

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT ER R5-2016-0556

MANDATORY PENALTY
IN THE MATTER OF

COUNTY OF PLACER FACILITY SERVICES DEPARTMENT
PLACER COUNTY SEWER MAINTENANCE DISTRICT NO. 1
WASTEWATER TREATMENT PLANT
PLACER COUNTY

This Complaint is issued to the County of Placer Facility Services Department (hereafter Discharger), pursuant to California Water Code (Water Code) section 13385, which authorizes the imposition of Administrative Civil Liability, Water Code section 13323, which authorizes the Executive Officer to issue this Complaint and Water Code section 7, which authorizes the delegation of the Executive Officer's authority to a deputy, in this case the Assistant Executive Officer. This Complaint is based on allegations that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Order R5-2010-0092-01 (NPDES CA0079316) and Time Schedule Order (TSO) R5-2015-0034-01.

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

1. The Discharger owns and operates a wastewater collection, treatment, and disposal system, which provides sewerage service to the unincorporated area of North Auburn in Placer County. The Facility provides tertiary treatment when influent flows are 3.5 million gallons per day (mgd) or less and a mixture of secondary and tertiary treatment when flows are greater than 3.5 mgd. Treated municipal wastewater is discharged to Rock Creek, a water of the United States.
2. In order to regulate discharges from the wastewater treatment plant, on 22 September 2010, the Board issued WDRs Order R5-2010-0092. On 17 April 2015, the Board adopted amended WDRs Order R5-2010-0092-01.
3. On 17 April 2015, the Board adopted Time Schedule Order (TSO) R5-2015-0034, and on 11 December 2015, the Board issued amended TSO R5-2015-0034-01. The TSO provides protection from mandatory minimum penalties for effluent violations for aluminum, chloroform, dibromochloromethane, dichlorobromomethane, nitrite, nitrate plus nitrite, ammonia, total coliform organisms, biochemical oxygen demand, and total suspended solids. This Order considers the protection from MMPs provided by the TSO.
4. On 30 September 2015, the Assistant Executive Officer of the Central Valley Water Board issued Administrative Civil Liability Order (ACLO) R5-2015-0543 for effluent violations which occurred from 1 March 2014 through 30 June 2015 and assessed mandatory minimum penalties in the amount of \$201,000. These violations are specifically identified in Attachment A to ACLO R5-2015-0543. The Discharger paid \$93,000 of the penalty and entered into an agreement to complete a Supplemental Environmental Project (SEP) in the amount of \$108,000 by 31 May 2016.

On 23 November 2015, the Discharger requested an extension to comply with the SEP. The Discharger stated that the SEP cannot be constructed because unforeseen delays to the regionalization project. On 1 April 2016, the Executive Officer of Central Valley Water Board approved the Discharger's request to allow the Discharger to comply with ACLO R5-2015-0543 by

1 November 2016. The Discharger has not completed the SEP and the Board considers those effluent violations specifically listed in Attachment A to ACLC R5-2015-0543 to be unresolved pending SEP completion.

5. This Complaint addresses administrative civil liability for effluent violations that occurred between 1 July 2015 and 30 June 2016. These violations are specifically identified in Attachment A to this Complaint as subject to mandatory minimum penalties. Attachment A to this Complaint is attached hereto and incorporated herein by this reference.
6. On 1 August 2016, Central Valley Water Board staff issued the Discharger a Notice of Violation and draft Record of Violations for effluent limitation violations occurring between 1 July 2015 and 30 June 2016. The Discharger responded on 21 July 2016 and agreed with the violations.
7. Water Code sections 13385(h) and (i) require assessment of mandatory penalties and state, in part, the following:

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

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

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

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

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

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

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

8. Water Code section 13323 states, in part:

Any executive officer of a regional board may issue a complaint to any person on whom administrative civil liability may be imposed pursuant to this article. The complaint shall

allege the act or failure to act that constitutes a violation of law, the provision authorizing civil liability to be imposed pursuant to this article, and the proposed civil liability.

9. Water Code section 13385(j) exempts certain violations from the mandatory minimum penalties, and states, in relevant part:

Subdivisions (h) and (i) do not apply to any of the following:

- 3) A violation of an effluent limitation where the waste discharge is in compliance with either a cease and desist order issued pursuant to Section 13301 or a time schedule order issued pursuant to Section 13300 or 13308 if all of the following requirements are met:
- C) The regional board establishes a time schedule for bringing the waste discharge into compliance with the effluent limitation that is as short as possible....For the purposes of this subdivision, the time schedule may not exceed five years in length The interim requirements shall include both of the following:
- i) Effluent limitations for the pollutant or pollutants of concern.
ii) Actions and milestones leading to compliance with the effluent limitation.

