

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2010-0510

MANDATORY PENALTY
IN THE MATTER OF

CITY OF ROSEVILLE
DRY CREEK WASTEWATER TREATMENT PLANT
PLACER COUNTY

This Complaint is issued to the City of Roseville (hereafter Discharger) pursuant to California Water Code (CWC) section 13385, which authorizes the imposition of Administrative Civil Liability, and CWC Section 13323, which authorizes the Executive Officer to issue this Complaint. This Complaint is based on findings that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Order 5-00-164 and Order R5-2008-0077 (NPDES No. CA0079502).

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

1. The Discharger owns and operates a wastewater collection, treatment, and disposal system, and provides sewerage service for the City of Roseville, portions of southeast Placer County, and South Placer Municipal Utility District. Treated municipal wastewater is discharged to Dry Creek, which is tributary to Natomas Cross Canal, tributary to the Sacramento River, a water of the United States.
2. On 16 June 2000, the Central Valley Water Board adopted WDRs Order 5-00-164 to regulate discharges of waste from the Discharger's Dry Creek Wastewater Treatment Plant (WWTP). On 12 June 2008, effective 1 August 2008, the Board issued WDRs Order R5-2008-0077 which rescinded Order 5-00-164 and established new requirements.
3. On 25 June 2008, the Assistant Executive Officer of the Central Valley Water Board issued Administrative Civil Liability Complaint (ACLC) R5-2008-0544 for mandatory minimum penalties for effluent violations from 1 January 2001 through 31 December 2007. Subsequently, the Discharger provided information that several violations were incorrect.
4. On 30 September 2008, the Assistant Executive Officer of the Central Valley Water Board issued ACLC R5-2008-0572 for mandatory minimum penalties for effluent violations from 1 January 2001 through 31 December 2007. ACLC R5-2008-0572 rescinded ACLC R5-2008-0544. The Discharger paid the administrative civil liability charged in Complaint R5-2008-0572 and the Board considers the matter resolved.
5. This Complaint covers the period of 1 January 2008 through 31 December 2009. On 24 December 2009, Central Valley Water Board staff issued the Discharger a Notice of Violation and draft Record of Violations (ROV) for effluent limitation violations for the period of September 2007 and from 1 January 2009 through 31 October 2009. The ROV

included alleged violations of the cadmium effluent limitations in Order 5-00-164 in September 2007. Based on the Discharger’s response via letter dated 19 January 2010 and the Discharger’s 11 December 2008 “Compliance Workplan/Schedule for...Cadmium”, Board staff reevaluated the ROV and deleted the two September 2007 cadmium violations. Based upon the Discharger’s letter, one coliform violation also was deleted. This Complaint extends the period from 1 January 2008 through 31 December 2009. These changes are detailed in Attachment B of this Complaint.

6. CWC section 13385(i) requires assessment of mandatory penalties and states, in part, the following:

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. CWC 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 R5-2008-0179 Effluent Limitations IV.A.1.a., states, in part:

- a. The Discharger shall maintain compliance with the final effluent limitations specified in Table 6.

Table 6. Final Effluent Limitations

Parameter	Units	Effluent Limitations				
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
Total Coliform Bacteria	MPN/100 mL	--	--	--	--	240

- e. **Total Coliform Organisms.** Effluent total coliform organisms shall not exceed:
 - i. 2.2 most probable number (MPN) per 100 mL, as a 7-day median; and
 - ii. 23 MPN/100 mL, more than once in any 30-day period.

9. According to the Discharger's self-monitoring reports, for the period beginning 1 January 2008 and ending 31 December 2009, there were no effluent limitation violations of WDRs Order 5-00-164 but there were six (6) non-serious violations of the total coliform effluent limitations contained in WDRs Order R5-2008-0077. Three of the non-serious violations are subject to mandatory penalties under CWC Section 13385(i)(1) because these violations were preceded by three or more similar violations within a six-month period. The mandatory minimum penalty for the three non-serious violations is **nine thousand dollars (\$9,000)**.
10. The total amount of the mandatory penalties assessed for the cited effluent violations is **nine thousand dollars (\$9,000)**. A detailed list of the cited effluent violations is included in Attachment A, a part of this Order.
11. Issuance of this Administrative Civil Liability Complaint to enforce CWC Division 7, Chapter 5.5 is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code § 21000 et seq.), in accordance with California Code of Regulations, Title 14, section 15321(a)(2).

