment shall be made no later than thirty (30) days after adoption of an order approving this Stipulated Order by the Central Valley Water Board, or its delegee, by check payable to the State Water Board *Cleanup and Abatement Account*. The Discharger shall indicate on the check the number of this Stipulated Order. The Discharger shall send the original signed check to the Accounting

Office, Attn: ACL Payment, P.O. Box 1888, Sacramento, California 95812-1888. A copy of the check shall be sent to Nickolaus Knight, Attorney, State Water Resources Control Board, Office of Enforcement, P.O. Box 100, Sacramento, CA 95812 and Wendy Wyels, Supervisor, Compliance and Enforcement Section, Regional Water Quality Control Board, Central Valley Region, 11020 Sun Center Drive, Suite 200, Rancho Cordova, CA 95670.

25. **Compliance with Applicable Laws and Regulatory Changes:** The Discharger understands that payment of an ACL 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 additional violations of the type alleged may subject it to further enforcement, including additional ACLs. Nothing in this Stipulated Order shall excuse the Discharger from meeting any more stringent requirements which may be imposed hereafter by changes in applicable and legally binding legislation or regulations.

26. **Party Contacts for Communications Related to Stipulated Order:**

For the Central Valley Water Board:

Wendy Wyels, Supervisor
Compliance and Enforcement Section
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, California 95670
Wendy.Wyels@waterboards.ca.gov
(916) 464-4835

Nickolaus Knight
Office of Enforcement, State Water Resources Control Board
P.O. Box 100
Sacramento, California 95812
Nickolaus.Knight@waterboards.ca.gov
(916) 327-0169

For the Discharger:

Susan Peters
City Planner/ Acting City Manager
City of Jackson
33 Broadway
Jackson, CA 95642
(209)223-1646

Andre Monette
Best, Best and Krieger
2000 Pennsylvania Ave. NW
Washington, D.C. 20006
(619)525-1374

27. **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.
28. **Matters Addressed by Stipulation:** Upon adoption by the Central Valley Water Board, or its delegee, this Stipulated Order represents a final and binding resolution and settlement of all claims, violations, or causes of action alleged in this Stipulated Order or which could have been asserted based on the specific facts alleged in this Stipulated Order against Dischargers as of the effective date of this Stipulated Order. The provisions of this Paragraph are expressly conditioned on Discharger's full payment of the ACL by the deadline specified in Stipulation 1.
29. **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 Valley Water Board, or its delegee. If significant new information is received that reasonably affects the propriety of presenting this Stipulated Order to the Central Valley Water Board, or its delegee, for adoption, the Assistant Executive Officer may unilaterally declare this Stipulated Order void and decide not to present it to the Central Valley Water Board, or its delegee. The Discharger agrees that it may not rescind or otherwise withdraw its approval of this proposed Stipulated Order.
30. **Procedure:** The Parties agree that the procedure that has been adopted for the approval 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 this 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.
31. **No Waiver of Right to Enforce:** The failure of the Prosecution Team or Central Valley 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 this Stipulated Order. The failure of the Prosecution Team or Central Valley Water Board to enforce any such provision shall not preclude it from later enforcing the same or any other provision of this Stipulated Order. No oral advice, guidance, suggestions, or comments by employees or officials of any Party regarding matters covered under this Stipulated Order shall be construed to relieve any Party regarding matters covered in this Stipulated Order. The Central Valley Water Board reserves all rights to take additional enforcement actions, including without limitation the issuance of ACL complaints or orders for violations other than those addressed by this Stipulated Order.
32. **Effect of Stipulated Order:** Except as expressly provided in this Stipulated Order, nothing in this Stipulated Order is intended nor shall it be construed to preclude the Prosecution Team or any state agency, department, board or entity or any local agency from exercising its authority under any law, statute, or regulation.
33. **Interpretation:** This Stipulated Order shall not be construed against the party preparing it, but shall be construed as if the Parties jointly prepared it and any uncertainty and ambiguity shall not be interpreted against any one party.

34. **Modification:** This Stipulated Order shall not be modified by any of the Parties by oral representation whether made before or after the execution of this Stipulated Order. All modifications must be made in writing and approved by the Central Valley Water Board or its delegee.
35. **If Stipulated Order Does Not Take Effect:** In the event that this Stipulated Order does not take effect because it is not approved by the Central Valley 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 the Prosecution Team may proceed to a contested evidentiary hearing before the Central Valley Water Board to determine whether to assess an ACL for the underlying alleged violations, or may continue to pursue settlement. 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 any subsequent administrative or judicial proceeding or hearing and will be fully protected by California Evidence Code sections 1152 and 1154; California Government Code section 11415.60; Rule 408, Federal Rules of Evidence; and any other applicable privilege under federal and/or state law. The Parties also agree to waive any and all objections related to their efforts to settle this matter, including, but not limited to:
- a. Objections related to prejudice or bias of any of the Central Valley Water Board members or their advisors and any other objections to the extent that they are premised in whole or in part on the fact that the Central Valley Water Board members or their advisors were exposed to some of the material facts and the Parties settlement positions, and therefore may have formed impressions or conclusions, prior to conducting any contested evidentiary hearing in this matter; provided however, that objections intended to preserve Discharger's due process rights are not waived by this section; or
 - b. Laches or delay or other equitable defenses based on the time period that the Stipulated Order or decision by settlement may be subject to administrative or judicial review.
36. **Waiver of Hearing:** The Discharger has been informed of the rights provided by Water Code section 13323, subdivision (b), and hereby waives its right to a hearing before the Central Valley Water Board.
37. **Waiver of Right to Petition:** The Discharger hereby waives the right to petition the Central Valley Water Board's adoption of the Stipulated Order as written for review by the State Water Board, and further waives the rights, if any, to appeal the same to a California Superior Court and/or any California appellate level court.
38. **Covenant Not to Sue:** Upon the effective date of this Stipulated Order, Discharger shall and does release, discharge, and covenant not to sue or pursue any civil or administrative claims against any State Agency or the State of California, its officers, agents, directors, employees, attorneys, representatives, for any and all claims or cause of action, which arise out of or are related to this action.
39. **Water Boards Not Liable:** Neither the Central Valley Water Board members nor the Central Valley Water Board staff, attorneys, or representatives shall be liable for any injury or damage to persons or property resulting from the negligent or intentional acts or

omissions by Discharger or its respective directors, officers, employees, agents, representatives, or contractors in carrying out activities pursuant to this Stipulated Order, nor shall the Central Valley Water Board, its members or staff be held as parties to or guarantors of any contract entered into by Discharger, or its directors, officers, employees, agents, representatives, or contractors in carrying out activities pursuant to this Stipulated Order.

