
Central Valley Regional Water Quality Control Board

28 March 2016

Jaime Rodriguez
Chief Engineer I
Deuel Vocational Institution
P.O. Box 400
Tracy, CA 95378-0400

CERTIFIED MAIL
7014 3490 0001 3008 3456

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2016-0523 FOR ASSESSMENT OF MANDATORY MINIMUM PENALTIES, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION, DEUEL VOCATIONAL INSTITUTION, SAN JOAQUIN COUNTY

Enclosed is an Administrative Civil Liability Complaint (Complaint), issued pursuant to California Water Code section 13385, for violations of Waste Discharge Requirements (WDRs) Order R5-2014-0014 (NPDES CAG995001) by the California Department of Corrections and Rehabilitation (Discharger) for its Deuel Vocational Institution (Facility). The Complaint charges the Discharger with administrative civil liability in the amount of **one hundred and eleven thousand dollars (\$111,000)**, which represents the sum of accrued Mandatory Minimum Penalties for effluent limitation violations (identified in Attachment A of the Complaint) that occurred from 1 April 2014 through 31 December 2015. The Complaint alleges 30 total coliform organism violations, three nitrite plus nitrate violations and three ammonia violations.

On 12 January 2016, Central Valley Water Board staff issued a draft Record of Violations (ROV) to the Discharger for the period from 1 April 2014 through 30 November 2015. On 28 January 2016, the Discharger responded to the ROV and acknowledged the exceedances of effluent limitations. The Discharger stated that these exceedances occurred as a result of damaged membranes in the Membrane Bioreactor (MBR) and in some instances, the inoperability of the Reverse Osmosis (RO) Plant. The Discharger further stated they are in the process of replacing the MBR membranes and RO Plant's Brine concentrator system. The Discharger requests the Regional Board reduce or eliminate the mandatory minimum penalty because the Discharger has "taken every step necessary to correct the deficiency."

Board staff appreciates the Discharger's efforts to work cooperatively. However, the legislature mandated the Central Valley Water Board to impose a mandatory minimum penalty for serious and chronic violations pursuant to California Water Code (Water Code) section 13385, subdivisions (h) and (i). The Central Valley Water Board does not have the discretion to reduce or eliminate the mandatory minimum penalty.

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

Pursuant to Water Code section 13323, 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 **27 April 2016**, a hearing will be scheduled for the **23/24 June 2016** Board meeting in Rancho Cordova. This hearing will be governed by the attached Hearing Procedures, which have been approved by the Board Chair for use in adjudicating matters such as this one. Any objections to the Hearing Procedures must be received by Stephanie Yu, whose contact information is listed in the Hearing Procedures, by **5 p.m. on 6 April 2016**.

If the Discharger chooses to sign the waiver and pay the assessed civil liability, this will be considered a tentative settlement of the violations. Payment must be received by **27 April 2016**. The Discharger shall indicate on the check the number of this Complaint and send it to the State Water Resources Control Board, Accounting Office, Attn: ACL Payment, PO Box 1888, Sacramento, California, 95812-1888. The check shall be made payable to the *State Water Pollution Cleanup and Abatement Account*. The waiver and a copy of the check must also be mailed to the Central Valley Water Board at 11020 Sun Center Drive #200, Rancho Cordova, CA, 95670 attention to Wendy Wyels by **27 April 2016**.

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 Assistant 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 Kari Holmes at (916) 464-4623 or kari.holmes@waterboards.ca.gov.



WENDY WYELS, Supervisor
Compliance and Enforcement Section

Enclosures: ACLC R5-2016-0523
 Waiver Form
 Hearing Procedures

cc w/o encl: Kenneth Greenberg, USEPA, Region 9, San Francisco
 David Boyers, Office of Enforcement, SWRCB, Sacramento
 Pamela Creedon, Central Valley Water Board Advisory Team, Rancho Cordova
 Stephanie Yu, Office of Chief Counsel, SWRCB, Sacramento
 Vanessa Young, Office of Enforcement, SWRCB, Sacramento
 Adam Laputz, Central Valley Water Board Advisory Team, Sacramento
 Carol Oz, Department of Fish and Game, Region 2, Rancho Cordova
 San Joaquin County Environmental Health Department, Stockton
 Bill Jennings, California Sportfishing Protection Alliance, Stockton
 Jae Kim, Tetra Tech, Fairfax, VA
 J. Price, Warden, Deuel Vocational Institution