THE CITY OF ROSEVILLE IS HEREBY GIVEN NOTICE THAT:

1. The Executive Officer of the Central Valley Water Board proposes that the Discharger be assessed an Administrative Civil Liability in the amount of **nine thousand dollars (\$9,000)**.
2. A hearing on this matter will be conducted at the Central Valley Water Board meeting scheduled on **27/28 May 2010**, unless one of the following occurs by **1 April 2010**:
 - a) The Discharger 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, along with payment for the proposed civil liability of **nine thousand dollars (\$9,000)**; or
 - b) The Central Valley Water Board agrees to postpone any necessary hearing after the Discharger requests to engage in settlement discussions by checking off the box next to Option #2 on the attached form, and returns it to the Board along with a letter describing the issues to be discussed; or
 - c) The Central Valley Water Board agrees to postpone any necessary hearing after the Discharger requests a delay by checking off the box next to Option #3 on the attached form, and returns it to the Board along with a letter describing the issues to be discussed.
3. If a hearing on this matter is conducted, 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.

If this matter proceeds to hearing, the 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 Wendy Wyels for
PAMELA C. CREEDON, Executive Officer

1 March 2010

DATE

Attachment A: Record of Violations
BLH: 23 Feb 2010

**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 Roseville (hereafter Discharger) in connection with Administrative Civil Liability Complaint R5-2010-0510 (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 **twelve thousand dollars (\$9,000)** by check that references "ACL Complaint R5-2010-0510" made payable to the *State Water Pollution Cleanup and Abatement Account*. Payment must be received by the Central Valley Water Board by **1 April 2010**.
- 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 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 COMPLAINT R5-2010-0510**

**City of Roseville
Dry Creek Wastewater Treatment Plant**

DRAFT RECORD OF VIOLATIONS (1 January 2008 – 31 December 2009) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Programs 5-00-164 and R5-2008-0077)

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measure</u> <u>d</u>	<u>Period Type</u>	<u>Remarks</u>	<u>CIWQS</u>
1	21-Sep-09	Coliform	MPN/100 mL	2.2	4	7-day median	3	851321
2	22-Sep-09	Coliform	MPN/100 mL	2.2	4	7-day median	3	851322
3	23-Sep-09	Coliform	MPN/100 mL	2.2	4	7-day median	3	851323
4	24-Sep-09	Coliform	MPN/100 mL	2.2	4	7-day median	4	851324
5	25-Sep-09	Coliform	MPN/100 mL	2.2	4	7-day median	4	851325
6	26-Sep-09	Coliform	MPN/100 mL	2.2	4	7-day median	4	851326

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 violations falls within the first three violations in a six-month period, thus is exempt.
4. Non-serious violation subject to mandatory penalties.

<u>VIOLATIONS AS OF:</u>	<u>12/31/2009</u>
Group I Serious Violations:	0
Group II Serious Violations:	0
Non-Serious Exempt from MPs:	3
Non-serious Violations Subject to MPs:	3
<u>Total Violations Subject to MPs:</u>	<u>3</u>

Mandatory Minimum Penalty = (0 Serious Violation + 3 Non-Serious Violations) x \$3,000 = \$9,000



Linda S. Adams
Secretary for
Environmental
Protection

ATTACHMENT B

**California Regional Water Quality Control Board
Central Valley Region**

Katherine Hart, Chair



**Arnold
Schwarzenegger**
Governor

11020 Sun Center Drive #200, Rancho Cordova, California 95670-6114
Phone (916) 464-3291 • FAX (916) 464-4645
<http://www.waterboards.ca.gov/centralvalley>

TO: Victor Vasquez, Senior Engineer
NPDES Compliance and Enforcement

FROM: Barry Hilton, WRCE
NPDES Compliance and Enforcement

DATE: 23 February 2010

SIGNATURE: _____

SUBJECT: CITY OF ROSEVILLE, DRY CREEK WWTP

On 24 December 2009, Central Valley Water Board staff sent the City of Roseville (Discharger) a Notice of Violation (NOV) and draft Record of Violations (ROV) for the period of September 2007 and 1 January 2009 through 31 October 2009 for its Dry Creek WWTP. The Discharger responded by letter dated 19 January 2010. This memorandum summarizes our consideration of the information submitted by the Discharger and revisions made to the ROV.