40. **Authority to Enter Stipulated Order:** 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 Stipulated Order.
41. **Necessity for Written Approvals:** All approvals and decisions of the Central Valley Water Board under the terms of this Stipulated Order shall be communicated to the Discharger in writing. No oral advice, guidance, suggestions or comments by employees or officials of the Central Valley Water Board regarding submissions or notices shall be construed to relieve the Discharger of its obligation to obtain any final written approval required by this Stipulated Order.
42. **No Third Party Beneficiaries:** This Stipulated Order is not intended to confer any rights or obligation 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.
43. **Severability:** This Stipulated Order is severable; should any provision be found invalid the remainder shall remain in full force and effect.
44. **Effective Date:** This Stipulated Order shall be effective and binding on the Parties upon the date the Central Valley Water Board, or its delegee, enters the Stipulated Order.
45. **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 Valley Region

By: _____ Original Signed By _____
Andrew Altevogt
Assistant Executive Officer

Date: 1/26/17

City of Jackson

By: _____ Original Signed By _____
Susan Peters
Acting City Manager
City of Jackson

Date: 1/23/2017

HAVING CONSIDERED THE PARTIES' STIPULATIONS, THE CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD, BY AND THROUGH ITS EXECUTIVE OFFICER, FINDS THAT:

1. In adopting this Stipulated Order, the Central Valley Water Board, or its delegee, has considered, where applicable, each of the factors prescribed in Water Code sections 13327, 13351, and 13385(e). The consideration of these factors is based upon information and comments obtained by the Central Valley Water Board's staff in investigating the allegations concerning the Discharger discussed herein or otherwise provided to the Central Valley 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 Valley Water Board. The method of compliance with this enforcement action consists entirely of payment of amounts for ACL. As such, the Central Valley Water Board finds that issuance of this Stipulated 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, issuance of this Stipulated Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et seq.), in accordance with sections 15061(b)(3) and 15321(a)(2), of Title 14 of the California Code of Regulations.
3. The foregoing Stipulation is fully incorporated herein and made part of this Stipulated Order.

Pursuant to Water Code section 13323 and Government Code section 11415.60, **IT IS HEREBY ORDERED** on behalf of the California Regional Water Quality Control Board, Central Valley Region that the Stipulated Order is approved.

Original Signed By
Pamela Creedon
Executive Officer
Central Valley Regional Water Quality Control Board

3/20/17
Date

Attachment A: Specific Factors Considered for Administrative Civil Liability
Attachment B: City of Jackson Spill Reports Table

Attachment A – Stipulated Order R5-2017-0506
Specific Factors Considered for Administrative Civil Liability
City of Jackson
Sanitary Sewer Collection System
Amador County

The State Water Board's *Water Quality Enforcement Policy* (Enforcement Policy) establishes a methodology for determining administrative civil liability by addressing the factors that are required to be considered under California Water Code section 13385(e). Each factor of the nine-step approach is discussed below, as is the basis for assessing the corresponding score. The Enforcement Policy can be found at:

http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf.

Background

On 26 January 2016, Central Valley Water Board staff met with the City of Jackson's (Discharger) Public Works Superintendent and collection system maintenance staff to determine compliance with the Statewide General Waste Discharge Requirements for Sanitary Sewer Systems (SSS General Order) and amended Monitoring and Reporting Program (MRP). From the interviews and documentation presented by the Discharger, the Prosecution Team alleges that the Discharger did not report all sanitary sewer overflows (SSOs) as required by the SSS General Order and did not comply with other aspects of the SSS General Order. This Complaint has been issued because the Prosecution Team alleges that the Discharger has failed to (a) submit a complete a Sewer System Management Plan (SSMP), (b) conduct SSMP audits every two years, (c) update its SSMP once every five years, and (d) report SSOs. The Discharger also allegedly failed to adequately respond to the 26 February 2016 Water Code section 3267 Order for technical reports. This Order assesses penalties for three of the alleged violations: inadequate SSMP, failure to update the SSMP, and failure to report SSOs.

Violation #1: Inadequate Sewer System Management Plan (SSMP) and Lack of an Updated SSMP

Provision D.11 of the SSS General Order requires the Discharger to develop and implement a SSMP. The SSMP's main goal is to provide a plan to properly manage, operate, maintain, and report any SSO an incident, which is intended to reduce and prevent SSOs, as well as mitigate any SSOs that may occur. Not having a complete SSMP may prevent the Discharger from properly maintaining, operating, and reporting SSOs to the appropriate agencies. Although the City met the requirement to certify its SSMP by 1 May 2010, Board staff alleges that the Discharger's SSMP is not complete, lacks detail, and is missing crucial elements and therefore does not meet the intent of the General Order. Moreover, as required by section D.14 of the SSS General Order "*The SSMP must be updated every five (5) years, and must include any significant program changes. Re-certification by the governing board of the Enrollee is required in accordance with Section D.14.*" The original SSMP was to have been completed and certified by 1 May 2010, and the SSMP was to have been updated by 1 May 2015; however, this was not completed.

The following steps are used in determining administrative civil liability for Violation #1:

Step 1 – Potential for Harm for Discharge Violations

The Prosecution Team is not alleging a discharge violation; therefore, the evaluation of this factor has been omitted from the following calculation.

Step 2 – Assessment for Discharge Violations

The Prosecution Team is not alleging a discharge violation; therefore, the evaluation of this factor has been omitted from the following calculation.

Step 3 – Per Day Assessment for Non-Discharge Violations

The “per day” factor is calculated for each non-discharge violation considering the (a) potential for harm and (b) the extent of the deviation from the applicable requirements.