10. TSO R5-2015-0034-01 contains interim effluent limitations and provided protection from MMPs for effluent limitation violations for aluminum, chloroform, dibromochloromethane, dichlorobromomethane, nitrite, nitrate plus nitrite, ammonia, total coliform, biochemical oxygen demand, and total suspended solids; however, as shown on Attachment A, the Discharger exceeded the interim effluent limit and therefore Water Code section 13385(j) does not exempt those particular violations from MMPs.

11. WDRs Order R5-2010-0092-01, Final Effluent Limitation IV.A.1.a, states in part:

- a. The Discharger shall maintain compliance with the following effluent limitations at Discharge Point Nos. 001 and 002...

Table 6. Final Effluent Limitations

Parameter	Units	Effluent Limitations		
		Average Monthly	Average Weekly	Maximum Daily
Chloroform	µg/L	1.1	--	--
Dichlorobromomethane	µg/L	0.56	--	1.5
Chlorodibromomethane	µg/L	0.41	--	0.82
Ammonia nitrogen, total (as N)	mg/L	1.4	--	3.9
	lbs/day ¹	25	--	71

¹ Mass-based effluent limitations are based on permitted average dry weather flow of 2.18 MGD

12. TSO R5-2015-0034-01 Directive 2, includes, in part, the following interim effluent limitations:

Parameter	Units	Interim Maximum Daily Effluent Limitation	Interim Average Monthly Effluent Limitation
Chloroform	µg/L	117	45
Dibromochloromethane	µg/L	3.0	1.1
Dichlorobromomethane	µg/L	17	6.4
Ammonia	mg/L	15.1	11.2

13. According to the Discharger's self-monitoring reports, the Discharger committed two (2) serious Group I violations of the above effluent limitations contained in WDRs Order R5-2010-0092-01 and TSO R5-2015-0034-01 during the period beginning 1 July 2015 through 30 June 2016 as identified in Attachment A. These Group I constituents exceeded maximum prescribed levels in WDRs Order R5-2010-0092-01 by 40 percent or more. The mandatory minimum penalty for these violations is **six thousand dollars (\$6,000)**.
14. According to the Discharger's self-monitoring reports, the Discharger committed four (4) serious Group II violations of the above effluent limitation contained in WDRs Order R5-2010-0092-01 and TSO R5-2015-0034-01 during the period beginning 1 July 2015 through 30 June 2016 as identified in Attachment A. These Group II constituents exceeded maximum prescribed levels in WDRs Order R5-2010-0092-01 by 20 percent or more. The mandatory minimum penalty for these violations is **twelve thousand dollars (\$12,000)**.
15. The total amount of the mandatory penalties assessed for the alleged effluent violations is **eighteen thousand dollars (\$18,000)**. As stated herein, a detailed list of the cited effluent violations is included in Attachment A. This Complaint addresses administrative civil liability for violations that are specifically identified in Attachment A as subject to mandatory minimum penalties.
16. On 21 December 2015, the Executive Officer designated Andrew Altevogt, Assistant Executive Officer, as the Lead Prosecution Officer for all enforcement matters originating in the Central Valley Region. The 21 December 2015 Delegation of Authority also authorizes Andrew Altevogt to issue Administrative Civil Liability Complaints.
17. Issuance of this Administrative Civil Liability Complaint to enforce Water Code Division 7, Chapter 5.5 is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code section 21000 et seq.), in accordance with California Code of Regulations, title 14, section 15321(a)(2).

THE COUNTY OF PLACER FACILITY SERVICES DEPARTMENT IS HEREBY GIVEN NOTICE THAT:

1. The Assistant Executive Officer of the Central Valley Water Board proposes that the Discharger be assessed an administrative civil liability in the amount of **eighteen thousand dollars (\$18,000)**.
2. A hearing on this matter will be held at the Central Valley Water Board meeting scheduled for **5/6 December 2016**, unless the Discharger does one of the following by **30 September 2016**:

- a) Waives the hearing by completing the attached form (checking off the box next to Option 1) and returning it to the Central Valley Water Board. In addition, submits payment for the proposed civil liability of **eighteen thousand dollars (\$18,000)** to the State Water Board, with a copy of the check to the Central Valley Water Board; or
 - b) Requests to engage in settlement discussions by checking the box next to Option 2 on the attached form, and returning it to the Central Valley Water Board along with a letter describing the issues to be discussed. The Central Valley Water Board must agree to the postponement; or
 - c) Requests to delay the hearing by checking off the box next to Option 3 on the attached form, and returning it to the Board along with a letter describing the proposed length of delay and the issues to be discussed. The Central Valley Water Board must agree to the postponement.
3. If a hearing on this matter is held, the Central Valley Water Board will consider whether to affirm, reject, or modify the proposed administrative civil liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
 4. If this matter proceeds to hearing, the Assistant Executive Officer reserves the right to amend the proposed amount of civil liability to conform to the evidence presented, including but not limited to, increasing the proposed amount to account for the costs of enforcement (including staff, legal and expert witness costs) incurred after the date of the issuance of this Complaint through completion of the hearing.

