

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

In the matter of:

Carpinteria Sanitary District

WDID: 3 420101001

**COMPLAINT NO. R3-2015-0011
FOR
ADMINISTRATIVE CIVIL LIABILITY**

**Violations of
NPDES Permit No. CA 0047364
and
Order No. R3-2011-0003**

Hearing: May 28-29, 2015

CARPINTERIA SANITARY DISTRICT IS HEREBY GIVEN NOTICE THAT:

1. Carpinteria Sanitary District (Discharger) has violated provisions of law for which the California Central Coast Water Quality Control Board, Central Coast Region (Central Coast Water Board) may impose civil liability pursuant to section 13385 of the California Water Code (CWC).
2. This Administrative Civil Liability Complaint (ACLC or Complaint) is issued under authority of CWC sections 13323 and 13385.
3. A hearing concerning this Complaint will be held before the Central Coast Water Board within ninety (90) days of the date of issuance of this Complaint, unless, pursuant to CWC §13323, the Discharger waives its right to a hearing. Waiver procedures are specified in the attached Waiver Form. The hearing on this matter is scheduled for the Central Coast Water Board's regular meeting on May 28-29, 2015.
4. If a hearing is held on this matter, the Central Coast 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. If this matter proceeds to hearing, the Prosecution Team reserves the right to seek an increase in the civil liability amount to cover the costs of enforcement incurred subsequent to the issuance of this ACLC through hearing.
5. The Discharger owns and operates a wastewater collection, treatment, and disposal system, which provides sewer service for the City of Carpinteria and portions of Santa Barbara County. The treatment system consists of pretreatment, screening, grit removal, primary sedimentation, aerated activated sludge tanks, secondary sedimentation, chlorination, and dechlorination. Treated wastewater is discharged from Discharge Point No. 001 (as described in Order No. R3-2011-0003) to the Pacific Ocean, a water of the United States.

6. On April 16, 2010, the Discharger filed its most recent Report of Waste Discharge for National Pollutant Discharge Elimination System (NPDES) permit number CA 0047364.
7. On February 3, 2011, the Central Coast Water Board adopted Waste Discharge Requirements Order No. R3-2011-0003, NPDES CA-0047364.
8. In July 2013, a former employee of the Discharger contacted County of Santa Barbara District Attorney Investigator Chris Clement regarding the Discharger and alleged unreported or underreported spills. Investigator Clement forwarded the complaint to Central Coast Water Board staff, who contacted the whistleblower to speak with him about his allegations.
9. Harvey Packard, the former Enforcement Coordinator for the Central Coast Water Board and Julie Macedo, Senior Staff Counsel for the State Water Resources Control Board Office of Enforcement, along with Investigator Clement, spoke with the whistleblower regarding his allegations.
10. The whistleblower's allegations are not at issue in this matter. While they did bring the matter to the attention of the Central Coast Water Board, the whistleblower was not promised any action would be taken against the Discharger. The whistleblower appeared credible, but the evidence regarding past un- or underreported discharges was difficult to confirm. Instead, his allegations and a discharge of horizontal drilling mud by Discharger (July 2012) caused Central Coast Water Board staff to review Discharger's violation history in the California Integrated Water Quality System (CIWQS) database.
11. On December 27, 2011, the Discharger exceeded three effluent limitations for settleable solids; the daily maximum, the 7-day average and the 30-day average. Settleable solids is a Group 1 pollutant, for which a violation is serious and will lead to a mandatory minimum penalty (MMP) of no less than \$3,000 when the limit is exceeded by 40% or more. The Discharger exceeded each of the three permit effluent limits by 40 percent or more and is therefore subject to three MMPs.
12. The Discharger had a significant discharge of non-chlorinated (i.e., non-disinfected) effluent to the Pacific Ocean on October 3, 2012. The Discharger self-reported that it discharged 281,250 gallons of "non-chlorinated" wastewater when its disinfection system failed.
13. On January 3, 2013, Discharger exceeded the permitted chlorine total residual instantaneous maximum effluent limitation. Chlorine total residual is a Group 2 pollutant, for which a violation is serious and will lead to an MMP of no less than \$3,000 when the limit is exceeded by 20 percent or more. Discharger exceeded the permit effluent limitation by 20 percent or more and is therefore subject to an MMP.

