

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2016-0523

MANDATORY PENALTY  
IN THE MATTER OF

CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION  
DEUEL VOCATIONAL INSTITUTION  
SAN JOAQUIN COUNTY

This Complaint is issued to the California Department of Corrections and Rehabilitation (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) Orders R5-2014-0014 and R5-2014-0014-01 (NPDES CA0078093).

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

1. The Discharger owns and operates the Deuel Vocational Institution Wastewater Treatment Plant (Facility) a collection, treatment and disposal system, which provides sewerage service to the Deuel Vocational Institution. Treated municipal wastewater is discharged into Deuel Drain, tributary to Paradise Cut and Old River, which are part of the Sacramento-San Joaquin Delta and waters of the United States.
2. In order to regulate discharges from the Facility, on 7 February 2014, effective 29 March 2014, the Central Valley Water Board issued WDRs Order R5-2014-0014, which contained new requirements and rescinded Order R5-2008-0164, except for enforcement purposes. On 9 October 2014, the Board amended the WDRs by adopting WDRs Order R5-2014-0014-01, which allows for participation in the Delta Regional Monitoring Program.
3. On 30 March 2015, the Assistant Executive Officer issued Cleanup and Abatement Order R5-2015-0704 to the Discharger for violations of the WDRs due to inadequate operation and maintenance of the Facility, including the membrane bioreactor (MBR), which resulted in effluent violations. The CAO requires steps to bring the Discharger back into compliance with the WDRs.
4. On 8 September 2014, the Executive Officer of the Central Valley Water Board issued Administrative Civil Liability Complaint (ACLC) R5-2014-0550 for mandatory minimum penalties for effluent violations from 1 January 2014 through 31 March 2014. The Discharger paid the civil liability and the Board considers those effluent violations specifically listed in Attachment A to ACLC R5-2014-0550 to be resolved.
5. This Complaint addresses administrative civil liability for effluent limitation violations that occurred between 1 April 2014 and 31 December 2015. These violations are specifically identified as subject to mandatory minimum penalties in Attachment A to this Complaint, which is attached hereto and incorporated herein by reference.
6. On 12 January 2016, Central Valley Water Board staff issued a draft Record of Violations (ROV) to the Discharger for the period from 1 April 2014 through 30 November 2015. On 28 January 2016, the Discharger responded to the ROV and acknowledged the exceedances of

effluent limitations. The Discharger stated that these exceedances occurred as a result of damaged membranes in the MBR and in some instances, the inoperability of the RO Plant. The Discharger further stated they are in the process of replacing the MBR membranes and RO Plant's brine concentrator system. The Discharger has requested that the Central Valley Water Board reduce or eliminate the mandatory minimum penalty because the Discharger has "taken every step necessary to correct the deficiency."

The Central Valley Water Board does not have the discretion to reduce or eliminate the mandatory minimum penalty. The legislature mandated the Central Valley Water Board impose mandatory minimum penalties for serious and chronic violations pursuant to California Water Code (Water Code) section 13385, subdivisions (h) and (i).

Board staff reevaluated the July 2015 eSMR and dismissed the 14 July 2015 effluent total coliform violation because the effluent's total coliform concentration did not exceed the prescribed WDRs limitation. This Complaint extends the ROV period through 31 December 2015; eight additional violations were found and one was removed other than those cited in the ROV.

7. Water Code section 13385(h) and (i) require assessment of mandatory penalties and state, in part, the following:

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

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

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

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

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

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

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

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. WDRs Order R5-2014-0014 and WDRs Order R5-2014-0014-01, Effluent Limitations IV.1. include, in part, the following effluent limitations:

a. The Discharger shall maintain compliance with the effluent limitations specified in Table 4:

**Table 4. Effluent Limitation**

Parameter	Units	Effluent Limitation		
		Average Monthly	Weekly Average	Maximum Daily
Ammonia Nitrogen, Total (as N)	mg/L	0.7		2.2
	lbs/day <sup>1</sup>	3.6		11.4
Nitrate Plus Nitrite (as N)	mg/L	10	--	--

<sup>1</sup> Based on an average dry weather flow of 0.62 MGD.

10. WDRs Order R5-2014-0014 and WDRs Order R5-2014-0014-01, Effluent Limitations IV.A.1.f. include, in part, the following effluent limitations:

f. **Total Coliform Organisms.** Effluent total coliform organisms shall not exceed:

- i. 2.2 most probable number (MPN) per 100 mL, as 7-day median;
- ii. 23 MPN/100 mL, more than once in any 30-day period; and
- iii. 240 MPN/100 mL, at any time