ACLC Period

I extended the ACLC period of record from the 31 October 2009 date in the ROV to 31 December 2009. There were no additional violations in November and December 2009. I also extended the period back to 1 January 2008. There were no additional violations during 2008.

Roseville Response

Coliform, Violation 3. The Discharger showed that the 7-Day median was 2, not 3 MPN/100 mL. I reviewed the self-monitoring report, recalculated the results, and verified that the result should have been 2 MPN/100 mL and therefore is not a violation. I deleted the violation.

Coliform, Violations 4-9. The Discharger agreed with the violations. I retained the violations but changed violation 6 from Remarks 4 to Remarks 3 because it was the third non-serious violation during the previous 180 day period.

Cadmium, Violations 1, 2. Violations 1 and 2 were in CIWQS as unaddressed violations. The violations were included in ACLC R5-2008-0544 but were not in ACLC R5-2008-0572 which rescinded ACLC R5-2008-0544. ACLC R5-2008-0572 did not include a rationale for dismissing the two 30 September 2007 cadmium violations.

In its 19 January 2010 response, the Discharger submitted documentation, including a summary of analytical results that showed that the reported cadmium violations were false positive results due to cadmium contamination from the nitric acid sample preservative used.

California Environmental Protection Agency



The Discharger's 11 December 2008 "Compliance Workplan/Schedule for...Cadmium" included an Attachment 2 that "...shows the result of samples collected in the pre-preserved container resulted in ...lower cadmium results, than the sample preserved with the DCWWTP lab nitric acid...As shown, all final effluent cadmium results...since June 2008 (using the pre-preserved containers and preserved with the ultra clean-high purity nitric acid) are below the final effluent limits." The Attachment 2 data, for a split sample collected on 11 March 2008, showed a 1.2 µg/L effluent cadmium concentration in the DCWWTP nitric acid preserved sample and 0.03 µg/L effluent cadmium concentration in the pre-preserved high purity nitric acid containers. The Discharger, in its 19 January 2010 letter, stated that the September 2007 samples were collected using the DCWWTP lab nitric acid whereas samples subsequent to February 2008, collected using ultra-clean containers and ultra-pure nitric acid, have complied with effluent limitations for cadmium. The 19 January 2010 letter included a table with data for February 2008 through October 2009 to substantiate the compliance with effluent limitations.

According to the self-monitoring reports, and the table in the 19 January 2010 letter, there have been no further effluent limitation violations for cadmium. I deleted and dismissed the two September 2007 cadmium violations because the discharger demonstrated that those cadmium results indicated sample contamination rather than being representative of the effluent.

Summary

The number of Group 2 serious violations is reduced from two to none.

The number of non-serious violations exempt from mandatory minimum penalties is retained at three.

The number of non-serious violations subject to mandatory minimum penalties is reduced from four to three.

The mandatory minimum penalty is reduced from \$18,000 to \$9,000.

**City of Roseville
Dry Creek Wastewater Treatment Plant**

DRAFT RECORD OF VIOLATIONS (~~September 2007~~, 1 January 2008 – ~~31 October~~ 31 December 2009)
MANDATORY PENALTIES

(Data reported under Monitoring and Reporting Programs 5-00-164 and R5-2008-0077)

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measure</u> <u>d</u>	<u>Period Type</u>	<u>Remarks</u>	<u>CIWQS</u>
1	30-Sep-07	Cadmium	µg/L	7.1	9.4	1-hour	2	768000
2	30-Sep-07	Cadmium	µg/L	3.2	4.7	4-Day	2	768104
3	20-Sep-09	Coliform	MPN/100 mL	2.2	3	7-day median	3	851320
4	21-Sep-09	Coliform	MPN/100 mL	2.2	4	7-day median	3	851321
5	22-Sep-09	Coliform	MPN/100 mL	2.2	4	7-day median	3	851322
6	23-Sep-09	Coliform	MPN/100 mL	2.2	4	7-day median	34	851323
7	24-Sep-09	Coliform	MPN/100 mL	2.2	4	7-day median	4	851324
8	25-Sep-09	Coliform	MPN/100 mL	2.2	4	7-day median	4	851325
9	26-Sep-09	Coliform	MPN/100 mL	2.2	4	7-day median	4	851326

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 six-month period, thus is exempt.
4. Non-serious violation subject to mandatory penalties.