14. On January 7, 2013, Discharger exceeded the permitted chlorine total residual instantaneous maximum effluent limitation by 20 percent or more and is therefore subject to an MMP. Attachment B to this Complaint, incorporated by this reference, shows the MMP violations.
15. On October 29, 2013, investigators from the State Water Resources Control Board, acting in cooperation with the Central Coast Water Board¹, inspected the Carpinteria Sanitary District facility. The scope of the inspection was to inquire about the accuracy of the whistleblower's allegations and the cause and any corrective actions resulting from the 2012 ocean discharge and the MMP violations.
16. On December 10, 2013, the Assistant Executive Officer of the Central Coast Water Board issued the Discharger a Notice of Violation (NOV) and CWC section 13267 Order seeking information regarding discharges and effluent violations in 2011-2013.
17. The Discharger responded to the 13267 Order on January 27, 2014.
18. On or about April 4, 2014, representatives and counsel for Discharger met with representatives and counsel for the Central Coast Water Board Prosecution Team to discuss the Discharger's Section 13267 response and possible enforcement.
19. On or about April 21, 2014, the Prosecution Team received additional documentation needed regarding the October 2012 discharge.
20. Over the next several months, the Prosecution Team and the Discharger attempted to resolve the matter informally. When settlement discussions did not yield a resolution, this Complaint followed.

ALLEGED VIOLATIONS

21. The Federal Clean Water Act (33 U.S.C. §1311) prohibits the discharge of pollutants from a point source to waters of the United States, unless authorized by a NPDES Permit.
22. CWC §13243 states that the Central Coast Water Board may specify certain conditions or areas where the discharge of waste, or certain types of waste, will not be permitted. The Central Coast Water Board implements this section of the CWC by adopting and implementing the Water Quality Control Plan for the Central Coastal Basin (Basin Plan). The Basin Plan establishes the beneficial uses (Chapter 2) and water quality objectives (Chapter 3) for surface waters for the Central Coast Region, which must be met and maintained to protect those uses.

¹ Members of the Central Coast Water Board and State Water Resources Control Board are collectively identified as the Prosecution Team, and more particularly identified in the Hearing Procedures [Proposed] that accompany this Complaint for Administrative Civil Liability.

23. CWC §13376 states, in part, “Any person discharging or proposing to discharge pollutants to the navigable waters of the United States within the jurisdiction of this state... shall file a report of the discharge in compliance with the procedures set forth in Section 13260...” and “The discharge of pollutants... by any person except as authorized by waste discharge requirements ... is prohibited.”
24. Section 13385 of the CWC includes provisions for assessing administrative civil liability for discharges of wastes to surface waters in violation of the federal Clean Water Act. The discharge incident described above was to surface waters of the United States for which liability can be assessed in accordance with Section 13385 of the CWC. CWC §13385(c) states, in part, that the Central Coast Board may impose civil liability administratively for noncompliance with CWC §13376 on a daily basis at a maximum of ten thousand dollars (\$10,000) for each day in which the violation occurs in accordance with CWC §13385(c)(1); and where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged, but not cleaned up, exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) multiplied by the number of gallons by which the volume discharge, but not cleaned up, exceeds 1,000 gallons; or both, CWC §13385(c)(2).
25. The Discharger had a significant discharge of non-chlorinated effluent to the Pacific Ocean on October 3, 2012. The Discharger self-reported that it discharged 281,250 gallons of “non-chlorinated” wastewater when its disinfection system failed. This is a violation of Prohibition III.B of NPDES Permit No. CA00447364, Order No. R3-2011-0003, which provides in pertinent part that, “Discharge of any waste in any manner other than as described by this Order is prohibited.”
26. The October 3, 2012 discharge is also a violation of the Standard Provisions of the Discharger’s NPDES permit, which provide, in pertinent part:

The Discharger shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this Order that has a reasonable likelihood of adversely affecting human health or the environment.

And:

Safeguards shall be provided to assure maximal compliance with all terms and conditions of this permit. Safeguards shall include preventative and contingency plans and may also include alternative power sources, stand-by generators, retention capacity, operating procedures, or other precautions. ...

Attachment D, D-1 C. Duty to Mitigate and D-11, B.9, Central Coast Standard Provisions, respectively.

27. While the Discharger originally reported that the October 3, 2012 discharge was 281,250 gallons, and claimed in its 13267 response that it was approximately 230,000 gallons, but this estimate was deemed unreliable because of the method of calculation, and the availability of flow data during the discharge event. Using effluent data from the Discharger's Supervisory Control and Data Acquisition (SCADA) system, the Prosecution Team's calculation of the discharge volume, was recalculated at 297,896 gallons.
28. The Discharger also failed to sample, pursuant to Provision VIII.A.2 of the Monitoring and Reporting Program of Order No. R3-2011-0003 (Attachment E), which provides in pertinent part:

The Discharger **shall monitor** for total coliform, fecal coliforms, and enterococcus at receiving water sampling stations RSW-F and RSW-G as identified in MRP section II above, in addition to three shore sampling stations approved by the Executive Officer, for seven days after loss of disinfection.

(emphasis added). This failure to sample is an additional violation of Discharger's permit, but is not included in the recommended administrative liability. The Discharger spoke with Central Coast Water Board permitting staff and was allegedly told not to sample after the October 3, 2012 discharge. However, the Discharger is responsible for compliance with the terms of its permit despite unauthorized oral directives to the contrary.

