

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2015-0514

MANDATORY PENALTY
IN THE MATTER OF

CITY OF VACAVILLE
EASTERLY WASTEWATER TREATMENT PLANT
SOLANO COUNTY

This Complaint is issued to the City of Vacaville (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 R5-2008-0055-01 and R5-2014-0072 (NPDES CA0077691).

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 Easterly Wastewater Treatment Plant (Facility), which provides sewerage service to the City of Vacaville and the unincorporated community of Elmira in Solano County. Treated municipal wastewater is discharged to Old Alamo Creek, a water of the United States and a tributary to Cache Slough.
2. In order to regulate discharges from the Facility, on 18 March 2010, the Central Valley Water Board issued amended WDRs Order R5-2008-0055-01. On 6 June 2014, the Central Valley Water Board issued WDRs Order R5-2014-0072, effective on 1 August 2014, which rescinded WDRs Order R5-2008-0055-01 except for enforcement purposes. Order R5-2014-0072 was subsequently amended on 9 October 2014. The Order number did not change.
3. On 7 March 2014, the Executive Officer of the Central Valley Water Board issued Administrative Civil Liability Complaint (ACLC) R5-2014-0513 for mandatory minimum penalties for effluent violations from 1 May 2013 through 31 December 2013. The Discharger paid the civil liability and the Board considers those effluent violations specifically listed in Attachment A to ACLC R5-2014-0513 to be resolved.
4. This Complaint addresses administrative civil liability for effluent violations that occurred during the period from 1 January 2014 through 31 December 2014. 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.
5. On 5 January 2015, Central Valley Water Board staff issued the Discharger a draft Record of Violations for the period 1 January 2014 through 31 October 2014. The

Discharger did not submit any comments regarding the alleged violations. This Complaint extends the period through 31 December 2014.

6. 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.

7. 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.

8. WDRs Order R5-2008-0055-01 Effluent Limitations IV.A.1., include, in part, the following effluent limitations:

- b. The Discharger shall maintain compliance with the following effluent limitations from May 1 through October 31 when discharging to Old Alamo Creek...

Parameter	Units	Effluent Limitations	
		Average Monthly	Maximum Daily
Total Trihalomethanes ²	µg/L	--	122
² The total THMs concentration shall be the sum of bromoform, chloroform, chlorodibromomethane, and dichlorobromomethane.			

9. WDRs Order R5-2014-0072 Effluent Limitations IV.A.1, include, in part, the following effluent limitations:

Parameter	Units	Effluent Limitations		
		Average Monthly	Average Weekly	Maximum Daily
Ammonia, total (as N)	mg/L	1.4	--	2.3
	lbs/day	175	--	288

10. 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 R5-2014-0072, as shown in Attachment A. These violations are defined as serious because measured concentrations of Group I constituents exceeded maximum prescribed levels in WDRs Order R5-2014-0072 by 40 percent or more. The mandatory minimum penalty for these serious violations is **six thousand dollars (\$6,000)**.
11. According to the Discharger's self-monitoring reports, the Discharger committed one (1) non-serious violation of the above effluent limitations contained in Order R5-2008-0055-01. This non-serious violation is not subject to mandatory penalties under Water Code section 13385 subdivision (i)(1) because the violation was not preceded by three or more similar violations within a six-month period.
12. The total amount of the mandatory penalties assessed for the alleged effluent violations is **six thousand dollars (\$6,000)**. 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 in Attachment A as subject to mandatory minimum penalties.
13. 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.
14. 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).

CITY OF VACAVILLE 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 **six thousand dollars (\$6,000)**.
2. A hearing on this matter will be held at the Central Valley Water Board meeting scheduled on **4/5 June 2015**, unless the Discharger does one of the following by **3 April 2015**:
 - 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 **six thousand dollars (\$6,000)** 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

9 March 2015

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 City of Vacaville (hereafter Discharger) in connection with Administrative Civil Liability Complaint R5-2015-0514 (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 **six thousand dollars (\$6,000)** by check that references "ACL Complaint R5-2015-0514" made payable to the *State Water Pollution Cleanup and Abatement Account*. Payment must be received by the State Water Resources Control Board, Accounting Office at PO Box 1888, Sacramento, California, 95812-1888 by **3 April 2015**. The waiver and a copy of the check must be submitted to the Central Valley Water Board at 11020 Sun Center Drive #200, Rancho Cordova California, 95670 by **3 April 2015**.
- 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 TO ACLC R5-2015-0514
City of Vacaville
Easterly Wastewater Treatment Plant**

RECORD OF VIOLATIONS (1 January 2014 – 31 December 2014) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Programs R5-2008-0055-01 and R5-2014-0072)