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2016-0523

MANDATORY PENALTY
IN THE MATTER OF

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

This Complaint is issued to the California Department of Corrections and Rehabilitation (hereafter Discharger) pursuant to California Water Code (Water Code) section 13385, which authorizes the imposition of Administrative Civil Liability, Water Code section 13323, which authorizes the Executive Officer to issue this Complaint and Water Code section 7, which authorizes the delegation of the Executive Officer's authority to a deputy, in this case the Assistant Executive Officer. This Complaint is based on allegations that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Orders R5-2014-0014 and R5-2014-0014-01 (NPDES CA0078093).

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

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

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

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

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

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

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

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

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

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

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

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

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

8. Water Code section 13323 states, in part:

Any executive officer of a regional board may issue a complaint to any person on whom administrative civil liability may be imposed pursuant to this article. The complaint shall allege the act or failure to act that constitutes a violation of law, the provision authorizing civil liability to be imposed pursuant to this article, and the proposed civil liability.

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

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

Table 4. Effluent Limitation

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

¹ Based on an average dry weather flow of 0.62 MGD.

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

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

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

11. According to the Discharger's self-monitoring reports, the Discharger committed two (2) serious Group I violations of the above effluent limitations contained in WDRs Order R5-2014-0014-01. These violations are defined as serious because measured concentrations of Group I constituents exceeded maximum prescribed levels in WDRs Order R5-2014-0014-01 by 40 percent or more. The mandatory minimum penalty for these serious violations is **six thousand dollars (\$6,000)**.
12. According to the Discharger's self-monitoring reports, the Discharger committed thirty nine (39) non-serious violations of the above effluent limitation contained in WDRs Orders R5-2014-0014 and R5-2014-0014-01. Thirty five (35) of these non-serious violations are subject to mandatory penalties under Water Code section 13385 subdivision (i)(1) because these violations were preceded by three or more effluent limit violations within a 180-day period. The mandatory minimum penalty for these violations is **one hundred five thousand dollars (\$105,000)**.
13. The total amount of the mandatory penalties assessed for the alleged effluent limitation violations is **one hundred eleven thousand dollars (\$111,000)**. As stated herein, a detailed list of the alleged effluent violations is included in Attachment A. This Complaint addresses administrative civil liability for violations that are specifically identified as subject to mandatory minimum penalties in Attachment A.
14. On 14 February 2014, the Executive Officer designated Andrew Altevogt, Assistant Executive Officer, as the Lead Prosecution Officer for all enforcement matters originating in the Rancho Cordova Office. The 14 February 2014 Delegation of Authority also authorizes Andrew Altevogt to issue Administrative Civil Liability Complaints.

15. Issuance of this Administrative Civil Liability Complaint to enforce Water Code Division 7, Chapter 5.5 is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code section 21000 et seq.), in accordance with California Code of Regulations, title 14, section 15321(a)(2).

THE CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION IS HEREBY GIVEN NOTICE THAT:

1. The Assistant Executive Officer of the Central Valley Water Board proposes that the Discharger be assessed an Administrative Civil Liability in the amount of **one hundred and eleven thousand dollars (\$111,000)**.
2. A hearing on this matter will be held at the Central Valley Water Board meeting scheduled on **23/24 June 2016**, unless the Discharger does one of the following by **27 April 2016**:
 - a) Waives the hearing by completing the attached form (checking off the box next to Option 1) and returning it to the Central Valley Water Board. In addition, submits payment for the proposed civil liability of **one hundred and eleven thousand dollars (\$111,000)** to the State Water Board with a copy of the check to the Central Valley Water Board; or
 - b) Requests to engage in settlement discussions by checking the box next to Option 2 on the attached form, and returning it to the Board along with a letter describing the issues to be discussed. The Central Valley Water Board must agree to the postponement; or
 - c) Requests to delay the hearing by checking off the box next to Option 3 on the attached form, and returning it to the Board along with a letter describing the proposed length of delay and the issues to be discussed. The Central Valley Water Board must agree to the postponement.
3. If a hearing on this matter is held, the Central Valley Water Board will consider whether to affirm, reject, or modify the proposed Administrative Civil Liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. If this matter proceeds to hearing, the Assistant Executive Officer reserves the right to amend the proposed amount of civil liability to conform to the evidence presented, including but not limited to, increasing the proposed amount to account for the costs of enforcement (including staff, legal and expert witness costs) incurred after the date of the issuance of this Complaint through completion of the hearing.