29. The October 3, 2012 discharge is subject to a discretionary penalty. CWC §13385(e) specifies factors that the Central Coast Water Board shall consider in establishing the amount of civil liability. The Water Quality Enforcement Policy (hereinafter "Enforcement Policy") adopted by the State Water Resources Control Board on November 19, 2009, and approved by the Office of Administrative Law on May 20, 2010, establishes a methodology for assessing administrative civil liability and addresses the factors in CWC §13385(e). Attachment A, incorporated herein and made a part of this ACLC by reference, presents the civil liability assessment derived from the use of the penalty methodology in the Enforcement Policy.

The policy can be found at:

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

30. Discretionary penalties and the Enforcement Policy allow for the recovery of staff costs. Attachment A, incorporated by reference, provides a summary of staff costs incurred to date. Staff costs will continue to accrue up to and through hearing.
31. An analysis of the Discharger's ability to pay indicates that the Discharger's published budget for its fiscal year that ended in 2010 (the most recent year available) indicated a net surplus of funds in its Enterprise Fund. It is not

anticipated that the proposed liability would cause a financial hardship for the Discharger. The burden of proof now shifts to the Discharger to indicate that the recommended liability should be reduced based on an inability to pay.

32. Discharger's effluent limitation violations are subject to non-discretionary MMPs. CWC section 13385, subdivision (h)(1) requires the Central Coast Water Board to assess an MMP of three thousand dollars (\$3,000) for each serious violation.
33. CWC section 13385, subdivision (h)(2) states, in part, the following: "For the purpose of this section, a 'serious violation' means any waste discharge that violates the effluent limitations ... 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." Settleable solids is a Group 1 pollutant, and chlorine total residual is a Group 2 pollutant.

MINIMUM LIABILITY FOR ALL VIOLATIONS

34. The Enforcement Policy requires that the minimum liability be compared to the economic benefit, and that the recommended penalty must be at least 10 percent higher than the economic benefit so that liabilities are not construed as the cost of doing business. The economic benefit in this instance is \$25,534, which represents the delayed and avoided costs of installing an alarm and avoided sampling (please refer to Attachment A). The minimum liability for the discretionary enforcement related to the October 3, 2012 discharge exceeds this amount by more than 10%, which complies with the Enforcement Policy requirement. The minimum liability for the October 3, 2012 discharger would therefore be \$28,087.40.
35. The 5 (five) MMP violations must be assessed according to CWC 13385(h) for \$3,000 each, for a total of \$15,000.
36. The total minimum liability is therefore \$43,087.40 [\$28,087.40 + \$15,000] for both the discretionary penalties and the MMPs.

MAXIMUM LIABILITY FOR THE 13385 DISCHARGE

37. Pursuant to CWC section 13385, subdivision (a), any person who violates Water Code section 13376 is subject to administrative civil liability pursuant to Water Code section 13385, subdivision (c), in an amount not to exceed the sum of both of the following: (1) ten thousand dollars (\$10,000) for each day in which the violation occurs and (2) where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional

liability not to exceed ten dollars (\$10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

38. The alleged violations, set forth in full in the accompanying Attachment A, constitute violations subject to Water Code section 13385. The maximum liability that the Central Coast Water Board may assess pursuant to Water Code section 13385, subdivision (c) is \$2,978,960, based on a volume of 297,896 gallons plus \$10,000 per day.
39. MMP violations are usually charged \$3,000 per violation, but can be treated as discretionary violations and penalized up to \$10,000 per occurrence. The \$15,000 MMP liability could therefore be increased to \$50,000.
40. The total maximum liability is therefore \$3,018,960 for both the discharge and effluent violations.

PROPOSED LIABILITY

23. Pursuant to CWC section 13385, subdivision (e), and the Enforcement Policy and as described in greater detail in Attachment A, the Prosecution Team has considered the factors in determining the amount of the recommended civil liability.
25. Based on consideration of the above facts, the applicable law, and after applying the penalty calculation methodology in section VI of the Enforcement Policy, it is recommended that the Central Coast Water Board impose civil liability against Discharger in the amount of **\$96,775** [**\$81,775** for the October 3, 2012 discharge (see Attachment A) and **\$15,000** (see Attachment B) for the MMPs] for the violations alleged herein.

Dated this 2nd day of March, 2015.



Digitally signed by Michael Thomas
DN: cn=Michael Thomas, o=Central Coast Water Board,
ou, email=Michael.Thomas@Waterboards.ca.gov, c=US
Date: 2015.03.02 15:09:38 -08'00'

MICHAEL THOMAS,
Assistant Executive Officer

Signed pursuant to the authority delegated
by the Executive Officer to the Assistant
Executive Officer.