11. 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 R5-2014-0014-01. These violations are defined as serious because measured concentrations of Group I constituents exceeded maximum prescribed levels in WDRs Order R5-2014-0014-01 by 40 percent or more. The mandatory minimum penalty for these serious violations is **six thousand dollars (\$6,000)**.
12. According to the Discharger's self-monitoring reports, the Discharger committed thirty nine (39) non-serious violations of the above effluent limitation contained in WDRs Orders R5-2014-0014 and R5-2014-0014-01. Thirty five (35) of these non-serious violations are subject to mandatory penalties under Water Code section 13385 subdivision (i)(1) because these violations were preceded by three or more effluent limit violations within a 180-day period. The mandatory minimum penalty for these violations is **one hundred five thousand dollars (\$105,000)**.
13. The total amount of the mandatory penalties assessed for the alleged effluent limitation violations is **one hundred eleven thousand dollars (\$111,000)**. As stated herein, a detailed list of the alleged effluent violations is included in Attachment A. This Complaint addresses administrative civil liability for violations that are specifically identified as subject to mandatory minimum penalties in Attachment A.
14. On 14 February 2014, the Executive Officer designated Andrew Altevogt, Assistant Executive Officer, as the Lead Prosecution Officer for all enforcement matters originating in the Rancho Cordova Office. The 14 February 2014 Delegation of Authority also authorizes Andrew Altevogt to issue Administrative Civil Liability Complaints.

15. 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 CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION 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 **one hundred and eleven thousand dollars (\$111,000)**.
2. A hearing on this matter will be held at the Central Valley Water Board meeting scheduled on **23/24 June 2016**, unless the Discharger does one of the following by **27 April 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 **one hundred and eleven thousand dollars (\$111,000)** to the State Water Board with a copy of the check to the Central Valley Water Board; or
  - b) Requests to engage in settlement discussions by checking the box next to Option 2 on the attached form, and returning it to the Board along with a letter describing the issues to be discussed. The Central Valley Water Board must agree to the postponement; or
  - c) Requests to delay the hearing by checking off the box next to Option 3 on the attached form, and returning it to the Board along with a letter describing the proposed length of delay and the issues to be discussed. The Central Valley Water Board must agree to the postponement.
3. If a hearing on this matter is held, the Central Valley Water Board will consider whether to affirm, reject, or modify the proposed Administrative Civil Liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. If this matter proceeds to hearing, the Assistant Executive Officer reserves the right to amend the proposed amount of civil liability to conform to the evidence presented, including but not limited to, increasing the proposed amount to account for the costs of enforcement (including staff, legal and expert witness costs) incurred after the date of the issuance of this Complaint through completion of the hearing.

Original Signed by  
\_\_\_\_\_  
ANDREW ALTEVOGT, Assistant Executive Officer

28 March 2016  
\_\_\_\_\_  
DATE

**WAIVER FORM  
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

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

I am duly authorized to represent the California Department of Corrections and Rehabilitations (hereafter Discharger) in connection with Administrative Civil Liability Complaint R5-2016-0523 (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 **one hundred and eleven thousand dollars (\$111,000)** by check that references "ACL Complaint R5-2016-0523" 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 **27 April 2016**. The waiver and a copy of the check must be submitted to the Central Valley Water Board at 11020 Sun Center Drive #200, Attn: Wendy Wyels, Rancho Cordova, California, 95670 by **27 April 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. The Discharger must provide a letter describing the issues to be discussed in 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.

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(Print Name and Title)

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(Signature)

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(Date)

**ATTACHMENT A  
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2016-0523**

**California Department of Corrections and Rehabilitation  
Deuel Vocational Institution**

RECORD OF VIOLATIONS (1 April 2014 - 31 December 2015) MANDATORY PENALTIES  
(Data reported under Monitoring and Reporting Program R5-2014-0014 and R5-2014-0014-01)