Original Signed by

ANDREW ALTEVOGT, Assistant Executive Officer

28 March 2016

DATE

**WAIVER FORM
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

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

I am duly authorized to represent the California Department of Corrections and Rehabilitations (hereafter Discharger) in connection with Administrative Civil Liability Complaint R5-2016-0523 (hereafter Complaint). I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served. The person who has been issued a complaint may waive the right to a hearing."

- (OPTION 1: Check here if the Discharger waives the hearing requirement and will pay in full.)**
- a. I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board.
 - b. I certify that the Discharger will remit payment for the proposed civil liability in the full amount of **one hundred and eleven thousand dollars (\$111,000)** by check that references "ACL Complaint R5-2016-0523" made payable to the *State Water Pollution Cleanup and Abatement Account*. Payment must be received by the State Water Resources Control Board, Accounting Office, Attn: ACL Payment at PO Box 1888, Sacramento, California, 95812-1888 by **27 April 2016**. The waiver and a copy of the check must be submitted to the Central Valley Water Board at 11020 Sun Center Drive #200, Attn: Wendy Wyels, Rancho Cordova, California, 95670 by **27 April 2016**.
 - c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after a 30-day public notice and comment period. Should the Central Valley Water Board receive significant new information or comments during this comment period, the Central Valley Water Board's Assistant Executive Officer may withdraw the complaint, return payment, and issue a new complaint. I also understand that approval of the settlement will result in the Discharger having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
 - d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.
- (OPTION 2: Check here if the Discharger waives the 90-day hearing requirement in order to engage in settlement discussions.)** I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board within 90 days after service of the complaint, but I reserve the ability to request a hearing in the future. I certify that the Discharger will promptly engage the Central Valley Water Board Prosecution Team in settlement discussions to attempt to resolve the outstanding violation(s). By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing so that the Discharger and the Prosecution Team can discuss settlement. The Discharger must provide a letter describing the issues to be discussed in settlement. It remains within the discretion of the Central Valley Water Board to agree to delay the hearing. Any proposed settlement is subject to the conditions described above under "Option 1."
- (OPTION 3: Check here if the Discharger waives the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines. Attach a separate sheet with the amount of additional time requested and the rationale.)** I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board within 90 days after service of the complaint. By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing and/or hearing deadlines so that the Discharger may have additional time to prepare for the hearing. It remains within the discretion of the Central Valley Water Board to approve the extension.

(Print Name and Title)

(Signature)

(Date)

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

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

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

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

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

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

Remarks:

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

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

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

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

CENTRAL VALLEY WATER QUALITY CONTROL BOARD

HEARING PROCEDURE
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT
R5-2016-0523

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

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

The Central Valley Water Board has the authority to impose civil liability against persons who commit various water quality violations. The Board's Prosecution Team has issued an Administrative Civil Liability (ACL) Complaint that proposes that the Board impose civil liability against California Department of Corrections and Rehabilitation for the violations charged in the ACL Complaint. The Board has scheduled a hearing to consider the matter on the following date:

23/24 June 2016
Central Valley Water Board Offices
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670

At the hearing, the Central Valley Water Board will receive testimony regarding the alleged violation(s). After considering the evidence, the Board may assess the proposed civil liability, assess a higher or lower amount, decline to assess any liability, or continue the hearing to a later date. The Board's Meeting Agenda will set the specific date of the hearing. The Meeting Agenda will be posted at least ten days before the meeting on the Board's website, at the following address:

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

To ensure a fair hearing, the Board staff and attorneys that have issued the ACL Complaint (the "Prosecution Team") have been separated from the Board staff and attorneys that will provide legal and technical advice to the Board (the "Advisory Team"). Members of the Board's Prosecution Team have not communicated with the members of the Central Valley Water Board or the Board's Advisory Team regarding any substantive matter at issue in the proceeding.