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measured</u>	<u>Period</u>	<u>Remarks</u>	<u>CIWQS</u>
*	9/30/2013	Chlorodibromomethane	µg/L	0.41	28	Monthly Average	2	957592
WDRs R5-2008-0055-01 effective 14 June 2008								
1	8-Jul-14	Total Trihalomethanes	µg/L	122	124	Maximum Daily	3	975312
WDRs R5-2014-0072 effective 1 August 2014								
2	11-Aug-14	Ammonia, Total (as N)	mg/L	2.3	7.5	Maximum Daily	1	976822
3	11-Aug-14	Ammonia, Total (as N)	lb/d	288	419	Maximum Daily	1	976821

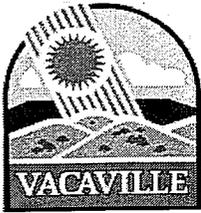
* Addressed in ACLC R5-2014-0513. Shown to provide context for Remark "3" for subsequent violation.

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>VIOLATIONS AS OF:</u>	<u>12/31/2014</u>
Group I Serious Violations:	2
Group II Serious Violations:	0
Non-Serious Violations Not Subject to MMPs:	1
<u>Non-serious Violations Subject to MMPs:</u>	<u>0</u>
Total Violations Subject to MMPs:	2

Mandatory Minimum Penalty = (2 Group I Violations) x \$3,000 = \$6,000



UTILITIES DEPARTMENT
 650 Merchant Street
 Vacaville, CA 95688
 707.469.6400
 707.469.6480 (fax)

TRANSMITTAL

Date: March 31, 2015
To: Wendy Wyels
 Central Valley Water Board
 11020 Sun Center Drive 3200
 Rancho Cordova, CA 95670
From: Royce Cunningham, Director of Utilities
Subject: Waiver Form ACL Complaint R5-2015-0514
Pc: 120-2-2

RECEIVED
 RANCHO CORDOVA
 CYRMD08
 2015 MAR 32 AM 10:58

The following items are being transmitted via:

- U.S. Mail Priority mail OnTrac Interoffice
 Certified Mail # 7008 0150 0002 1977 4339 Hand Delivered

No. of Items	Description
1	Waiver Form for Administrative civil Liability Complaint
2	Copy of Check #490533 \$6,000

These are transmitted as checked below:

- As requested For review and comment Returned for corrections
 For approval Approved as submitted Action Required
 For your use Approved as noted _____

Remarks:

The original check was mailed to:

SWRCB Attn: Pollution Clean-up & Abatement
 PO Box 1888
 Sacramento, CA 95812-1888

**WAIVER FORM
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

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- 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 **six thousand dollars (\$6,000)** by check that references "ACL Complaint R5-2015-0514" made payable to the *State Water Pollution Cleanup and Abatement Account*. Payment must be received by the State Water Resources Control Board, Accounting Office at PO Box 1888, Sacramento, California, 95812-1888 by **3 April 2015**. The waiver and a copy of the check must be submitted to the Central Valley Water Board at 11020 Sun Center Drive #200, Rancho Cordova California, 95670 by **3 April 2015**.
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Royce W. Cunningham, Director of Utilities

(Print Name and Title)

(Signature)

(Date)

3/18/15



ACCOUNTS PAYABLE
 650 MERCHANT STREET
 VACAVILLE, CA 95688

VACAVILLE BRANCH
 BANK OF AMERICA
 NATIONAL TRUST & SAVINGS ASSOCIATION

4-35
 1210

VENDOR NUMBER	DATE	CHECK NUMBER	CHECK AMOUNT
001980	03/27/2015	490533	6,000.00

PAY Six Thousand Dollars and No Cents

TO THE
 ORDER
 OF

CALIFORNIA, STATE OF, SWRCB WATER RESOURCE BC
 Attn: POLLUTION CLEAN-UP & ABATEMENT
 PO BOX 1888
 SACRAMENTO, CA 95812-1888

Leonard J. Augustina
 Mayor

Jeremy Keating
 Director of Finance

⑈0490533⑈ ⑆121000358⑆ 00513⑈80200⑈

CITY OF VACAVILLE, CA 95688

ACCOUNTS PAYABLE CHECK

NO.490533

INVOICE NUMBER	DATE	DESCRIPTION	P.O. NUMBER	DISCOUNT	AMOUNT
R5-2015-0514	03/16/2015	ACL COMPLAINT R5-2015-0514		0.00	6,000.00
					RECEIVED RANCHO CORDOVA CVRM/CDB 2015 MAR 22 AM 10:58
					6,000.00