	<u>Date</u>	<u>Parameter</u>	<u>Units</u>	<u>Limit</u>	<u>Measured</u>	<u>Period</u>	<u>Remarks</u>	<u>CIWQS</u>
*	14-Jan-14	Bromoform	µg/L	1	3.5	Daily Maximum	2	964130
*	31-Jan-14	Bromoform	µg/L	0.5	3.5	Monthly Average	2	964127
*	31-Jan-14	Dibromochloromethane	µg/L	0.5	1	Monthly Average	2	964126
*	28-Feb-14	Total Nitrate (as N)	mg/L	10	11	Monthly Average	4	965761
1	27-May-14	Total Coliform Organisms	MPN/100 mL	2.2	4.5	7-Day Median	4	995607
2	10-Jun-14	Total Coliform Organisms	MPN/100 mL	2.2	13	7-Day Median	4	995608
3	31-Aug-14	Nitrite Plus Nitrate (as N)	mg/L	10	12	Monthly Average	3	976826
4	30-Sep-14	Nitrite Plus Nitrate (as N)	mg/L	10	12	Monthly Average	4	978499
5	18-Nov-14	Total Coliform Organisms	MPN/100 mL	2.2	23	7-Day Median	3	995609
6	17-Mar-15	Total Coliform Organisms	MPN/100 mL	2.2	23	7-Day Median	3	995610
7	31-Mar-15	Nitrite Plus Nitrate (as N)	mg/L	10	13	Average Monthly	3	989791
8	30-Apr-15	Nitrite Plus Nitrate (as N)	mg/L	10	12	Average Monthly	4	991142
9	7-May-15	Total Coliform Organisms	MPN/ 100mL	2.2	170	7-Day Median	4	995612
10	12-May-15	Total Coliform Organisms	MPN/100 mL	240	>1600	Instantaneous Maximum	4	992382
11	12-May-15	Total Coliform Organisms	MPN/100 mL	2.2	>1600	7-Day Median	4	995613
12	19-May-15	Total Coliform Organisms	MPN/100 mL	2.2	13	7-Day Median	4	995614
13	26-May-15	Total Coliform Organisms	MPN/100 mL	2.2	240	7-Day Median	4	992381
14	26-May-15	Total Coliform Organisms	MPN/100 mL	22	240	More than once in 30-day period	4	992380
15	2-Jun-15	Total Coliform Organisms	MPN/ 100 mL	23	79	More than once in 30-day period	4	993960
16	2-Jun-15	Total Coliform Organisms	MPN/100 mL	2.2	79	7-Day Median	4	993956
17	9-Jun-15	Total Coliform Organisms	MPN/100 mL	23	49	More than once in 30-day period	4	993957
18	9-Jun-15	Total Coliform Organisms	MPN/100 mL	2.2	49	7-Day Median	4	995616
19	16-Jun-15	Total Coliform Organisms	MPN/100 mL	2.2	13	7-Day Median	4	993961
20	23-Jun-15	Total Coliform Organisms	MPN/100 mL	2.2	49	More than once in 30-day period	4	993958
11	23-Jun-15	Total Coliform Organisms	MPN/100 mL	2.2	49	7-Day Median	4	993959
22	1-Jul-15	Total Coliform Organisms	MPN/100 mL	2.2	6.1	7-Day Median	4	995160
23	7-Jul-15	Total Coliform Organisms	MPN/100 mL	2.2	170	7-Day Median	4	995157

**ATTACHMENT A  
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2016-0523**

	<u>Date</u>	<u>Parameter</u>	<u>Units</u>	<u>Limit</u>	<u>Measured</u>	<u>Period</u>	<u>Remarks</u>	<u>CIWQS</u>
24	7-Jul-15	Total Coliform Organisms	MPN/100 mL	23	170	More than once in 30-day period	4	995159
25	14-Jul-15	Total Coliform Organisms	MPN/100 mL	2.2	23	7-Day Median	4	995156
26	28-Aug-15	Total Coliform Organisms	MPN/100 mL	2.2	4.5	7-Day Median	4	996583
27	8-Sep-15	Total Coliform Organisms	MPN/100 mL	2.2	4.5	7-Day Median	4	998550
28	29-Sep-15	Total Coliform Organisms	MPN/100 mL	2.2	49	7-Day Median	4	998551
29	19-Oct-15	Total Ammonia (as N)	mg/L	2.2	3.5	Maximum Daily	4	1000280
30	19-Oct-15	Total Ammonia (as N)	lbs/day	11.4	12.4	Maximum Daily	4	1000277
31	31-Oct-15	Total Ammonia (as N)	mg/L	0.7	0.88	Average Monthly	4	1000279
32	31-Oct-15	Nitrite Plus Nitrate (as N)	mg/L	10	14	Average Monthly	1	1000278
33	3-Nov-15	Total Coliform Organisms	MPN/100 mL	2.2	23	7-Day Median	4	1000743
34	10-Nov-15	Total Coliform Organisms	MPN/100 mL	2.2	240	7-Day Median	4	1000739
35	17-Nov-15	Total Coliform Organisms	MPN/100 mL	2.2	7.8	7-Day Median	4	1000742
36	24-Nov-15	Total Coliform Organisms	MPN/100 mL	2.2	13	7-Day Median	4	1000741
37	30-Nov-15	Nitrite Plus Nitrate (as N)	mg/L	10	14	Average Monthly	1	1000740
38	1-Dec-15	Total Coliform Organisms	MPN/100 mL	2.2	49	7-Day Median	4	1002368
39	8-Dec-15	Total Coliform Organisms	MPN/100 mL	2.2	240	7-Day Median	4	1002366
40	8-Dec-15	Total Coliform Organisms	MPN/100 mL	23	240	More than once in 30-day period	4	1002369
41	15-Dec-15	Total Coliform Organisms	MPN/100 mL	2.2	4	7-Day Median	4	1002367

Remarks:

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

<u>VIOLETIONS AS OF:</u>	<u>12/31/15</u>
Group I Serious Violations:	2
Group II Serious Violations:	0
Non-Serious Violations Not Subject to MMPs:	4
<u>Non-serious Violations Subject to MMPs:</u>	<u>35</u>
<b>Total Violations Subject to MMPs:</b>	<b>37</b>

**Mandatory Minimum Penalty = (2 Group I Serious Violations + 35 Non-Serious Violations) x \$3,000 = \$111,000**

\*Supporting violations addressed in ACLC R5-2014-0550.