Attachment A: Prosecution Team's Penalty Methodology Recommendations
Attachment B: MMPs – Effluent Limitation Violations
Attachment C: Waiver Form

ATTACHMENT A

CARPINTERIA SANITARY DISTRICT (DISCHARGER)

ACL COMPLAINT NO. R3-2015-0011

This document provides information regarding and in support of Administrative Civil Liability Complaint (ACLC) No. R3-2015-0011 against the Discharger for the unauthorized discharge of un-disinfected secondary effluent to the Pacific Ocean, a water of the United States. The unauthorized discharge occurred on October 3, 2012, at the Discharger's wastewater treatment plant (WWTP). On October 29, 2013, Water Board staff conducted an inspection to obtain more information regarding the violations at this facility. Information and data on the violation were provided by the Discharger in response to the Central Coast Water Board's December 10, 2013 CWC section 13267 Order. The Discharger provided additional data provided on or about April 21, 2014.

1.0 Discharger Information

The Discharger owns and operates a wastewater collection, treatment, and disposal system, which provides sewerage service for a population of approximately 13,000 within the City of Carpinteria and portions of Santa Barbara County. The treatment system consists of pretreatment, screening, grit removal, primary sedimentation, aerated activated sludge tanks, secondary sedimentation, chlorination, and dechlorination. Treated wastewater is discharged to the Pacific Ocean.

2.0 Application of Water Board's Enforcement Policy¹

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

The following recommendations are based on the procedures included in the Water Quality Enforcement Policy methodology.

3.0 Discharge Violation

On October 3, 2012, the Discharger's chlorination system at the WWTP failed to disinfect the secondarily-treated effluent from 4:08 a.m. to 9:40 a.m., which resulted in an unauthorized discharge of un-disinfected effluent from the WWTP of 297,896 gallons to the Pacific Ocean.

¹ Water Board's Adopted Enforcement Policy: http://www.swrcb.ca.gov/water_issues/programs/enforcement/policy.shtml

The Discharger reported that the chlorination failure at the WWTP was discovered by a plant operator conducting plant rounds in the morning of October 3, 2012. The Discharger did not conduct an extensive investigation into the cause of the failure. During the Prosecution Team's investigation of this incident, the Discharger conducted additional research, but was still unable to conclusively determine the exact cause of its chlorination system failure. The Discharger reported the discharge incident to the Central Coast Water Board and other agencies including the Pre-harvest Shellfish Unit of the Environmental Management Branch of the California Department of Public Health (CDPH) and the Santa Barbara County Environmental Health and Safety (EHS) Department.

Section 13385 of the CWC includes provisions for assessing administrative civil liability for discharges of wastes to surface waters in violation of the federal Clean Water Act. The October 3, 2012 discharge incident was to surface waters of the United States for which liability can be assessed in accordance with Section 13385 of the CWC. CWC §13385(c) states, in part, that the Central Coast Board may impose civil liability administratively for noncompliance with CWC §13376 on a daily basis at a maximum of ten thousand dollars (\$10,000) for each day in which the violation occurs in accordance with CWC §13385(c)(1); and where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged, but not cleaned up, exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) multiplied by the number of gallons by which the volume discharge, but not cleaned up, exceeds 1,000 gallons; or both, CWC §13385(c)(2).

The October 3, 2012 discharge was in violation of its NPDES permit, specifically Prohibition III.B, and Standard Provisions as described herein, for which administrative liability may be imposed.

4.0 Penalty Determination for Discharge Violation

The following step-by-step calculation is based on the Enforcement Policy's guidelines in determining monetary penalties associated with discharge violations to surface waters of the United States.

Step #1: Potential for Harm

Potential for harm is evaluated using the scores derived from the following three factors, with a total score of five.

Factor 1: Harm or Potential Harm to Beneficial Uses

The evaluation of the potential harm to beneficial uses factor considers the harm that may result from exposure to the pollutants in the illegal discharge. The most sensitive beneficial uses for this discharge are Water Contact Recreation (REC-1) and Shellfish Harvesting (SHELL), due to the potential exposure to elevated levels of pathogens (see Factor 2). Fecal contamination in recreational waters is associated with an increased risk of gastrointestinal and respiratory illness.

The outfall for this facility is located 1,000 feet offshore of Carpinteria State Beach in approximately 25 feet of water. Although the effluent is diluted by the diffuser at a 93:1 ratio, the Discharger's analysis indicates that receiving water limitations would be violated outside the initial zone of dilution. This discharge lasted for over 5 ½ hours.

"Below moderate" is defined as:

Less than moderate threat to beneficial uses (i.e., impacts are observed or reasonably expected, harm to beneficial uses is minor).

Due to the above considerations, the score for Factor 1 is two for being Below Moderate.