<u>VIOLATIONS AS OF:</u>	<u>10/31/2009</u>
Group I Serious Violations:	0
Group II Serious Violations:	20
Non-Serious Exempt from MPs:	3
Non-serious Violations Subject to MPs:	43
<u>Total Violations Subject to MPs:</u>	<u>63</u>

Mandatory Minimum Penalty = (20 Serious Violation + 43 Non-Serious Violations) x \$3,000 = \$189,000

Central Valley Regional Water Quality Control Board
HEARING PROCEDURE
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT
R5-2010-0510

ISSUED TO
CITY OF ROSEVILLE
DRY CREEK WASTEWATER TREATMENT PLANT
PLACER COUNTY

SCHEDULED FOR 27/28 MAY 2010

PLEASE READ THIS HEARING PROCEDURE CAREFULLY. FAILURE TO COMPLY WITH THE DEADLINES AND OTHER REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF YOUR DOCUMENTS AND/OR TESTIMONY.

Background

The Executive Officer has issued an Administrative Civil Liability (ACL) Complaint pursuant to California Water Code (CWC) section 13323 to the City of Roseville, alleging violations of CWC section 13385 for discharges at the Dry Creek Wastewater Treatment Plant that exceeded permitted effluent limitations.

The Complaint proposes that an administrative civil liability in the amount of \$9,000 be imposed. A hearing is currently scheduled to be conducted before the Central Valley Water Board during its 27/28 May 2010 meeting.

Purpose of Hearing

The purpose of the hearing is to consider relevant evidence and testimony regarding the ACL Complaint. At the hearing, the Central Valley Water Board will consider whether to issue an administrative civil liability order assessing the proposed liability, or a higher or lower amount, or reject the proposed liability. The public hearing will commence at 8:30 a.m. or as soon thereafter as practical, or as announced in the Central Valley Water Board meeting agenda. The meeting will be held at

11020 Sun Center Drive, Suite 200, Rancho Cordova, California.

An agenda for the meeting will be issued at least ten days before the meeting and posted on the Central Valley Water Board's web page at:

http://www.waterboards.ca.gov/centralvalley/board_info/meetings

Hearing Procedure

The hearing will be conducted in accordance with this Hearing Procedure. This Hearing Procedure has been approved by the Central Valley Water Board Chair in model format, and is subject to further revision by the Central Valley Water Board's Advisory Team or the Board Chair. A copy of the general procedures governing adjudicatory hearings before the Central Valley Water Board may be found at California Code of Regulations, title 23, section 648 et seq., and are available at: <http://www.waterboards.ca.gov> or will be made available upon request. In accordance with Section 648, subdivision (d), any procedure not provided by this Hearing Procedure is deemed waived. Except as provided in Section 648, subdivision (b) and herein, Chapter 5 of the Administrative Procedures Act (commencing with Gov't Code § 11500) does not apply to this hearing.

ANY OBJECTIONS TO THE HEARING PROCEDURE MUST BE RECEIVED BY THE CENTRAL VALLEY WATER BOARD'S ADVISORY TEAM NO LATER THAN 15 MARCH 2010, OR THEY WILL BE WAIVED. FAILURE TO COMPLY WITH THE DEADLINES AND REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF DOCUMENTS AND/OR TESTIMONY.

The Discharger shall contact the Prosecution Team to try to resolve objections regarding due dates, the hearing date and hearing time limits BEFORE submitting objections to the Advisory Team.

