



Central Coast Regional Water Quality Control Board

February 14, 2024

Chris Lehman
Deputy Director, Utilities
City of San Luis Obispo
879 Morro Street
San Luis Obispo, CA 93401
Email: clehman@slocity.org

**Via Electronic Mail and Certified Mail
No. 7019 1640 0000 7909 3664**

Dear Chris Lehman:

ENFORCEMENT PROGRAM: EXPEDITED PAYMENT LETTER (EPL) NO. R3-2024-0004, ACCEPTANCE OF CONDITIONAL OFFER AND WAIVER OF HEARING EXECUTED AS ADMINISTRATIVE CIVIL LIABILITY ORDER FOR CITY OF SAN LUIS OBISPO EFFLUENT VIOLATIONS OF WDR ORDER NO. R3-2014-0033, WATER RESOURCE RECOVERY FACILITY, SAN LUIS OBISPO COUNTY, NPDES NO. CA0049224, WDID NO. 3 400107001

Enclosed is Acceptance of Conditional Offer and Waiver of Right to Hearing; Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order No. R3-2024-0004 (Order), countersigned by the Central Coast Regional Water Quality Control Board (Central Coast Water Board) Executive Officer. The Order resolves mandatory minimum penalties for violations of effluent limitations contained in Waste Discharge Requirements Order No. R3-2014-0033, National Pollutant Discharge Elimination System (NPDES) Permit No. CA0049224, that occurred from October 4, 2022, through December 3, 2022, as shown in the attached Exhibit A, Notice of Violation. Central Coast Water Board staff publicly noticed the Order from January 4, 2024, through February 8, 2024, and received no comments.

As provided in the Order, the City of San Luis Obispo (City) is subject to a total expedited payment amount of \$18,000, which the City must pay to the State Water Resources Control Board (SWRCB) State Water Pollution Cleanup and Abatement Account **by March 15, 2024¹** as follows:

1. \$18,000 by check payable to “SWRCB Cleanup and Abatement Account”, noting “ACL Order No. R3-2024-0004” on the check, and mailed to:

¹ Please note that this due date supercedes any other due date that may be shown on invoices.

- a. Attn: ACL Payment
SWRCB Accounting Office
P.O. Box 1888
Sacramento, CA 95812-1888
2. A copy of the above payment emailed to Todd Stanley at todd.stanley@waterboards.ca.gov or mailed to:
 - a. Central Coast Regional Water Quality Control Board
Enforcement Unit, Attention: Todd Stanley
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401-7906

The SWRCB Division of Administrative Services Fee Branch [(916) 341-5247 or FeeBranch@waterboards.ca.gov] typically mails invoices within five business days after orders are issued, but delays are possible. If the City does not receive an invoice within 10 business days after the date of this transmittal letter, Central Coast Water Board staff advises the City to proceed with making the payment to avoid being late. Similarly, the City may simply elect to make its payment before receiving an invoice. **In either case, it is critical that the City's check refers to the Order number as instructed in Item #1 above.** If the City elects to pay before receiving the invoice, Central Coast Water Board staff advises the City to contact the Fee Branch to confirm that the payment is posted correctly.

The City also has the option to make the payment to the State Water Pollution Cleanup and Abatement Account by online electronic fund transfer (without surcharge) or credit card (with small surcharge) but must first wait to receive the above invoice because the invoice number is needed for the transaction. After receiving the invoice, the City may then go to [the Fee Branch's "Make a Payment" website](#) for guidance on the available payment options.

Payment will conclude the Central Coast Water Board's enforcement action for violations identified in Expedited Payment Letter No. R3-2024-0004, dated December 12, 2023.

If you have any questions, please contact Sarah Crable at sarah.crable@waterboards.ca.gov or (805) 549-3706, or Thea Tryon at thea.tryon@waterboards.ca.gov or (805) 542-4776.