Factor 2: Physical, Chemical, Biological or Thermal Characteristics

While Factor 1 considers the harm to potential uses that can occur because of where the discharge occurred, Factor 2 considers the characteristics of the discharge itself. The score for Factor 2 is two, a moderate risk or threat, because the un-disinfected discharge received secondary biological treatment, but contained elevated levels of pathogens (coliform, enterococcus, etc.). No effluent sampling was conducted during the discharge event, but a representative secondary effluent total coliform sample taken by the Discharger's consultant (Aquatic Bioassay & Consulting Laboratories Inc.) showed 160,000 mpn/100 ml, which is more than 68 times above the effluent limit of 2,300 mpn/100ml.

Factor 3: Susceptibility to Cleanup or Abatement

The score for Factor 3 is one, meaning that less than 50% of the discharge was susceptible to cleanup, based on the following justifications:

1. The unauthorized discharge was not known until an operator discovered zero chlorine residual at the front end of the chlorine contact tank (right after chlorination dosage point). This resulted in direct discharge to the Pacific Ocean with none of the discharge susceptible to cleanup or abatement.
2. Discharger has no provision for automated "recirculation" or "emergency storage" system in place in cases of chlorination failure.

Step #2: Assessments for Discharge Violations

The discharge volume is calculated to be 296,896 gallons based on the effluent data submitted by the Discharger, less 1,000 gallons allowed by statute. The Discharger initially reported 281,250 gallons to the Central Coast Water Board, but did not provide any technical or supporting documents to back up the volume estimation. In response to the NOV/13267 Order dated December 10, 2013, the Discharger modified the discharge volume to 231,076 gallons based on effluent flow trend chart, calculated by its consultants. However, since this estimate relies on estimating discharge from a trend line on a chart, it is not as accurate as calculating the volume when the flow data is directly available. The final volume was calculated by Prosecution Team staff using available effluent flow data from the Discharger's Supervisory Control and Data Acquisition (SCADA) system.

Deviation from Requirement

The deviation from requirement reflects the extent to which the violation deviates from the permit's specific requirement as presented in Table 1 of the Enforcement Policy (page 14). In this case, the deviation from requirements is scored as Moderate because the intended effectiveness of the requirement to chlorinate has been partially compromised for more than five hours without alarm systems in place to notify operators.

Volume Assessment

Pursuant to CWC section 13385(a), the Discharger is subject to administrative civil liability for violating any waste discharge requirement contained in an NDPEs permit. The Central Coast Water Board may impose administrative civil liability pursuant to CWC section 13385(c) in an

amount not to exceed the sum of both of the following; (1) \$10,000 for each day in which the violation occurred and (2) \$10 for each gallon of discharge that was not susceptible to cleanup or was not cleaned up in excess of 1,000 gallons. The Water Quality Enforcement Policy requires application of the per gallon factor to the maximum per gallon amounts allowed under statute for the violations involved.

The Water Quality Enforcement Policy allows discretion to lower the \$10 per gallon maximum amount to \$2 per gallon for high-volume discharges of sewage or stormwater. The Prosecution Team exercised its discretion to reduce the recommended penalty to \$2 per gallon to yield an appropriate penalty.

Step #3: Per Day Assessments for Non-Discharge Violations

The proposed ACLCLC does not include any non-discharge violations.

Step #4: Adjustment Factors

The following three factors should be considered for modification of the amount of initial liability:

Culpability is scored as 1.1. The Discharger failed to take all reasonable steps to minimize or prevent any discharge that has a reasonable likelihood of adversely affecting human health or the environment (Order No. R3-2011-003, Attachment D – Standard Provisions I (C) and 40 CFR §122.41(d)) and failed to develop and implement preventative and contingency plans (Attachment D-1, I (B.9)). In particular, Attachment D-1, I (B.9) requires:

Safeguards shall be provided to assure maximal compliance with all terms and conditions of this permit. Safeguards shall include preventative and contingency plans and may also include alternative power sources, stand-by generators, retention capacity, operating procedures, or other precautions. Preventative and contingency plans for controlling and minimizing the [e]ffect of accidental discharges shall:

- a. identify possible situations that could cause "upset", "overflow" or "bypass", or other noncompliance. (Loading and storage areas, power outage, waste treatment unit outage, and failure of process equipment, tanks and pipes should be considered.)
- b. evaluate the effectiveness of present facilities and procedures and describe procedures and steps to minimize or correct any adverse environmental impact resulting from noncompliance with the permit.

The Discharger failed to install a low chlorine dosage alarm system that would immediately notify plant operators of a chlorination failure, which would have minimized the length of time and volume of the discharge. Even though the pump was well-maintained and had no previous failures, that is not a guarantee of future success and is why alarms and preventative and contingency plans are required.