Hearing Participants

Participants in this proceeding are designated as either "parties" or "interested persons." Designated parties to the hearing may present evidence and cross-examine witnesses and are subject to cross-examination. Interested persons may present non-evidentiary policy statements, but may not cross-examine witnesses and are not subject to cross-examination. Interested persons generally may not present evidence (e.g., photographs, eye-witness testimony, monitoring data). Both designated parties and interested persons may be asked to respond to clarifying questions from the Central Valley Water Board, staff or others, at the discretion of the Central Valley Water Board.

The following participants are hereby designated as parties in this proceeding:

1. Central Valley Water Board Prosecution Team
2. The City of Roseville

Requesting Designated Party Status

Persons who wish to participate in the hearing as a designated party must request party status by submitting a request in writing (with copies to the existing designated parties) so that it is received no later than 5 p.m. on **22 March 2010**, by the Advisory Team attorney (contact information listed below). The request shall include an explanation of the basis for status as a designated party (i.e., how the issues to be addressed in the hearing and the potential actions by the Central Valley Water Board affect the person, and the need to

present evidence or cross-examine witnesses), the information required of designated parties as provided below, and a statement explaining why the party or parties designated above do not adequately represent the person's interest. Any opposition to the request must be received by the Advisory Team, the person requesting party status, and all other parties by 5 p.m. on **1 April 2010**. The parties will be notified by 5 p.m. on **12 April 2010** whether the request has been granted or denied.

Primary Contacts

Advisory Team:

Kenneth Landau, Assistant Executive Officer
11020 Sun Center Drive, Suite 200, Rancho Cordova, CA 95670
Phone: (916) 464-4726
klandau@waterboards.ca.gov

Lori Okun, Senior Staff Counsel
State Water Resources Control Board, Office of Chief Counsel
Physical Address: 1001 I Street, Sacramento, CA 95814
Mailing Address: P.O. Box 100, Sacramento, CA 95812
Phone: (916)341-5165; fax: (916) 341-5199
lokun@waterboards.ca.gov

Prosecution Team:

Pamela Creedon, Executive Officer
Rick Moss, Assistant Executive Officer
Wendy Wyels, Environmental Program Manager
Victor Vasquez, Senior Water Resources Control Engineer
Barry Hilton, Water Resources Control Engineer
11020 Sun Center Drive, Suite 200, Rancho Cordova, CA 95670
Phone: (916) 464-4762; fax: (916) 464-4645
bhilton@waterboards.ca.gov

Patrick Pulupa, Staff Counsel
State Water Resources Control Board, Office of Chief Counsel
Physical Address: 1001 I Street, Sacramento, CA 95814
Mailing Address: P.O. Box 100, Sacramento, CA 95812
Phone: (916) 341-5189; fax: (916) 341-5199
ppulupa@waterboards.ca.gov

Discharger:

Art O'Brien, P.E.
Wastewater Utility Manager
Environmental Utilities
City of Roseville
1800 Booth Road
Roseville, CA. 94505

Separation of Functions

To help ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the Central Valley Water Board (Prosecution Team) have been separated from those who will provide advice to the Central Valley Water Board (Advisory Team). Members of the Advisory Team are: Mr. Kenneth Landau and Ms. Lori Okun. Members of the Prosecution Team are: Ms. Pamela Creedon, Mr. Rick Moss, Ms. Wendy Wyels, Mr. Victor Vasquez, Mr. Barry Hilton, and Mr. Patrick Pulupa. Any members of the Advisory Team who normally supervise any members of the Prosecution Team are not acting as their supervisors in this proceeding, and vice versa. Pamela Creedon regularly advises the Central Valley Water Board in other, unrelated matters, but is not advising the Central Valley Water Board in this proceeding. Other members of the Prosecution Team act or have acted as advisors to the Central Valley Water Board in other, unrelated matters, but they are not advising the Central Valley Water Board in this proceeding. Members of the Prosecution Team have not had any ex parte communications with the members of the Central Valley Water Board or the Advisory Team regarding this proceeding.

Ex Parte Communications

The designated parties and interested persons are forbidden from engaging in ex parte communications regarding this matter with members of the Advisory Team or members of the Central Valley Water Board. An ex parte contact is any written or verbal communication pertaining to the investigation, preparation or prosecution of the ACL Complaint between a member of a designated party or interested person on the one hand, and a Central Valley Water Board member or an Advisory Team member on the other hand, unless the communication is copied to all other designated parties (if written) or made in a manner open to all other designated parties (if verbal). Communications regarding non-controversial procedural matters are not ex parte contacts and are not restricted. Communications among one or more designated parties and interested persons themselves are not ex parte contacts.