Potential for Harm

The Enforcement Policy requires a determination of whether the characteristics of the violation resulted in a minor, moderate, or major potential for harm or threat to beneficial uses. In this case, Board staff believes a “Moderate” factor is appropriate because the failure to complete and implement an adequate SSMP indicates a substantial potential for harm to beneficial uses. Although the Discharger did prepare a document, and certified that it was completed correctly, Board staff alleges the following deficiencies:

- Provision D.13(ii), “Organization of the SSMP” requires the Discharger to include the chain of communication for reporting SSOs, including the person that will report SSOs to the Water Board. This section also requires that the Discharger identify the management, administrative, and maintenance positions responsible for implementing the specific measures of the SSMP program. However, staff alleges that the information is not included, even though the Discharger certified on 18 March 2008¹ that the “Organization” section had been completed.
- Provision D.13(iv), “Operation and Maintenance Program” requires the Discharger to include a routine preventive maintenance (PM) program, develop a rehabilitation and replacement plan, an associated rehabilitation and replacement ranking system and provide training on a regular basis for staff. However, staff alleges that the SSMP does not include a PM program, a rehabilitation and replacement plan, or a ranking system, even though the Discharger certified on 1 November 2000¹ that the “Operation and Maintenance Program” section had been completed.
- Although the “Operation and Maintenance Program” of the SSMP states that the Discharger will provide training to its staff on a regular basis, Board staff alleges, based on the interviews conducted during Board staff’s 26 January 2016 inspection, a lack of documentation of training, and inadequate reporting of SSOs, that the Discharger has failed to provide adequate training to its staff.
- Although the “Operation and Maintenance Program” of the SSMP contains templates of tables for maintenance staff to fill out during maintenance activities (i.e., “Hydroflushing”, “Root X application”, and “Sewer Preventative Maintenance List”), Board staff alleges, based on the inspection on 26 January 2016 that the Discharger does not have an active

preventative maintenance program, and that the City does not have system for scheduling regular maintenance and cleaning of the collection system.

- Provision D.13 (vii) requires the Discharger to develop a public education outreach program that promotes proper disposal of fats, oils, and grease (FOG) and requirements to install grease removal devices. However, staff alleges that the SSMP does not include a FOG program, even though even though the Discharger certified on 10 September 2009¹ that the “FOG Control Program” had been completed.
- Provision D.13(vii), “System Evaluation and Capacity Assurance Plan” requires the Discharger to prepare and implement a capital improvement plan to ensure that the sewer system has sufficient hydraulic capacity. Specific items are required in the plan. Staff alleges this section of the Discharger’s SSMP is wholly inadequate and does not meet the intent of the SSO General Order, even though the Discharger certified on 29 April 2010¹ that the “System Evaluation and Capacity Assurance Plan” had been completed.
- Provision D.13(ix), “Monitoring, Measurement, and Program Modifications” requires that the Discharger monitor implementation of its SSMP, update program elements as necessary, and identify SSO trends. This section of the Discharger’s SSMP states that the City will track performance measures and update the success of the SSMP during an annual audit. However, staff alleges that there is a lack of tracking and that the City has not conducted any audits of its SSMP.
- Provision D.13 (x) requires the Discharger to audit its SSMP at a minimum every two years and Provision D.14 requires the Discharger to update its SSMP every five years. This section of the SSMP states that the first audit will be in 2012, and every two years thereafter. This section also states that the full SSMP will be updated every five years, i.e., in 2015. However, based on the 26 January 2016 inspection staff alleges that the City has not conducted any SSMP audits or provided any updates or revisions to its SSMP.
- Provision D.9 of the SSS General Order requires that the Discharger allocate adequate resources for the operations, maintenance, and repair of its sewer system. However, based on the 26 January 2016 inspection, staff alleges that the City does not have a Capital Improvement Plan for sewer collection improvements or operations. Instead, the collection staff relies on the City’s annual budget to cover any maintenance, repair, or improvement projects. It does not appear that the City has allocated sufficient resources to operate and maintain its sewer system.

Although it could be argued that a “major” deviation from requirement is appropriate, staff have assigned a “moderate” deviation from the requirement. The lack of an adequate SSMP, the failure to conduct audits, the failure to update the SSMP after five years, and the failure to implement the few items contained in the SSMP may have resulted in an unknown number of sanitary sewer overflows and at least a moderate deviation from the SSO General Order’s requirements. Using Table 3 of the Enforcement Policy, the Per Day Factor of 0.35 is assigned. This value is to be multiplied by the days of violation and the maximum per day penalty, as shown in the Initial Liability table below.

Days of Violation

The Enforcement Policy provides that, for violations lasting more than 30 days, the Central Valley Water Board may adjust the per-day basis for civil liability if certain findings are made and provided that the adjusted per-day basis is no less than the per-day economic benefit, if any, resulting from the violation. In order to adjust the per-day basis, the Central Valley Water Board must make express findings that the violation: (1) is not causing daily detrimental impacts to the environment or the regulatory program; or (2) results in no economic benefit from the illegal conduct that can be measured on a daily basis; or (3) occurred without the knowledge or control of the violator, who therefore did not take action to mitigate or eliminate the violation. The Prosecution Team finds that finding (2) applies as the actions of the Discharger result in no economic benefit that can be measured on a daily basis for not submitting a complete SSMP. Therefore, the Prosecution Team compressed the days of violations.

The table below outlines the date by which the initial SSMP and updated SSMP were to be completed, the total days of violation, and the associated compressed days of violation as of 31 December 2016.

| Report | Due Date | Violation Range | Total Days of Violations | Compressed Days |
|--------------|------------|--------------------------------|--------------------------|-----------------|
| SSMP | 2 May 2010 | 2 May 2010 to 2 May 2015 | 1,826 | 66 |
| Updated SSMP | 2 May 2015 | 3 May 2015 to 31 December 2016 | 608 | 26 |
| Total | | | 2,434 | 92 |

Initial Liability for Violation #1

$$(0.35 \text{ factor from Table 3}) \times (92 \text{ Days}) \times (\$1,000/\text{day}) = \$32,200$$

Step 4A – Adjustment Factors

There are three additional factors to be considered for modification of the amount of initial liability: the violator’s culpability, efforts to clean-up or cooperate with regulatory authority, and the violator’s compliance history. After each of these factors is considered for the violations involved, the applicable factor should be multiplied by the proposed amount for each violation to determine the revised amount for that violation.

Culpability

Higher liabilities should result from intentional or negligent violations as opposed to accidental violations. A multiplier between 0.5 and 1.5 is to be used, with a higher multiplier for negligent behavior. The Discharger was given a multiplier value of 1.5. The goal of the SSMP is to provide a plan and schedule to properly manage, operate, and maintain all parts of the sanitary sewer system. This will help the Discharger to determine where maintenance is needed in the collection system to prevent future SSOs, as well as mitigate any SSOs that do occur. In addition, the SSMP shall include elements that will help the Discharger to develop a routine preventive operation and maintenance program, rehabilitation and replacement plan, provide training on a regular basis for its staff, and provide replacement and part inventories. Although the Discharger has a certified SSMP, Board staff alleges the SSMP lacks essential details for the Discharger to take appropriate

action to prevent and maintain its collection system. Board staff alleges that the Discharger knew or should have known its SSMP was deficient, even though it certified that it was completed in the CIWQS database. For example, the SSMP failed to provide the chain of communication for reporting SSOs to appropriate agencies, failed to provide the preventative maintenance program, failed to provide a rehabilitation and replacement plan, and lacks a capital improvement plan. the Discharger is fully culpable for these alleged deficiencies, as the required portions of a SSMP are clearly stated in the SSO General Order. Therefore, it is appropriate to assign a multiplier value of 1.5.