The Board Chair has approved this Hearing Procedure for the adjudication of ACL matters. Objections to this Hearing Procedure must be sent to the Board's Advisory Team no later than the deadline listed on the "Important Deadlines" page of this Hearing Procedure. The Board's Advisory Team will promptly respond to all timely objections to this Hearing Procedure after consulting with the Board Chair.

Designated Parties shall attempt to resolve objections to this Hearing Procedure with the Prosecution Team BEFORE submitting objections to the Advisory Team.

I. Hearing Participants

Participants in the ACL hearing are considered either "Designated Parties" or "Interested Persons."

Designated Parties are the primary participants in the hearing. Designated Parties may submit evidence, may offer witnesses to testify at the hearing, are allowed to cross-examine adverse witnesses, and are subject to cross-examination.

Interested Persons are those persons that have an interest in the outcome of the hearing, but who are not the primary participants in the hearing. Interested persons typically include members of the public as well as advocacy groups. Interested persons may present policy statements to the Board, but may not generally present evidence (photographs, eyewitness testimony, etc.). Interested persons are not subject to cross-examination.

At the hearing, both Designated Parties and Interested Persons may be asked to respond to questions from the Board, staff, or others, at the discretion of the Board Chair.

The following participants have been designated as Designated Parties in this proceeding:

1. Central Valley Water Board Prosecution Team
2. California Department of Corrections and Rehabilitation

Anyone else who wishes to participate in the hearing as a Designated Party must submit a request to the Advisory Team no later than the deadline listed on the "Important Deadlines" page of this Hearing Procedure. The request must include an explanation of how the issues to be addressed at the hearing affect the person, and why the Designated Parties listed above do not adequately represent the person's interest. The Board's Advisory Team will promptly respond to all timely requests for Designated Party status.

II. Hearing Time Limits

The following combined time limits will apply at the hearing (additional time is granted to the Prosecution Team because they have the obligation to introduce the case).

1. Central Valley Water Board Prosecution Team: **35 minutes**
2. California Department of Corrections and Rehabilitation: **30 minutes**

The Designated Parties may allocate their allotted time as they see fit between: presenting evidence and testimony, cross-examining adverse witnesses, and making a closing statement. Interested Persons will have **3 minutes** to present their statements.

Participants who would like additional time must submit a request to the Advisory Team so that it is received no later than the deadline listed on the "Important Deadlines" page of this Hearing Procedure. Additional time may be provided at the discretion of the Advisory Team (prior to the hearing) or the Board Chair (at the hearing) upon a showing that additional time is necessary. A timer will be used, but will not run during Board questions and the responses to such questions, or during discussions of procedural issues.

III. Documents in Evidence and Availability of Board Files

The Board's Prosecution Team maintains a file containing the ACL Complaint and all related documents at the Central Valley Water Board's office at 11020 Sun Center Drive in Rancho Cordova, CA. Other submittals received in accordance with this Hearing Procedure will be added to the file unless the Board rules to exclude them. The file is available to the public and may be inspected or copied during regular business hours. Scheduling an appointment to review the file by contacting the Prosecution Team in advance is not required, but calling ahead will help ensure timely access to these documents. Documents will also be posted online at:

http://www.waterboards.ca.gov/centralvalley/board_decisions/tentative_orders/index.shtml

Although the website is updated regularly, to ensure access to the latest materials, you may contact the Prosecution Team for assistance in obtaining copies.

IV. Submittal of Evidence, Legal and Technical Arguments or Analysis, and Policy Statements

The Prosecution Team and all other Designated Parties (including the Discharger) must submit the following in advance of the hearing:

1. All evidence that the Designated Party would like the Board to consider. Evidence already in the Board's files may be submitted by reference as long as the location of the evidence is clearly identified.
2. All legal and technical arguments or analysis.
3. The name of each witness (including Board staff) whom the Designated Party intends to call at the hearing, the subject(s) that will be covered by each witness, and the estimated time required by each witness to present their testimony. Witness testimony at the hearing may not exceed the scope of previously-submitted written material.
4. The qualifications of each expert witness, if any.

Prohibition on Surprise Evidence: 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 Board Chair may exclude material that is not submitted in accordance with this Hearing Procedure. Excluded material will not be considered by the Board.

Prosecution Team's Evidence: The Prosecution Team must submit the legal and factual basis for each of its claims against each Discharger. This must include a list of all evidence on which the Prosecution Team relies, including all documents cited in the ACL Complaint or proposed ACL Order.