The following communications to the Advisory Board must be copied to all designated parties: Objections to this Hearing Procedure; requests for modifications to this Hearing Procedure; requests for designated party status, or objections thereto; and all written evidence, legal argument or policy statements from designated parties. This is not an all-inclusive list of ex parte communications.

Hearing Time Limits

To ensure that all participants have an opportunity to participate in the hearing, the following time limits shall apply: each designated party shall have a combined **25** minutes to present evidence (including evidence presented by witnesses called by the designated party), cross-examine witnesses (if warranted), and provide a closing statement; and each interested person shall have 3 minutes to present a non-evidentiary policy statement. Participants with similar interests or comments are requested to make joint presentations, and participants are requested to avoid redundant comments. Participants who would like additional time must submit their request to the Advisory Team so that it is received by

5:00 p.m. on **10 May 2010**. Additional time may be provided at the discretion of the Advisory Team (prior to the hearing) or the Central Valley Water Board Chair (at the hearing) upon a showing that additional time is necessary. Such showing shall explain what testimony, comments or legal argument require extra time, and why the Discharger could not adequately provide the testimony, comments or legal argument in writing before the hearing.

A timer will be used, but will not run during Board questions or the responses to such questions, or during discussions of procedural issues.

Submission of Evidence and Policy Statements

Case in Chief: The Prosecution Team, the Discharger and each other designated party must submit the following information in writing in advance of the hearing:

1. All evidence (other than witness testimony to be presented orally at the hearing) that the Designated Party would like the Central Valley Water Board to consider. Evidence and exhibits already in the public files of the Central Valley Board may be submitted by reference as long as the exhibits and their location are clearly identified in accordance with California Code of Regulations, title 23, section 648.3. Board members will generally not receive copies of materials incorporated by reference, and the referenced materials are generally not posted on the Board's website.
2. All legal and technical arguments or analysis.
3. The name of each witness, if any, whom the designated party intends to call at the hearing, the subject of each witness' proposed testimony, and the estimated time required by each witness to present direct testimony. (This information is not required for rebuttal witnesses or rebuttal testimony.)
4. The qualifications of each expert witness, if any. (This information is not required for rebuttal witnesses.)

The Prosecution Team's information must include the legal and factual basis for its claims against each Discharger; a list or attached copy of all evidence on which the Prosecution Team relies, which must include, at a minimum, all documents cited in the complaint or Staff Report; and the witness information required under items 3-4 for all witnesses, including staff.

The Prosecution Team shall submit one hard copy and one electronic copy to Kenneth Landau and one electronic copy to Lori Okun. Each other designated party shall submit 3 hard copies and one electronic copy to Kenneth Landau and one electronic copy to Lori Okun. Kenneth Landau and Lori Okun must receive all submissions no later than 5:00 p.m. on the applicable due date under Important Deadlines, below.

Rebuttal: Any designated party that would like to submit written evidence, legal analysis or policy statements to rebut the information previously submitted by other designated parties shall submit 3 hard copies and one electronic copy of their rebuttal information to Kenneth Landau and one electronic copy of the information to Lori Okun so that they are received by 5 p.m. on the due date under Important Deadlines, below. "Rebuttal" means evidence,

analysis or comments offered to disprove or contradict other designated parties' submissions. Rebuttal shall be limited to the scope of the materials previously submitted by the other designated parties. Rebuttal information that is not responsive to information previously submitted by other designated parties may be excluded.

Copies: Board members will receive copies of all materials submitted in hard copy or electronic format. The Board's copies will be printed in black and white from the designated parties' electronic copies. Designated parties who are concerned about print quality of all or any part of their written materials should submit a high-resolution pdf or provide an extra nine paper copies for the Board members. For items with voluminous submissions, Board members may receive copies electronically only. Electronic copies are also posted on the Board's website.

Parties without access to computer equipment are strongly encouraged to have their materials scanned at a copy and mailing center. However, the Board will not reject materials solely for failure to provide electronic copies.