Cleanup and Cooperation

This factor reflects the extent to which a discharger voluntarily cooperates in returning to compliance and correcting environmental damage. A multiplier between 0.75 and 1.5 is to be used, with a higher multiplier when there is a lack of cooperation. Since the Discharger is enrolled under the SSS General Order, the Discharger must comply with all aspects of the SSS General Order, including SSMP requirements, the monitoring, record keeping, reporting, and public notification requirements. As described above, staff alleges the Discharger does not have a complete SSMP, is not reporting all of the SSOs required to be reported, and failed to provide adequate public notification to protect the public from exposure to the SSOs. Therefore, the Discharger was given a multiplier value of 1.5.

History of Violation

When there is a history of repeat violations, the Enforcement Policy requires a minimum multiplier of 1.1 to be used. The Discharger does not have a history of violations stemming from its collection system. Given that, a multiplier value of 1.0 is appropriate for this case.

Total Liability for Violation #1

$$\$32,200 \times 1.5 \times 1.5 \times 1.0 = \$72,450$$

Violation #2: Inappropriate or Fraudulent Sanitary Sewer Overflow Reports

The SSO General Order requires that all dischargers enter and report all SSOs through the California Integrated Water Quality System (CIWQS) database in addition to providing adequate public notification to protect the public from exposure to the SSOs to appropriate agencies (i.e. California State Office of Emergency Services (CalEMA), County Environmental Health, etc.). For any calendar month(s) in which a SSO did not occur, enrollees must enter a “No-Spill” certification report into CIWQS. The Discharger appears to have submitted numerous “No-Spill” reports when in actuality there were SSOs. Attachment B to the Stipulated Order details how staff determined which months the Discharger appears to have submitted false “no spill” reports.

The following steps are used in determining administrative civil liability for Violation #2:

Step 1 – Potential for Harm for Discharge Violations

Because the Discharger is alleged to have failed to keep records regarding when SSOs occurred and the volume spilled to surface water, the Prosecution Team is unable to allege any discharge violations; therefore, the evaluation of this factor has been omitted from the following calculation.

Step 2 – Assessment for Discharge Violations

Because the Discharger is alleged to have failed to submit the required SSO reports, the Prosecution Team is unable to determine the volume of sewage which has spilled from the collection system. Therefore, the Prosecution Team is unable to allege a discharge violation.

Step 3 – Per Day Assessment for Non-Discharge Violations

The “per day” factor is calculated for each non-discharge violation considering the (a) potential for harm and (b) the extent of the deviation from the applicable requirements.

Potential for Harm

The Enforcement Policy requires a determination of whether the characteristics of the violation resulted in a minor, moderate, or major potential for harm or threat to beneficial uses. The Discharger is required by the SSS General Order to submit SSO incident reports via CIWQS¹ on a monthly basis. Staff alleges the Discharger failed to report Category 1, 2 and/or 3 SSO incidents that occurred and instead submitted “*No Spill Certification*” reports in CIWQS. Not submitting accurate SSO reports prevents Board staff from evaluating the Discharger’s collection system operations, maintenance, and spills. Spills that occurred in which surface waters were impacted potentially endangers aquatic and public health. This type of violation represents a “substantial threat to public health” because the local health agencies, the State Office of Emergency Services, the Central Valley Regional Board, and other regulatory agencies were not aware of any sewer spills that may have occurred from the collection system; therefore, were unable to issue public notifications and warnings if necessary. A value of “Major” is therefore warranted.

The Enforcement Policy requires determination of whether the violation represents either a minor, moderate, or major deviation from the applicable requirements. For the Deviation from Requirement, Board staff believes a “Major” factor is appropriate in this case because staff alleges the Discharger provided falsified reports certifying that there were no SSOs from the collection system and threatened public health by not notifying appropriate agencies as required by Water Code section 13271 and the SSS General Order. Using Table 3 in the Enforcement Policy, the Per Day Factor of 0.85 is assigned. This value is to be multiplied by the days of violation and the maximum per day penalty, as shown in the Initial Liability table below.

Days of Violation

On 26 January 2016, Central Valley Water Board staff (Senior Water Resources Control Engineer, Kari Holmes and Water Resources Control Engineer, Mohammad Farhad) met with the City of Jackson’s Public Works Superintendent to determine compliance with the SSO General Order and MRP. The inspection was in response to the Discharger’s “*No Spill Certification*” reports submitted through CIWQS since June 2012 through December 2015, consecutively, except for the month of April 2015. MRP Provision C.4.iii requires the Discharger to certify the “*No Spill*” reports under

¹ The California Integrated Water Quality System (CIWQS) allows online submittal of information by Permittees within certain programs and makes data available to the public through reports. CIWQS is publicly available at: <http://www.waterboards.ca.gov/ciwqs/publicreports.shtml>

penalty of perjury. In addition, Board staff received several complaints that the City has not been reporting their SSOs.

According to the SSO General Order Provision D.5, "*All SSOs must be reported in accordance with Section G of the General Order.*" During the meeting, Board staff interviewed City staff and reviewed the operators' time sheets and daily log sheets used for billable hours by the collection system operators, which provide the basis for Board staff's allegations that the Discharger is not documenting and reporting their SSOs as required by the SSO General Order. Board staff alleges it is evident that the Discharger is not reporting all of the SSOs and is in violation with the SSO General Order.

During the inspection, Board staff concluded the Discharger did not have procedures in place to properly document SSOs. Therefore, the Board issued a Water Code section 13267 Order on 26 February 2016 that requested daily log sheets and maintenance operators' timesheets. On 17 March 2016, the Discharger submitted timesheets from 1 January 2012 through 31 December 2015. Board staff utilized these maintenance staff timesheets, which included a description and location of sewer maintenance activities, to determine when and where potential SSOs occurred. When Board staff compared the timesheets with SSOs reported in CIWQS, there were multiply entries on the timesheets described as "Sewer Plugs" which were also reported in CIWQS as a SSO. Board staff therefore considered that an SSO occurred if a sewer plug was reported on the timesheets submitted by the Discharger. In addition, when the timesheets documented that a sewer event was in response to a "Callout" (e.g. a member of the community called the City to report a sewer complaint), Board staff considered these events as SSOs because reports generally come in from the public when sewage is backed up and is visible. Finally, Board staff alleges that those events which contained an unusually high number of staff hours or overtime hours were in fact SSOs and should have been reported in CIWQS as such. Typical maintenance events took approximately 0.5 to 3 hours for two staff or more to conduct the work. Staff compared the months with reported sewer plugs, callouts, and/or excessive hours/overtime hours with the months in which a "No Spill" certification was entered in CIWQS, and considered an inappropriate report to be any time there was one or more of those three event types on the timesheets where a "No Spill" certification was reported in CIWQS. Board staff are only alleging that sewer plugs, callouts, and/or excessive hours/overtime hour entries on the timesheets should have been reported in CIWQS; however, there are SSOs reported in CIWQS that have a corresponding entry on the timesheets which are described as "Sewer Maintenance." Therefore, Board staff is being reasonable by only including those events where a sewer plug, callout, and/or excessive hours/overtime hours are reported.