Designated Parties' (including the Discharger's) Evidence: All other Designated Parties must submit all evidence not already cited by the Board's Prosecution Team and all their legal and technical arguments or analysis no later than the deadline listed on the "Important Deadlines" page of this Hearing Procedure.

Rebuttal Evidence: "Rebuttal evidence" is evidence offered to disprove or contradict evidence presented by an opposing party. This Hearing Procedure requires rebuttal evidence to be submitted prior to the start of the hearing in order to ensure the fairness and orderly conduct of the proceeding.

Printing and Page Limitations: For each Designated Party, including the Board's Prosecution Team, the Board has set a **120 page limit** (60 pages printed on both sides) for printed materials. Although the Board Members will receive electronic copies of all submittals, no matter how voluminous, only 120 pages will be printed out per Designated Party and provided to the Board Members. Designated Parties that submit more than 120 pages should specify which 120 pages should be printed out by the deadline listed on the "Important Deadlines" page of this Hearing Procedure. Printed materials may include excerpts of larger documents as long as the larger document is submitted in its entirety in electronic format. If a Designated Party does not specify which 120 pages should be printed out, the Advisory Team will simply select the first 120 pages of the Designated Party's submittal. The Draft ACL Order with the penalty calculation, the ACL Complaint, this Hearing Procedure, and the Summary Sheet will not count against the Prosecution Team's 120 page limit.

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

Hard copies will be printed in black and white on 8.5"x11" paper. Designated Parties who are concerned about the print quality of all or part of their 120 pages of printed materials should provide an extra nine paper copies for the Board Members, which must be received by the Advisory Team at

Board's Rancho Cordova Office (address listed below) no later than the deadline listed on the "Important Deadlines" page.

Written Statements by Interested Persons: Interested Persons who would like to submit their policy statements in writing are encouraged to submit them as early as possible, but they must be received by the deadline listed on the "Important Deadlines" page in order to be included in the Board's agenda package. Interested Persons do not need to submit written statements in order to speak at the hearing.

Responding to Written Statements submitted by Interested Persons: All Designated Parties, including the Board's Prosecution Team, may respond to written statements submitted by Interested Persons no later than the deadline listed on the "Important Deadlines" page of this Hearing Procedure.

V. Miscellaneous Matters

Summary Sheet and Proposed ACL Order: The Prosecution Team will prepare a summary agenda sheet (Summary Sheet) for the Board in advance of the Hearing. The Summary Sheet shall clearly state that it was prepared by the Prosecution Team, shall summarize the ongoing controversies involved in the proceeding, and shall summarize the positions taken by each of the Designated Parties. The Prosecution Team will also draft a proposed ACL Order for the Board's consideration. The proposed ACL Order shall be substantively based on the allegations made in the ACL Complaint, but may contain revisions reflecting the evidence submitted after the ACL Complaint was issued.

Presentations: Power Point and other visual presentations may be used at the hearing, but their content shall not exceed the scope of previously-submitted written material. These presentations must be provided to the Advisory Team at or before the hearing both in hard copy and in electronic format so that they may be included in the administrative record.

Witnesses: All witnesses who have submitted written testimony should be available at the hearing to affirm that the testimony is true and correct, and should be available for cross-examination. A witnesses' failure to appear may result in the submitted testimony being treated as hearsay.

Prohibition on Ex Parte Contacts: Any communication regarding the ACL Complaint that is directed at the Board members or the Advisory Team by a participant in the hearing and that is not made in a manner open to all other persons is considered an "ex parte" contact. In order to maintain the impartiality of the Board, all "ex parte" contacts are prohibited. Communications regarding non-controversial procedural matters are not considered ex parte contacts and are not restricted.

Applicable Regulations: The regulations governing adjudicatory hearings before the Board may be found at California Code of Regulations, title 23, section 648 et seq., and are available online at: <http://www.waterboards.ca.gov>. Copies of these regulations will be provided upon request. Any procedures not provided by this Hearing Procedure are not applicable to this hearing. Except as provided in Section 648(b) and herein, Chapter 5 of the California Administrative Procedures Act (Gov. Code, § 11500 et seq.) does not apply to this hearing.