Other Matters: By **11 May 2010**, the Prosecution Team shall prepare a summary agenda sheet ("buff sheet") for this item to be included in the Board members' agenda package and posted on the internet. The buff sheet shall clearly state that it was prepared by the Prosecution Team. The Prosecution Team shall provide a copy of the buff sheet to all parties by mail or email.

Interested persons who would like to submit written non-evidentiary policy statements are encouraged to submit them to the Advisory Team as early as possible, but they must be received by **11 May 2010**. Interested persons do not need to submit written comments in order to speak at the hearing.

In accordance with California Code of Regulations, title 23, section 648.4, the Central Valley Water Board endeavors to avoid surprise testimony or evidence. Absent a showing of good cause and lack of prejudice to the parties, the Central Valley Water Board may exclude evidence and testimony that is not submitted in accordance with this Hearing Procedure. Excluded evidence and testimony will not be considered by the Central Valley Water Board and will not be included in the administrative record for this proceeding. Power Point and other visual presentations may be used at the hearing, but their content may not exceed the scope of other submitted written material. Designated parties must provide the Advisory Team with a printed copy of such materials at or before the hearing, for inclusion in the administrative record. Additionally, any witness who has submitted written testimony for the hearing shall appear at the hearing and affirm that the written testimony is true and correct, and shall be available for cross-examination.

Evidentiary Documents and File

The Complaint and related evidentiary documents are on file and may be inspected or copied at the Central Valley Water Board office at 11020 Sun Center Drive, Suite 200, Rancho Cordova, CA. This file shall be considered part of the official administrative record for this hearing. Other submittals received for this proceeding will be added to this file and

will become a part of the administrative record absent a contrary ruling by the Central Valley Water Board's Chair. Many of these documents are also posted on-line at:
http://www.waterboards.ca.gov/centralvalley/board_decisions/tentative_orders/index.shtml

Although the web page is updated regularly, to assure access to the latest information, you may contact Barry Hilton. (contact information above).

Questions

Questions concerning this proceeding may be addressed to the Advisory Team attorney (contact information above).

IMPORTANT DEADLINES

(Note: The Advisory Team will generally adhere to this schedule unless the discharger submits a waiver and it is accepted.)

All required submissions must be received by 5:00 p.m. on the due date.

1 March 2010 Prosecution Team issues ACL Complaint to Discharger and Advisory Team, sends proposed Hearing Procedure to Discharger and Advisory Team, and publishes Public Notice

15 March 2010 Objections due on proposed Hearing Procedure

22 March 2010 Deadline for submission of request for designated party status.

1 April 2010 Deadline for opposition to request for designated party status.

1 April 2010 Discharger's deadline for submitting signed form to waive right to hearing within 90 days.

12 April 2010 Advisory Team issues decision on requests for designated party status, if any.

8 April 2010 Prosecution Team's deadline for submission of all information required under "Evidence and Policy Statements," Items 1-4, above.

28 April 2010 Remaining Designated Parties' (including the Discharger's) deadline for submission of all information required under "Evidence and Policy Statements," Items 1-4, above.

28 April 2010 Prosecution Team submits an electronic copy to Lori Okun and Kenneth Landau of all documents cited in the complaint or Staff Report, unless previously submitted.

6 May 2010..... All Designated Parties shall submit any rebuttal evidence, written rebuttal to legal argument and/or written rebuttal to policy statements; and all evidentiary objections to other Designated Parties' submittals.

10 May 2010..... Requests for additional hearing time (see Hearing Time Limits, above).

11 May 2010..... Interested persons' comments are due.

11 May 2010..... Prosecution Team's deadline to submit Buff Sheet.

27/28 May 2010..... Hearing



California Regional Water Quality Control Board Central Valley Region

Karl E. Longley, ScD, P.E., Chair



Linda S. Adams
Secretary for
Environmental
Protection

11020 Sun Center Drive #200, Rancho Cordova, California 95670-6114
Phone (916) 464-3291 • FAX (916) 464-4645
<http://www.waterboards.ca.gov/centralvalley>