Attachment B of the Stipulated Order lists the SSO reports that Board staff allege should have been submitted between January 2012 and December 2015, as well as staff's rationale for determining whether an inaccurate report was submitted. For the 48 month period, Board staff alleges that 34 inaccurate or fraudulent reports were submitted. Each report was in violation for a one month period, i.e., until the next report was due. Attachment B shows that there were a total of 1,035 days of violation.

The Enforcement Policy provides that, for violations lasting more than 30 days, the Central Valley Water Board may adjust the per-day basis for civil liability if certain findings are made and provided that the adjusted per-day basis is no less than the per-day economic benefit, if any, resulting from the violation. In order to adjust the per-day basis, the Central Valley Water Board must make express findings that the violation: (1) is not causing daily detrimental impacts to the environment or

the regulatory program; or (2) results in no economic benefit from the illegal conduct that can be measured on a daily basis; or (3) occurred without the knowledge or control of the violator, who therefore did not take action to mitigate or eliminate the violation. The Prosecution Team finds that finding (2) applies as there is no economic benefit that can be measured on a daily basis for non-reporting of the spill events. Using the Enforcement Policy method, the Prosecution Team compressed the days of violations to 40 days.

Initial Liability Violation #2

$$(0.85 \text{ factor from Table 3}) \times (40 \text{ Days}) \times (\$1,000/\text{day}) = \$34,000$$

Step 4B – Adjustment Factors

There are three additional factors to be considered for modification of the amount of initial liability: the violator's culpability, efforts to clean-up or cooperate with regulatory authority, and the violator's compliance history. After each of these factors is considered for the violations involved, the applicable factor should be multiplied by the proposed amount for each violation to determine the revised amount for that violation.

Culpability

Higher liabilities should result from intentional or negligent violations as opposed to accidental violations. A multiplier between 0.5 and 1.5 is to be used, with a higher multiplier for negligent behavior. The Discharger was given a multiplier value of 1.5. On 26 January 2016, Board staff met with the City of Jackson's Sanitary Sewer Collection System facilities maintenance staff to determine compliance with the SSS General Order. From the meeting, staff interviews, and documentation reviews, Board staff contends that the Discharger has intentionally not reported its SSOs. Therefore, it is appropriate to use a culpability multiplier of 1.5 for this adjustment factor.

Cleanup and Cooperation

This factor reflects the extent to which a discharger voluntarily cooperates in returning to compliance and correcting environmental damage. A multiplier between 0.75 and 1.5 is to be used, with a higher multiplier when there is a lack of cooperation. Board staff relies on the Discharger's self-generated SSO reports, SSO response records, and spill volumes required by the SSS General Order and MRP to assure compliance. Since the Discharger failed to maintain these types of records for each SSO event, Board staff cannot verify the number of SSOs and the associated volume discharged to land or surface waters from the Discharger's collection system. Because the Discharger failed to report these incidents to local and state agencies, Board staff alleges the Discharger has endangered the public. Therefore, the Discharger was given a multiplier value of 1.5.

History of Violation

When there is a history of repeat violations, the Enforcement Policy requires a minimum multiplier of 1.1 to be used. The Discharger does not have a history of violations from its collection system. Given that, a multiplier value of 1.0 is appropriate for this case.

Total Liability for Violation #2

$$\$34,000 \times 1.5 \times 1.5 \times 1.0 = \$76,500$$

Step 5 - Determination of Total Base Liability Amount

This value is the sum of the two violations, and is \$148,950.

Step 6 - Ability to Pay and Ability to Continue in Business

The ability to pay and to continue in business factor must be considered when assessing administrative civil liabilities. The City of Jackson is a public entity with the ability to raise funds. In addition, the State Water Board's Senior Economist used the US EPA's MUNIPAY model to determine the City's ability to pay. Data was used from the City's 2014-2015 financial report, as the City has stated that the 2015-2016 financial report is not yet available. The model showed that Jackson can pay a penalty of up to \$1.2 million.

Step 7 – Other Factors as Justice May Require

If the Central Valley Water Board believes that the amount determined using the above factors is inappropriate, the amount may be adjusted under the provision for "other factors as justice may require," but only if express findings are made to justify this.

Costs of Investigation and Enforcement Adjustment

The costs of investigation and enforcement are "other factors as justice may require," and could be added to the liability amount. The Central Valley Water Board incurred over \$45,000 (300 hours at a statewide average of \$150/hour) in staff costs associated with the investigation and enforcement of the violations alleged herein. The Prosecution Team, in its discretion, is not recommending an increase in the Total Base Liability amount in consideration of these costs incurred as the proposed liability amount serves as a sufficient general and specific deterrent against future violations.

Step 8 – Economic Benefit

Pursuant to Water Code section 13385(e), civil liability, at a minimum, must be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation. In general, the Discharger accrued a benefit by not responding to spills, not notifying the appropriate agencies, not submitting spill reports, and not preparing/updating the Master Plan. Board staff has estimated the costs for these activities and used the USEPA BEN model to determine an estimated economic benefit. The BEN model output is included as an attachment to this Complaint. The estimated economic benefit is \$6,093.

Final adjusted liability

The final adjusted liability is \$148,950

Step 9 – Maximum and Minimum Liability Amounts

The maximum and minimum amounts for discharge violation must be determined for comparison to the amounts being proposed.

Maximum Liability Amount: The maximum liability is calculated as follows: As of 31 December 2016, the inadequate SSMP and lack of an updated SSMP are 2,434 days late, and the SSO reports are 1,035 days late. There are 3,470 total days of violation. Per Water Code section 13268, subdivision (b)(1) the maximum administrative civil liability that may be assessed for the delinquent reports is \$1,000 per day, for a total of \$3,470,000.

Minimum Liability Amount: the minimum liability is equal to the economic benefit plus 10%, which estimated to be \$6,702.