VI. Questions

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

CONTACT INFORMATION: PRIMARY CONTACTS

BOARD ADVISORY TEAM	
<p>Pamela Creedon, Executive Officer 11020 Sun Center Drive, Suite 200 Rancho Cordova, CA 95670 Phone: (916) 464-4839 Pamela.Creedon@waterboards.ca.gov</p>	<p>Stephanie Yu, Attorney III State Water Board, Office of Chief Counsel P.O. Box 100 Sacramento, CA 95812 Phone: (916) 341-5157 Stephanie.Yu@waterboards.ca.gov</p>
BOARD PROSECUTION TEAM*	
<p>Wendy Wyels, Environmental Program Manager 11020 Sun Center Drive, Suite 200 Rancho Cordova, CA 95670 Phone: (916) 464-4835 Wendy.Wyels@waterboards.ca.gov</p>	<p>Vanessa Young, Attorney State Water Board, Office of Enforcement P.O. Box 100 Sacramento, CA 95812 Phone: (916) 327-8622 Vanessa.Young@waterboards.ca.gov</p>
DISCHARGER	
<p>Jerome Price, Warden Deuel Vocational Institution P.O. Box 400, Tracy, CA 95378-0400 Phone: (209) 835-3850 Jerome.Price@cdcr.ca.gov</p>	<p>Jaime Rodriguez, Chief Engineer I Deuel Vocational Institution P.O. Box 400, Tracy, CA 95378-0400 Phone: (209) 835-4141 Ext. 5854 Jaime.Rodriguez1@cdcr.ca.gov</p>

*The Board's Prosecution Team also includes: Andrew Altevogt, Kari Holmes, and Mohammad Farhad.

IMPORTANT DEADLINES

All submissions must be received by 5:00 p.m. on the respective due date. Unless otherwise noted, documents only need to be submitted in electronic format by submitting electronic versions of the documents to the email addresses listed in the “Primary Contacts” table on the previous page. It is not necessary to submit documents to Interested Persons.

Where *only* hard copies are being submitted, hard copies must be received by the date listed below. When hard copies are being submitted *in addition to* electronic copies, hard copies must be mailed by the date listed below.

All of the submitted documents will be placed online. Please provide both unredacted and redacted versions of any documents that contain personal information that you do not want posted online.

28 March 2016	<ul style="list-style-type: none"> ▪ Prosecution Team issues ACL Complaint and Hearing Procedure.
6 April 2016	<ul style="list-style-type: none"> ▪ Objections due on Hearing Procedure. ▪ Deadline to request “Designated Party” status. <p>Hard copies of all of these documents must be submitted to the Prosecution Team.</p>
27 April 2016	<ul style="list-style-type: none"> ▪ Discharger’s deadline to submit 90-Day Hearing Waiver Form. <p>If the Prosecution Team accepts the waiver, all the following deadlines may be revised.</p>
29 April 2016	<ul style="list-style-type: none"> ▪ Prosecution Team’s deadline to submit all materials required under “IV. Submittal of Evidence, Legal and Technical Arguments or Analysis, and Policy Statements.”
19 May 2016	<ul style="list-style-type: none"> ▪ Remaining Designated Parties’ (including the Discharger’s) deadline to submit all materials required under “IV. Submittal of Evidence, Legal and Technical Arguments or Analysis, and Policy Statements.” ▪ Interested Persons’ written statements are due. <p>Hard copies of all of these documents must be submitted to the Prosecution Team.</p>
26 May 2016	<ul style="list-style-type: none"> ▪ All Designated Parties shall submit any rebuttal evidence, the names of each rebuttal witness (including witness qualifications, if an expert witness), and any evidentiary objections. <p>Hard copies of rebuttal documents must be submitted to the Prosecution Team.</p> <ul style="list-style-type: none"> ▪ If a Designated Party’s submittals, including rebuttal, exceed 120 pages, the Designated Party shall identify which 120 pages should be printed out for the Board Members by this date. ▪ Deadline to submit requests for additional time.
2 June 2016	<ul style="list-style-type: none"> ▪ All Designated Parties may submit responses to written statements submitted by Interested Persons. ▪ Prosecution Team submits Summary Sheet. ▪ Designated Parties concerned about the print quality of their 120 pages of printed materials must provide an extra nine paper copies for the Board Members so that they are <u>received by</u> the Advisory Team by this date.
23/24 June 2016	Board Hearing