The Discharger was required by its permit to sample for 7 days after the loss of disinfection (see (Monitoring and Reporting Program, VIII.A.2)). This failure to sample is an additional violation of Discharger's permit, but is not included in the recommended administrative liability. The Discharger spoke with Central Coast Water Board permitting staff and was allegedly told not to sample after the October 3, 2012 discharge. Even though this could be included as an additional violation, the Prosecution Team is not pursuing this violation or including it within the recommended liability.

Cleanup and Cooperation is scored as 0.9. After the violation, the Discharger subsequently created an alarm to notify staff in the event of a low chlorine condition. Although the Discharger has been forthright in responding to staff requests, it revised its discharge volume to 231,076 gallons from the initially reported 281,250 gallons based on an effluent flow trend chart prepared by its consultants. However, the Discharger had readily available electronic effluent flow data from SCADA system. Upon request, Discharger provided the effluent flow data and Water Board staff calculated the discharge volume.

History of Violations is scored as 1. Although the Discharger has dechlorination violations, the Discharger does not have previous violations similar to the chlorination system failure. See Attachment B for summary of effluent limit violations that are mandatory minimum penalties, and are not required to go through the discretionary penalty methodology analysis.

Step # 5: Determination of Base Liability

The total base liability is determined by adding the amounts/scores above (see attached data spreadsheet). In this case, the liability is assessed based on both per day and per gallon penalties.

Step #6: Ability to Pay and Ability to Continue in Business

The score is considered neutral or one because the Discharger's published budget for its fiscal year that ended in 2010 (the most recent year available) indicated a net surplus of funds in its Enterprise Fund. It is not anticipated that the proposed liability would cause a financial hardship for the Discharger.

Step #7: Other Factors as Justice may Require

The following table shows an estimate of staff costs which will continue to accrue up to and through a hearing.

CARPINTERIA SANITARY DISTRICT MATTER				
Staff Position	Task	Estimated Hours	Hourly Rate (\$)	Cost (\$)
WRCE1	Site Inspection (prep, travel, onsite meeting/inspection)	20	125	2,500
WRCE2	Site Inspection (prep, travel, onsite meeting/inspection)	20	125	2,500
WRCE1	Development of Investigative Order (NOV/13267 Letter)	12	125	1,500
WRCE2	Development of Investigative Order (NOV/13267 Letter)	12	125	1,500
Sr WRCE	Review/Approve Investigative Order	5	125	625
WRCE1	Review Technical Report by Discharger	20	125	2,500
WRCE2	Review Technical Report by Discharger	20	125	2,500
WRCE1	Develop draft Attachment A and Penalty Calculator	10	125	1,250
WRCE2	Develop draft Attachment A and Penalty Calculator	10	125	1,250
WRCE1	Technical Meeting by telephone	4	125	500
WRCE2	Technical Meeting by telephone	4	125	500
Sr WRCE	Technical Meeting by telephone	3	125	375
WRCE1	Settlement meeting and discussion	8	125	1,000
WRCE2	Settlement meeting and discussion	12	125	1,500
Sr WRCE	Settlement meeting and discussion	5	125	625
Sr WRCE	Revise Attachment A	11	125	1,375
			TOTAL	22,000

Step #8: Economic Benefit

The economic benefit includes the failure to install a low chlorine dosage alarm system and the failure to conduct water quality monitoring of the receiving water. The following table shows the details of calculated economic benefits based on: (1) cost information provided by Aquatic Bioassay & Consulting Laboratories Inc. for sampling and analysis of receiving water (includes approximate cost of labor and equipment rental for seven days and (2) information provided by Discharger for installation of an alarm system.

Compliance Action	One-Time Non-depreciable Expenditure		Annual Cost		Date of			Benefit of Non-Compliance
	Amount	Date	Amount	Date	Non-Compliance	Compliance	Penalty Payment	
Avoided Sampling and Analysis of Receiving Water (outfall) ¹	\$22,400	10/3/2012	\$0	--	10/3/2012	5/28/2014	5/28/2015	\$25,234
Delayed Installation of Alarm	\$6,150	10/22/2012	\$0	--	3/25/2011	10/22/2012	5/28/2015	\$300
Totals	\$28,550		\$0					\$25,534

Source: USEPA BEN Model: Version 5.4.0, 2/23/2015 15:45
Not-for-Profit, which pays no taxes
Cost Index for Inflation: ECI Employment Cost Index
Discount/Compound Rate: 4.8%
¹ Requires 7 days offshore with boat and personnel. Cost: \$3,200 x 7

Step #9: Maximum and Minimum Liability

The Enforcement Policy states that the total liability shall be at least 10% higher than the economic benefit. Therefore the minimum liability is \$28,087.40.

The maximum liability allowed by CWC section 13385 is \$10 per gallon plus \$10,000 per day. Therefore the maximum liability is \$2,978,960.

