CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2016-0559

MANDATORY PENALTY
IN THE MATTER OF

OLIVEHURST PUBLIC UTILITY DISTRICT
WASTEWATER TREATMENT FACILITY
YUBA COUNTY

This Complaint is issued to the Olivehurst Public Utility District (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 R5-2010-0074 and R5-2016-0001 (NPDES No. CA0077836).

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

1. The Discharger owns and operates a municipal wastewater collection, treatment, and disposal system, and provides sewerage service to the community of Olivehurst. Treated municipal wastewater is discharged to the Western Pacific Interceptor Drainage Canal, a water of the United States and a tributary to the Bear River.

2. In order to regulate discharges from the wastewater treatment facility, on 27 May 2010, the Regional Water Board adopted WDRs Order R5-2010-0074. On 18 February 2016, the Regional Water Board adopted WDRs Order R5-2016-0001, renewing the NPDES permit, and rescinded Order R5-2010-0074, except for the purpose of enforcement. WDRs Order R5-2016-0001 became effective on 1 April 2016.

3. On 26 April 2013, the Executive Officer of the Central Valley Water Board issued Administrative Civil Liability (ACL) Complaint R5-2013-0534 for mandatory minimum penalties for effluent violations occurring between 1 December 2007 through 31 December 2012. The Discharger paid the civil liability and the Board considers those effluent violations specifically listed in Attachment A to ACLC R5-2013-0534 to be resolved.

4. This Complaint addresses administrative civil liability for effluent violations that occurred between 1 January 2013 through 30 June 2016. These violations are specifically identified in Attachment A to this Complaint as subject to mandatory minimum penalties. Attachment A to this Complaint is attached hereto and incorporated herein by this reference.

5. On 1 August 2016, Central Valley Water Board staff issued the Discharger a Notice of Violation and draft Record of Violations for effluent limitation violations from 1 January 2013 through 31 May 2016. The Discharger responded on 23 August 2016 and agreed with the violations. This Complaint extends the dates through 30 June 2016. One additional violation occurred on 1 June 2016.

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

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

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

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

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

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

> Notwithstanding any other provision of this division, and except as provided in subdivisions (j), (k), and (l), a mandatory minimum penalty of three thousand dollars ($3,000) shall be assessed for each violation whenever the person does any of the following four or more times in any period of six consecutive months, except that the requirement to assess the mandatory minimum penalty shall not be applicable to the first three violations:
>
> A) Violates a waste discharge requirement effluent limitation.
> B) Fails to file a report pursuant to Section 13260.
> C) Files an incomplete report pursuant to Section 13260.
> D) Violates a toxicity effluent limitation contained in the applicable waste discharge requirements where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.

7. Water Code section 13323 states, in part:

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

8. WDRs Order R5-2010-0074, Effluent Limitations IV.A.1.a, Table 6, include, in part, the following effluent limitations:

Parameter	Units	Effluent Limitations				
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
Biochemical Oxygen Demand (5-day @ 20°C)	mg/L	10	15	20	--	--

9. WDRs Order R5-2016-0001, Effluent Limitations IV.A.1.e, include, in part, the following effluent limitations:

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;
ii. 23 MPN/100 mL, more than once in any 30-day period; and
iii. 240 MPN/100 mL, at any time.

10. According to the Discharger's self-monitoring reports, the Discharger committed one (1) non-serious violation and one (1) serious Group I violation of the above effluent limitations contained in Orders R5-2010-0074 and R5-2016-0001 as shown in Attachment A. The non-serious violation falls within the first three violations in a 180-day period, thus is not subject to mandatory minimum penalties. The remaining serious Group I violation is defined as serious because the measured concentrations of a Group I constituent exceeded maximum prescribed levels by more than 40 percent on this occasion. The mandatory minimum penalty for this one serious violation is **three thousand dollars ($3,000)**.

11. The total amount of the mandatory penalties assessed for the alleged effluent violations are **three thousand dollars ($3,000).** As stated herein, a detailed list of the alleged effluent violations is included in Attachment A. This Complaint addresses administrative civil liability for violations that are specifically identified in Attachment A as subject to mandatory minimum penalties.

12. On 21 December 2015, the Executive Officer designated Andrew Altevogt, Assistant Executive Officer, as the Lead Prosecution Officer for all enforcement matters originating in the Central Valley Region. The 21 December 2015 Delegation of Authority also authorizes Andrew Altevogt to issue Administrative Civil Liability Complaints.

13. 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 OLIVEHURST PUBLIC UTILITY DISTRICT 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 **three thousand dollars ($3,000)**.

2. A hearing on this matter will be held at the Central Valley Water Board meeting scheduled on **5/6 December 2016,** unless the Discharger does either of the following by **30 September 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 **three thousand dollars ($3,000)** 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 Central Valley Water 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 Central Valley Water 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.

ANDREW ALTEVOGT, Assistant Executive Officer

7 September 2016
DATE

Attachment A: Record of Violations

WAIVER FORM
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT

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

I am duly authorized to represent the Olivehurst Public Utility District (hereafter Discharger) in connection with Administrative Civil Liability Complaint R5-2016-0559 (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 **three thousand dollars ($3,000)** by check that references "ACL Complaint R5-2016-0559" 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 **30 September 2016**. The waiver and a copy of the check must be submitted to the Central Valley Water Board at 11020 Sun Center Drive #200, Rancho Cordova California, 95670 by **30 September 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. 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 R5-2016-0559

Olivehurst Public Utility District
Wastewater Treatment Facility
RECORD OF VIOLATIONS (1 January 2013 – 30 June 2016) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Program R5-2010-0074 and R5-2016-0001)

	Date	Parameter	Units	Monitoring Location	WDRs Limit	Measured	Period	Remarks	CIWQS
1	22-Mar-16	BOD	mg/L	EFF-001	20	36	Daily Maximum	1	1006860
2	1-June-16	Total Coliform	MPN/100 mL	EFF-001	2.2	2.8	7-Day Median	3	1010777

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 ACLC.
4. Non-serious violation subject to mandatory minimum penalties.

VIOLATIONS AS OF:	**6/30/16**
Group I Serious Violations:	1
Group II Serious Violations:	0
Non-Serious Violations Not Subject to MMPs:	1
Non-Serious Violations Subject to MMPs:	0
Total Violations Subject to MMPs:	**1**

Mandatory Minimum Penalty = (1 Group I Serious Violation) x $3,000 = $3,000