Arnold
Schwarzenegger
Governor

1 March 2010

Art O'Brien, P.E.
Wastewater Utility Manager
Environmental Utilities
City of Roseville
1800 Booth Road
Roseville, CA. 94505

CERTIFIED MAIL
7009 1410 0002 1422 4704

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2010-0510 FOR ASSESSMENT OF MANDATORY MINIMUM PENALTIES, CITY OF ROSEVILLE, DRY CREEK WASTEWATER TREATMENT PLANT, PLACER COUNTY

Enclosed is an Administrative Civil Liability Complaint (Complaint), issued pursuant to California Water Code (CWC) section 13385, for violations of Waste Discharge Requirements Order R5-2008-0077 (NPDES No. CA0079052) by the City of Roseville (Discharger) at its Dry Creek Wastewater Treatment Plant. The Complaint charges the Discharger with administrative civil liability in the amount of **nine thousand dollars (\$9,000)** which represents the sum of accrued Mandatory Minimum Penalties for effluent limit violations which occurred from 1 January 2008 through 31 December 2009.

On 24 December 2009, Central Valley Water Board staff issued a draft Record of Violations (ROV) covering the period of September 2007 and 1 January 2009 through 31 October 2009. Based upon the Discharger's 19 January 2010 response, Board staff reevaluated and reduced the ROV. In addition, staff has extended the period of record from 1 January 2008 through 31 December 2009.

The Discharger may:

- Pay the proposed administrative civil liability and waive its right to a hearing (Option #1 on the attached waiver form);
- Ask that the hearing be postponed to facilitate settlement discussions or for other reasons (Options #2 or #3 on the attached waiver form); or
- Contest the Complaint and/or enter into settlement discussions without signing the enclosed waiver.

If the Central Valley Water Board does not receive a signed waiver **by 1 April 2010**, a hearing will be scheduled for the **27/28 May 2010** Board meeting in Rancho Cordova. This hearing will be governed by the attached Hearing Procedure, which has been approved by the Board Chair for use in adjudicating matters such as this one. Any objections to the Hearing Procedure must

California Environmental Protection Agency

be received by Lori Okun, whose contact information is listed in the Hearing Procedure, by **5 p.m. on 15 March 2010.**

If the Discharger chooses to sign the waiver and pay the assessed civil liability, this will be considered a tentative settlement of the violations. The settlement will be considered final pending a 30-day comment period, starting from the date this Complaint is issued. Interested parties may comment on the proposed action during this period by submitting written comments to the Central Valley Water Board staff person listed below. Should the Central Valley Water Board receive new information or comments during this comment period, the Executive Officer may withdraw the complaint, return payment, and issue a new complaint. If the Central Valley Water Board does not hold a hearing on the matter, and if the terms of the final settlement are not significantly different from those proposed in the enclosed Complaint, then there will not be additional opportunities for public comment on the proposed settlement.

In order to conserve resources, this letter transmits paper copies of the documents to the Discharger only. Interested persons may download the documents from the Central Valley Water Board's Internet website at:

http://www.waterboards.ca.gov/centralvalley/tentative_orders/

Copies of these documents can also be obtained by contacting or visiting the Central Valley Water Board's office weekdays between 8:00 AM and 5:00 PM.

If you have any questions or comments regarding the Administrative Civil Liability Complaint, please contact Barry Hilton at (916) 464-4762 or bhilton@waterboards.ca.gov.

Original signed by

WENDY WYELS

Supervisor

Compliance and Enforcement Section

Enclosure: ACL Complaint R5-2010-0510
 Hearing Procedure
 Hearing Waiver

cc w/o encl: Kenneth Greenberg, USEPA, Region 9, San Francisco
 Kenneth Landau, Central Valley Water Board, Rancho Cordova
 Patrick Pulupa, Office of Chief Counsel, SWRCB, Sacramento
 Reed Sato, Office of Enforcement, SWRCB, Sacramento
 Lori Okun, Office of Chief Counsel, SWRCB, Sacramento
 Emel Wadhvani, Office of Chief Counsel, SWRCB, Sacramento
 Carol Oz, Department of Fish and Game, Region 2, Rancho Cordova
 Placer County Environmental Health Division, Auburn
 Bill Jennings, California Sport Fishing Protection Alliance, Stockton