Step #10: Final Liability Amount

The final liability amount is calculated using the penalty calculator, attached.

5.0 Proposed Administrative Civil Liability Amount

Based on the evaluation of steps above and the attached Penalty Calculation Methodology Worksheet, the proposed administrative civil liability amount for the discretionary and mandatory penalties is:

Penalty = \$81,775 for the October 3, 2012 discharge + \$15,000 for the MMPs, as represented on Attachment B
Total = \$96,775.

Instructions

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

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

Select Item **0 = Negligible**
 Select Item **0 = Discharged material poses negligible risk**
 Select Item **< 50% of Discharge Susceptible to Cleanup or A**
 Select Item **Minor**

Discharger Name/ID: **Carpinteria Sanitary District**

		Violation 1		Violation 2		
Discharge Violations	Step 1	Potential Harm Factor (Generated from Button)	5		1	
	Step 2	Per Gallon Factor (Generated from Button)	0.1			
		Gallons	296,896			
		Statutory Maximum	10.00			
		High Volume	2.00			
	Total		\$ 59,379		\$ -	
	Step 2	Per Day Factor (Generated from Button)	0.1		0	
		Days	1			
Statutory Max per Day		\$ 10,000				
Total			\$ 1,000		\$ -	
Non-Discharge Violations	Step 3	Per Day Factor				
		Total Days				
		Multiple Day Violation Reduction				
		Statutory Max per Day				
	Total		\$ -		\$ -	
Initial Amount of the ACL			\$ 60,379.20		\$ -	
Add'l Factors	Step 4	Culpability	1.1	\$ 66,417.12		\$ -
		Cleanup and Cooperation	0.9	\$ 59,775.41		\$ -
		History of Violations	1	\$ 59,775.41		\$ -
	Maximum for this Violation		\$ 2,978,960.00		\$ -	
	Amount for this Violation		\$ 59,775.41		\$ -	

Step 5	Total Base Liability Amount		\$ 59,775.41
Step 6	Ability to Pay & to Continue in Business	1	\$ 59,775.41
Step 7	Other Factors as Justice May Require	1	\$ 59,775.41
	Staff Costs	\$ 22,000	\$ 81,775.41
Step 8	Economic Benefit	\$ 25,534	
Step 9	Minimum Liability Amount	\$ 28,087.40	
	Maximum Liability Amount	\$ 2,978,960.00	
Step 10	Final Liability Amount		\$ 81,775.41

Penalty Day Range Generator

Start Date of Violation=

End Date of Violation=

Maximum Days Fined (Steps 2 & 3) = Days

Minimum Days Fined (Steps 2 & 3) = Days

Select Item Potential Harm for Discharge Violations
 Select Item Characteristics of the Discharge
 Select Item Susceptibility of Cleanup or Abatement
 Select Item Deviation from Requirement

Select Item Potential Harm for Discharge Violations
 Select Item Characteristics of the Discharge
 Select Item Susceptibility of Cleanup or Abatement
 Select Item Deviation from Requirement

Select Item Potential Harm for Discharge Violations
 Select Item Characteristics of the Discharge
 Select Item Susceptibility of Cleanup or Abatement
 Select Item Deviation from Requirement

Select Item Potential Harm for Discharge Violations
 Select Item Characteristics of the Discharge
 Select Item Susceptibility of Cleanup or Abatement
 Select Item Deviation from Requirement

Violation 7		Violation 8		Violation 9		Violation 10	
	\$ -		\$ -		\$ -		\$ -
0		0		0		0	
	\$ -		\$ -		\$ -		\$ -
	\$ -		\$ -		\$ -		\$ -
	\$ -		\$ -		\$ -		\$ -
	\$ -		\$ -		\$ -		\$ -
	\$ -		\$ -		\$ -		\$ -
\$ -		\$ -		\$ -		\$ -	
	\$ -		\$ -		\$ -		\$ -

MANDATORY PENALTY ADMINISTRATIVE CIVIL LIABILITY

Carpinteria SD

CARPINTERIA SD WWTP

WDID No. 3 420101001 NPDES No. CA0047364

Attachment "B"

Effluent Limitation Violations Requiring Mandatory Minimum Penalties

#	Violation Number	Violation Date	Constituent	Pollutant Group	Limitation Period	Limit	Result/Average	Units	Exempted from MMP?	Exempt Reason	% Over Limit	Date 180 Days Prior	Serious or Chronic Violation?	No. of Violations within 180 days	Mandatory Fine?	Water Code	Penalty
1	916879	12/27/2011	Settleable Solids	Group 1	7-Day Average of	1.5	5.89	mg/L	N		293%	06/30/2011	S	N/A	Y	13385(h)	\$ 3,000
2	916877	12/27/2011	Settleable Solids	Group 1	Daily Maximum	3	40	mg/L	N		1233%	06/30/2011	S	N/A	Y	13385(h)	\$ 3,000
3	916878	12/27/2011	Settleable Solids	Group 1	30-Day Average of	1	1.47	mg/L	N		47%	06/30/2011	S	N/A	Y	13385(h)	\$ 3,000
4	944253	01/03/2013	Chlorine, Total Residual	Group 2	Instantaneous	5600	10400	ug/L	N		86%	07/07/2012	S	N/A	Y	13385(h)	\$ 3,000
5	944252	01/07/2013	Chlorine, Total Residual	Group 2	Instantaneous	5600	7800	ug/L	N		39%	07/11/2012	S	N/A	Y	13385(h)	\$ 3,000