Step 10 – Final liability Amount

The final liability amount consists of the added amounts for each violation, with any allowed adjustments, provided amounts are within the statutory minimum and maximum amounts. Without further investigation of the violations, calculation of economic benefits, or staff time, the proposed Administrative Civil Liability is \$148,950.

Attachment B to Stipulated Agreement R5-2017-0506
City of Jackson Inappropriate Spill Reports

| Monitoring Report | Due Date | "No Spill Certification" Or SSO Reported by Discharger | Inappropriate Report? | Reason | Days of Violation | Maximum Penalty |
|-------------------|-----------|--|-----------------------|--|-------------------|-----------------|
| Jan-12 | 3/1/2012 | SSO reported | Yes | The Discharger reported two sewer plugs on 1/26/12 and 1/31/12. The 1/26/12 sewer plug was reported in CIWQS (SSO, Event ID #776695) and the 1/31/12 sewer plug was not reported in CIWQS. Therefore, Board staff contends that not all of the SSOs were reported during the monitoring period. | 31 | \$31,000 |
| Feb-12 | 4/1/2012 | SSO reported | No | The Discharger reported on their timesheets one sewer plug on 2/27/12, which was reported in CIWQS (SSO, Event ID #778025). | | \$0 |
| Mar-12 | 5/1/2012 | SSO reported | Yes | The Discharger reported sewer maintenance on 3/9/12 and a sewer plug on 3/11/12, which were reported in CIWQS (SSO, Event IDs #778574 & 778589). Both events reported callouts and include overtime hours on the timesheets. A sewer callout also occurred on 3/2/12 as recorded on the timesheets; however, no SSO was reported for this event. Therefore, Board staff contends that not all SSOs were reported during the monitoring period. | 31 | \$31,000 |
| Apr-12 | 6/1/2012 | SSO reported | No | The Discharger reported sewer maintenance on 4/11/12, which was reported in CIWQS as a spill (SSO Event ID #779847). | | \$0 |
| May-12 | 7/1/2012 | SSO reported | Yes | The Discharger reported a sewer plug and sewer manhole on 5/14/12, which include overtime hours for the sewer plug event. The Discharger did not report a spill in CIWQS occurring on 5/14/12. However, the Discharger reported a spill on 5/17/12 in CIWQS (SSO, Event ID #781454) for which there is no corresponding timesheet entry. Therefore, Board staff contends that not all of the SSOs were reported during the monitoring period. | 31 | \$31,000 |
| Jun-12 | 8/1/2012 | No Spill Certification | Yes | The Discharger reported a sewer plug on 6/10/12, which included overtime hours on the timesheets. However, no SSOs were reported in CIWQS for this monitoring period. Therefore, Board staff contends that not all of the SSOs were reported during the monitoring period. | 30 | \$30,000 |
| Jul-12 | 9/1/2012 | No Spill Certification | No | No sewer plugs, callouts, or excessive hours/overtime reported on timesheets. | | \$0 |
| Aug-12 | 10/1/2012 | No Spill Certification | Yes | No SSOs were reported in CIWQS during the monitoring period. However, a callout at Endicott was documented on the timesheets on 8/17/12. Subsequent repairs were conducted at Endicott on 8/20/12. Therefore, Board staff contends that not all of the SSOs were reported during the monitoring period. | 31 | \$31,000 |
| Sep-12 | 11/1/2012 | No Spill Certification | Yes | The Discharger reported sewer maintenance on 9/18/12 and that three staff spent a total of 17 regular working hours for the maintenance. Board staff notes that this seems like a larger event based on the number of staff hours spent on the activities. Therefore, Board staff contends that not all of the SSOs were reported during the monitoring period. | 30 | \$30,000 |

Attachment B to Stipulated Agreement R5-2017-0506
City of Jackson Inappropriate Spill Reports

| Monitoring Report | Due Date | "No Spill Certification" Or SSO Reported by Discharger | Inappropriate Report? | Reason | Days of Violation | Maximum Penalty |
|-------------------|-----------|--|-----------------------|--|-------------------|-----------------|
| Oct-12 | 12/1/2012 | No Spill Certification | Yes | No SSOs were reported in CIWQS during the monitoring period. However, the timesheets include documentation of a callout at N. Main Street was reported on 10/5/12, which resulted in 3 hours of overtime. A location described as Boarman on the timesheets included a sewer maintenance event on 10/19/12 (1 hour of overtime), a sewer plug on 10/25/2012, and a sewer repair on 10/30/12 (16.5 hours). Therefore, Board staff contends that not all of the SSOs were reported during the monitoring period. | 31 | \$31,000 |
| Nov-12 | 1/1/2013 | No Spill Certification | Yes | No SSOs were reported in CIWQS during the monitoring period. However, the timesheets include documentation of two sewer plugs occurring on 11/14/12 (French Bar Rd.) and 11/28/12 (Broadway). The 11/28/12 sewer plug documentation indicates a total of 9 working hours (3 staff) were necessary to respond to the sewer plug. Therefore, Board staff contends that not all of the SSOs were reported during the monitoring period. | 30 | \$30,000 |
| Dec-12 | 2/1/2013 | No Spill Certification | Yes | No SSOs were reported in CIWQS during the monitoring period. However, the timesheets include documentation of five sewer plugs which occurred on 12/5/12 (Church St.), 12/9/12 (Church St. - 6 overtime hours), 12/11/12 (Hoffman), 12/11/12 (Sutter St. - 2 overtime hours), and 12/27/12 (Kern St.). Therefore, Board staff contends that not all of the SSOs were reported during the monitoring period. | 31 | \$31,000 |
| Jan-13 | 3/1/2013 | No Spill Certification | Yes | No SSOs were reported in CIWQS during the monitoring period. However, the timesheets include documentation of a sewer plug which occurred on 1/10/13 on Ava Way resulting in 9 hours of staff time and required 3 staff to respond. Therefore, Board staff contends that not all of the SSOs were reported during the monitoring period. | 31 | \$31,000 |
| Feb-13 | 4/1/2013 | No Spill Certification | Yes | No SSOs were reported in CIWQS during the monitoring period. However, the timesheets include documentation of a sewer maintenance at "No Name Alley" occurring on 2/4/13 with a total of 14 working hours (3 staff). On 2/7/13, the Discharger returned to the same location for 3.5 hours of additional sewer maintenance. Therefore, Board staff contends that not all of the SSOs were reported during the monitoring period. | 28 | \$28,000 |
| Mar-13 | 5/1/2013 | No Spill Certification | Yes | No SSOs were reported in CIWQS during the monitoring period. However, the timesheets include documentation that on 3/4/13 the Discharger reported a sewer plug on Amador Street (3 overtime hours) and a callout on 3/9/13 to Broadway (3 overtime hours). In addition, two maintenance events were reported at Broadway on the timesheets for this reporting period. Therefore, Board staff contends that not all of the SSOs were reported during the monitoring period. | 31 | \$31,000 |