Original Signed by
ANDREW ALTEVOGT, Assistant Executive Officer

7 September 2016
Date

Attachment A: Record of Violations

**WAIVER FORM
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

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

I am duly authorized to represent the County of Placer Facility Services Department, Placer County Sewer Maintenance District No. 1 (hereafter Discharger) in connection with Administrative Civil Liability Complaint R5-2016-0556 (hereafter Complaint). I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served. The person who has been issued a complaint may waive the right to a hearing."

(OPTION 1: Check here if the Discharger waives the hearing requirement and will pay in full.)

- a. I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board.
- b. I certify that the Discharger will remit payment for the proposed civil liability in the full amount of **eighteen thousand dollars (\$18,000)** by check that references "ACL Complaint R5-2016-0556" made payable to the *State Water Pollution Cleanup and Abatement Account*. Payment must be received by the State Water Resources Control Board, Accounting Office, Attn: ACL Payment at PO Box 1888, Sacramento, California, 95812-1888 by **30 September 2016**. The waiver and a copy of the check must be submitted to the Central Valley Water Board, Attn: Wendy Wyels, at 11020 Sun Center Drive #200, Rancho Cordova, California, 95670 by **30 September 2016**.
- c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after a 30-day public notice and comment period. Should the Central Valley Water Board receive significant new information or comments during this comment period, the Central Valley Water Board's Assistant Executive Officer may withdraw the complaint, return payment, and issue a new complaint. I also understand that approval of the settlement will result in the Discharger having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
- d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

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

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

(Print Name and Title)

(Signature)

(Date)

**ATTACHMENT A
ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2016-0556**

**County of Placer Facility Services Department
Placer County Sewer Maintenance District No. 1
Wastewater Treatment Plant**

RECORD OF VIOLATIONS (1 July 2015 – 30 June 2016) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Programs R5-2010-0092-01)
(Compliance determined under WDRs R5-2010-0092-01 and TSO R5-2015-0034-01)

	<u>Date</u>	<u>Parameter</u>	<u>Units</u>	<u>WDRs Limit</u>	<u>TSO Limit</u>	<u>Measured</u>	<u>Period</u>	<u>Remarks</u>	<u>CIWQS</u>
1	30-Sep-15	Chloroform	µg/L	1.1	45	50.6*	Average Monthly	2	998337
2	30-Sep-15	Dichlorobromomethane	µg/L	0.56	6.4	8.4*	Average Monthly	2	998336
3	30-Nov-15	Dichlorobromomethane	µg/L	0.56	6.4	6.8*	Average Monthly	2	1000630
4	12-Jan-16	Ammonia	mg/L	3.9	15.1	15.7*	Maximum Daily	1	1006302
5	13-Jan-16	Ammonia	mg/L	3.9	15.1	16.1*	Maximum Daily	1	1003603
6	29-Feb-16	Dibromochloromethane	µg/L	0.41	1.1	3.0*	Average Monthly	2	1005596

* Subject to MMPs because the effluent exceeded the interim effluent limitation prescribed in TSO R5-2015-0034-01.

Remarks:

1. Serious Violation: For Group I pollutants that exceed the effluent limitation by 40 percent or more.
2. Serious Violation: For Group II pollutants that exceed the effluent limitation by 20 percent or more.
3. Non-serious violation falls within the first three violations in a 180-day period, thus is not subject to mandatory minimum penalties. Penalties that may be assessed for this violation are discretionary. This violation is not addressed or resolved in this ACLC.
4. Non-serious violation subject to mandatory minimum penalties.

<u>VIOLATIONS AS OF:</u>	<u>6/30/2016</u>
Group I Serious Violations:	2
Group II Serious Violations:	4
Non-Serious Violations Not Subject to MMPs:	0
<u>Non-serious Violations Subject to MMPs:</u>	<u>0</u>
Total Violations Subject to MMPs:	6

Mandatory Minimum Penalty = (2 Group I Violations + 4 Group II Violations) x \$3,000 = \$18,000