Total Penalty: \$ 15,000

1 - Violation occurs on sample date or last date of averaging period.

2 - For Group I pollutants, a violation is serious when the limit is exceeded by more than 40%

- For Group II pollutants, a violation is serious when the limit is exceeded by more than 20%

3 - When a serious violation occurs on the same day as a chronic, the serious violation is only assessed an MMP once and is counted last for the day when determining the number of chronic violations to be assessed a

Violation period ending the last day of December 2013

Group I Violations Assessed MMP: 3

Group II Violations Assessed MMP: 2

Other Effluent Violations Assessed MMP: 0

Violations Exempt from MMP: 0

Total Violations Assessed MMP: 5

Mandatory Minimum Penalty = (5 Serious Violations + 0 Non-Serious Violations) x \$3,000 = \$15,000

**WAIVER OF 90-DAY HEARING REQUIREMENT FOR
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

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

1. I am duly authorized to represent Carpinteria Sanitary District (Discharger) in connection with Administrative Civil Liability Complaint R3-2015-0011 (Complaint);
2. 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" with the Complaint. The person who has been issued a complaint may waive the right to a hearing;
3. ***(Check here if the Discharger will waive its right to a hearing and accept the proposed liability amount of ninety-six thousand seven hundred and seventy-five dollars (\$96,775)).*** I hereby waive any right the Discharger may have to a hearing before the Central Coast Regional Water Quality Control Board (Central Coast Water Board) within ninety (90) days of service of the Complaint; and

I certify that the Discharger will be liable for **ninety-six thousand seven hundred and seventy-five dollars (\$96,775) in full.**

Payment must be received by the Central Coast Water Board by **3 April 2015** or this matter will be placed on the Central Coast Water Board's agenda for consideration of adoption at the **28/29 May 2015** Central Coast Water Board meeting. Payment must be received at the following address: State Water Resources Control Board, Accounting Office, Attn: ACL Payment, P.O. Box 1888, Sacramento, CA 95812-1888. A copy of the check must also be received by the Central Coast Water Board.

I understand that payment of the **\$96,775** in full 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.

-or-

4. ***(Check here if the Discharger will waive the 90-day hearing requirement, but wishes to engage in settlement negotiations. The Central Coast Water Board must receive information from the Discharger indicating a controversy regarding the assessed penalty at the time this waiver is submitted, or the waiver may not be accepted.)*** I hereby waive any right the Discharger may have to a hearing before the Central Coast Water Board within 90 days after service of the Complaint but reserve the ability to request a hearing in the future. I certify that the Discharger will promptly engage the Central Coast Water Board Prosecution Team in discussions to resolve the outstanding violation(s). By checking this box, the Discharger is *not* waiving its right to a hearing on this matter. By checking this box, the Discharger requests that the Central Coast Water Board delay the hearing so that the Discharger and the Central Coast Water Board Prosecution Team can discuss settlement. It remains within the discretion of the Central Coast Water Board to agree to delay the hearing. A hearing on the matter may be held before the Central Coast Water Board if these discussions do not resolve the liability proposed in the Complaint. The Discharger agrees that this hearing may be held after the 90-day period referenced in California Water Code section 13323 has elapsed. Any proposed settlement is subject to approval by the Central Coast Water Board or its delegee, and must be publicly noticed for 30 days. The Discharger also understands 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.

-or-

5. **(Check here if the Discharger will waive the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines. The Central Coast Water Board must receive information from the Discharger indicating a controversy regarding the assessed penalty at the time this waiver is submitted, or the waiver may not be accepted. 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 Coast Water Board within 90 days after service of the Complaint but reserve the ability to request a hearing in the future. By checking this box, the Discharger requests that the Central Coast 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 Coast Water Board to approve the extension.
6. If a hearing on this matter is held, the Central Coast Water Board will consider whether to issue, reject, or modify the proposed Administrative Civil Liability Order, or whether to refer the matter to the Attorney General for recovery of judicial civil liability. Modification of the proposed Administrative Civil Liability Order may include increasing the dollar amount of the assessed civil liability.

(Print Name and Title)

(Signature)

(Date)