Attachment B to Stipulated Agreement R5-2017-0506
City of Jackson Inappropriate Spill Reports

| Monitoring Report | Due Date | "No Spill Certification" Or SSO Reported by Discharger | Inappropriate Report? | Reason | Days of Violation | Maximum Penalty |
|-------------------|-----------|--|-----------------------|--|-------------------|-----------------|
| Apr-13 | 6/1/2013 | No Spill Certification | Yes | No SSOs were reported in CIWQS during the monitoring period. However, the timesheets include documentation that on 3/4/13 sewer maintenance occurred at Laughton Lane, which resulted in 3 overtime hours. Therefore, Board staff contends that not all of the SSOs were reported during the monitoring period. | 30 | \$30,000 |
| May-13 | 7/1/2013 | No Spill Certification | No | No sewer plugs, callouts, or excessive hours/overtime reported on timesheets. | | \$0 |
| Jun-13 | 8/1/2013 | No Spill Certification | No | No sewer plugs, callouts, or excessive hours/overtime reported on timesheets. | | \$0 |
| Jul-13 | 9/1/2013 | No Spill Certification | No | No sewer plugs, callouts, or excessive hours/overtime reported on timesheets. | | \$0 |
| Aug-13 | 10/1/2013 | No Spill Certification | No | No SSOs were reported in CIWQS during the monitoring period. However, on 8/2/13 the Discharger reported a callout on Jackson (3 overtime hours) and a callout on 8/2/13 to Court (3 overtime hours). Therefore, Board staff contends that not all of the SSOs were reported during the monitoring period. | 31 | \$31,000 |
| Sep-13 | 11/1/2013 | No Spill Certification | Yes | No SSOs were reported in CIWQS during the monitoring period. However, the following events were reported on the timesheets during the monitoring period: 9/3/13 (510 Perry, callout, 3 hours overtime), 9/4/13 (Perry, maintenance, 1 hour overtime), 9/4/13 (Bright, callout, 4 hours overtime), 9/8/13 (18 Main, callout, 4 hours overtime), and 9/17/13 (Court St, sewer plug). Therefore, Board staff contends that not all of the SSOs were reported during the monitoring period. | 30 | \$30,000 |
| Oct-13 | 12/1/2013 | No Spill Certification | Yes | No SSOs were reported in CIWQS during the monitoring period. However, on 10/17/13 the Discharger reported a sewer plug on the Discharger's timesheets at Mountain View which resulted in 2 overtime hours. Therefore, Board staff contends that not all of the SSOs were reported during the monitoring period. | 31 | \$31,000 |
| Nov-13 | 1/1/2014 | No Spill Certification | No | No sewer plugs, callouts, or excessive hours/overtime reported on timesheets. | | \$0 |
| Dec-13 | 2/1/2014 | No Spill Certification | Yes | No SSOs were reported in CIWQS during the monitoring period. However, the Discharger reported a callout occurring on 12/28/13 to Elizabeth (3 overtime hours). Therefore, Board staff contends that not all of the SSOs were reported during the monitoring period. | 31 | \$31,000 |
| Jan-14 | 3/1/2014 | No Spill Certification | Yes | No SSOs were reported in CIWQS during the monitoring period. However, the timesheets include documentation of four sewer plugs which occurred on 1/9/14, 1/17/14, 1/18/14, and 1/24/14. The sewer plug on 1/9/14 was reported to have occurred at 205 Court St. The Discharger reported repairs at the same location on 1/15/14 and 1/16/14, totaling 40 hours in all for response to this event. In addition, the sewer plugs on 1/17/14 and 1/18/14 resulted in 20 hours of overtime. Therefore, Board staff contends that not all of the SSOs were reported during the monitoring period. | 31 | \$31,000 |

Attachment B to Stipulated Agreement R5-2017-0506
City of Jackson Inappropriate Spill Reports

| Monitoring Report | Due Date | "No Spill Certification" Or SSO Reported by Discharger | Inappropriate Report? | Reason | Days of Violation | Maximum Penalty |
|-------------------|-----------|--|-----------------------|---|-------------------|-----------------|
| Feb-14 | 4/1/2014 | No Spill Certification <u>and</u> SSO Reported | Yes | The Discharger submitted a "No Spill Certification" via CIWQS for the February 2014 monitoring period; however, despite the "No Spill Certification," event ID #804231 was reported by the Discharger via CIWQS for a spill that occurred on 2/25/14. The Discharger's timesheets include sewer maintenance at a lift station occurring on 2/25/14. Since there are conflicting reports and the Discharger did not keep adequate records, Board staff consider this monitoring period's SSO reporting to be insufficient. | 28 | \$28,000 |
| Mar-14 | 5/1/2014 | No Spill Certification | Yes | No SSOs were reported in CIWQS during the monitoring period. However, the timesheets include documentation of a sewer plug occurring at Bright Ave on 3/22/14 (4 hours overtime) and subsequent repairs on 3/24/14 and 3/25/14 at the same location. Time spent for these events at Bright Ave exceed 30 hours. Therefore, Board staff contends that not all of the SSOs were reported during the monitoring period. | 31 | \$31,000 |
| Apr-14 | 6/1/2014 | No Spill Certification | No | No sewer plugs, callouts, or excessive hours/overtime reported on timesheets. | | \$0 |
| May-14 | 7/1/2014 | No Spill Certification | Yes | No SSOs were reported in CIWQS during the monitoring period. However, on 5/13/14, a sewer plug is reported on the Discharger's timesheets at Rose Lane (6 overtime hours) and a callout to Broadway (3 overtime hours). In addition, sewer maintenance activities at a lift station on 5/22/14 and 5/23/14 resulted in 3 regular and 3 overtime hours. Therefore, Board staff contends that not all SSOs were reported during the monitoring period. | 31 | \$31,000 |
| Jun-14 | 8/1/2014 | No Spill Certification | Yes | No SSOs were reported in CIWQS during the monitoring period. However, on 6/2/14, the Discharger's timesheets include a callout which resulted in 4 hours of overtime at an undisclosed location. Therefore, Board staff contends that not all SSOs were reported during the monitoring period. | 30 | \$30,000 |
| Jul-14 | 9/1/2014 | No Spill Certification | Yes | No SSOs were reported in CIWQS during the monitoring period. However, on 7/24/14, the Discharger reported a lift station repair which resulted in 3 hours of overtime. Therefore, Board staff contends that not all SSOs were reported during the monitoring period. | 31 | \$31,000 |
| Aug-14 | 10/1/2014 | No Spill Certification | No | No sewer plugs, callouts, or excessive hours/overtime reported on timesheets. | | \$0 |
| Sep-14 | 11/1/2014 | No Spill Certification | Yes | No SSOs were reported in CIWQS during the monitoring period. However, there were two sewer maintenance events reported on the timesheets on 9/8/14 and 9/10/14 which occurred at a lift station resulted in a 10 regular and 0.4 overtime hours for the first day, and 7 regular and 0.5 overtime hours for the second day. Therefore, Board staff contends that not all SSOs were reported during the monitoring period. | 30 | \$30,000 |

Attachment B to Stipulated Agreement R5-2017-0506
City of Jackson Inappropriate Spill Reports

| Monitoring Report | Due Date | "No Spill Certification" Or SSO Reported by Discharger | Inappropriate Report? | Reason | Days of Violation | Maximum Penalty |
|-------------------|-----------|--|-----------------------|--|-------------------|-----------------|
| Oct-14 | 12/1/2014 | No Spill Certification | Yes | No SSOs were reported in CIWQS during the monitoring period. However, on 10/11/14, the Discharger reported 3 hours of overtime during a maintenance event at 238 Circle Drive and on 10/27/14 reported a sewer plug at Smalley. Therefore, Board staff contends that not all SSOs were reported during the monitoring period. | 31 | \$31,000 |
| Nov-14 | 1/1/2015 | No Spill Certification | Yes | No SSOs were reported in CIWQS during the monitoring period. However, on 11/9/14, the Discharger reported 3 hours of overtime during a maintenance event at Wallace Street and on 11/30/14 reported a callout resulting in 3 hours of overtime. Therefore, Board staff contends that not all SSOs were reported during the monitoring period. | 30 | \$30,000 |
| Dec-14 | 2/1/2015 | No Spill Certification | Yes | No SSOs were reported in CIWQS during the monitoring period. However, on 12/10/14, the Discharger reported a sewer plug on Pioneer Circle. Another sewer plug was reported on Argonaut Drive on 12/14/14 which resulted in 15 hours of overtime and a follow up maintenance call on 12/15/14. Therefore, Board staff contends that not all SSOs were reported during the monitoring period. | 31 | \$31,000 |
| Jan-15 | 3/1/2015 | No Spill Certification | Yes | No SSOs were reported in CIWQS during the monitoring period. However, on 1/7/15 and 1/8/15, the Discharger reported sewer maintenance and a sewer plug at the school, which resulted in 4.5 hours of overtime. Also, a sewer repair on Mattley was reported on 1/26/15 and the timesheets indicate 22 hours of staff time to repair. Lastly, on 1/29/15, a sewer plug was reported on Allen Street and the timesheets indicate four staff responded. Therefore, Board staff contends that not all SSOs were reported during the monitoring period. | 31 | \$31,000 |
| Feb-15 | 4/1/2015 | No Spill Certification | Yes | No SSOs were reported in CIWQS during the monitoring period. However, on 2/6/15, the Discharger reported sewer maintenance at a lift station which resulted in 3 hours of overtime. Also, two sewer plugs were reported on 2/6/15 (110 Wallace - 3 overtime hours) and 2/7/15 (410 N. Main - 6 overtime hours). Therefore, Board staff contends that not all SSOs were reported during the monitoring period. | 28 | \$28,000 |
| Mar-15 | 5/1/2015 | No Spill Certification | Yes | No SSOs were reported in CIWQS during the monitoring period. However, on 3/23/15, the Discharger reported a sewer plug at Buena Vista, and, on 3/31/15, a callout at Buffington resulting in 6 hours of overtime. Therefore, Board staff contends that not all SSOs were reported during the monitoring period. | 31 | \$31,000 |
| Apr-15 | 6/1/2015 | No Report Submitted | Yes | The Discharger did not submit a report in CIWQS during this monitoring period. According to the Discharger's timesheets, on 4/20/15, the Discharger reported a sewer plug at Smalley/Broadway. Therefore, Board staff contends that a SSO report should have been submitted for this reporting period. | 30 | \$30,000 |
| May-15 | 7/1/2015 | No Spill Certification | No | No sewer plugs, callouts, or excessive hours/overtime reported on timesheets. | | \$0 |
| Jun-15 | 8/1/2015 | No Spill Certification | No | No sewer plugs, callouts, or excessive hours/overtime reported on timesheets. | | \$0 |

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|-------------------|-----------|--|-----------------------|--|-------------------|-----------------|
| Jul-15 | 9/1/2015 | No Spill Certification | No | No sewer plugs, callouts, or excessive hours/overtime reported on timesheets. | | \$0 |
| Aug-15 | 10/1/2015 | No Spill Certification | Yes | No SSOs were reported in CIWQS during the monitoring period. According to the Discharger's timesheets, on 8/3/15, the Discharger reported a sewer plug at 49er and on 8/21/15, a callout was reported at 88 Court that resulted in 6 overtime hours. Therefore, Board staff contends that not all SSOs were reported during the monitoring period. | 31 | \$31,000 |
| Sep-15 | 11/1/2015 | No Spill Certification | Yes | No SSOs were reported in CIWQS during the monitoring period. According to the Discharger's timesheets, on 9/8/15, 9/9/15, 9/10/15, 9/11/15, and 9/14/15, the Discharger reported sewer maintenance events that resulted in a total of 22 overtime hours. Therefore, Board staff contends that not all SSOs were reported during the monitoring period. | 30 | \$30,000 |
| Oct-15 | 12/1/2015 | No Spill Certification | Yes | No SSOs were reported in CIWQS during the monitoring period. According to the Discharger's timesheets, on 10/16/15 (Summit - 3 overtime hours) and 10/18/15 (Serian/N. Main - 3 overtime hours), the Discharger reported callouts for service. Therefore, Board staff contends that not all SSOs were reported during the monitoring period. | 31 | \$31,000 |
| Nov-15 | 1/1/2016 | No Spill Certification | No | No sewer plugs, callouts, or excessive hours/overtime reported on timesheets. | | \$0 |
| Dec-15 | 2/1/2016 | No Spill Certification | No | No sewer plugs, callouts, or excessive hours/overtime reported on timesheets. | | \$0 |

Total days of violation: 1,035
Maximum penalty: \$1,035,000