Sincerely,

Ryan E. Lodge
Executive Officer

Enclosures:

1. Acceptance of Conditional Offer and Waiver of Right to Hearing; Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order No. R3-2024-0004
2. Exhibit A - Notice of Violation

cc via email:

Central Coast Water Board:

Thea Tryon
Tamara Anderson
Harvey Packard
Arwen Wyatt-Mair
Sarah Crable
Jesse Woodard
Todd Stanley

File Location: R:\RB3\Shared\Enforcement\ACLs\MMP ACLO from EPL Offers\2024-0004 SLO City MMP ACLO\SLO City MMP ACL Order 24-0004 Pkg.docx

ECM Primary Indexing # 255380

**ACCEPTANCE OF CONDITIONAL OFFER
AND WAIVER OF RIGHT TO HEARING;
SETTLEMENT AGREEMENT AND STIPULATION FOR ENTRY OF
ADMINISTRATIVE CIVIL LIABILITY (ACL) ORDER NO. R3-2024-0004
(UPON EXECUTION)**

City of San Luis Obispo Water Resource Recovery Facility
EPL No. R3-2024-0004
Waste Discharge Requirements Order No. R3-2014-0033
National Pollutant Discharge Elimination System (NPDES) Permit No. CA0049224
WDID: 3 400107001

By signing below and returning this Acceptance of Conditional Offer and Waiver of Right to Hearing (Acceptance and Waiver) to the Central Coast Regional Water Quality Control Board (Central Coast Water Board), the City of San Luis Obispo (Permittee) hereby accepts Expedited Payment Letter No. R3-2024-0004 (Conditional Offer) to participate in the expedited payment program relating to violations of the Permittee's NPDES permit for the Water Resource Recovery Facility, and waives the right to a hearing before the Central Coast Water Board to dispute the alleged violations described in the notice of violation (NOV) attached to the Conditional Offer as Exhibit A and incorporated herein by reference.

The Permittee agrees that the NOV shall serve as a complaint pursuant to Division 7, Chapter 5, Article 2.5 of the California Water Code and that no separate complaint is required for the Central Coast Water Board to assert jurisdiction over the alleged violations through its enforcement staff. The Permittee agrees to pay the penalties authorized by California Water Code section 13385, as specified in the NOV (expedited payment amount), which shall be deemed payment in full of any civil liability pursuant to Water Code sections 13385 and 13385.1 that otherwise might be assessed for the violations described in the NOV.

Expedited Payment Amount: \$18,000.

The Permittee understands that this Acceptance and Waiver does not address or resolve liability for any violation that is not specifically identified in the NOV.

Upon signature by the Permittee, the Permittee must return this Acceptance and Waiver to:

Thea Tryon
Assistant Executive Officer
Central Coast Water Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401

Expedited Payment Letter (EPL) No. R3-2024-0004
Settlement Agreement and Stipulation for Entry of
Administrative Civil Liability Order No. R3-2024-0004

The Permittee understands that federal regulations set forth in title 40, Code of Federal Regulations, section 123.27(d)(2)(iii) require the Central Coast Water Board to publish notice of any proposed settlement of this enforcement action and provide at least 30 days for public comment. Accordingly, Central Coast Water Board staff will publish this Acceptance and Waiver for public comment prior to execution by the Executive Officer of the Central Coast Water Board.

The Permittee understands that if significant comments are received in opposition to the Conditional Offer, then the Central Coast Water Board enforcement staff's offer to resolve the violations set forth in the NOV may be withdrawn. In that circumstance, Central Coast Water Board enforcement staff will advise the Permittee of the withdrawal, a revised offer or an administrative civil liability complaint may be issued, and the matter may be set for a hearing before the Central Coast Water Board. For such a liability hearing, the Permittee understands that this Acceptance and Waiver executed by the Permittee will be treated as a settlement communication and will not be used as evidence in that hearing.

If no comments are received within the notice period that cause the Executive Officer to reconsider the Conditional Offer, the Executive Officer will execute the Acceptance and Waiver as Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order No. R3-2024-0004 (Settlement and Order).

The Permittee understands that no payments are due at the time it returns the signed Acceptance and Waiver form to the Central Coast Water Board. The Permittee understands that after the signed Acceptance and Waiver is publicly noticed and executed by the Executive Officer of the Central Coast Water Board, Central Coast Water Board staff will transmit this Acceptance and Waiver as an executed Settlement and Order to the Permittee with payment instructions and due dates. Furthermore, the Permittee understands that full payment of the expedited payment amount by the hereby incorporated due date or dates specified in the transmittal letter and/or invoices associated with the executed Settlement and Order is a condition of this Acceptance and Waiver.

Expedited Payment Letter (EPL) No. R3-2024-0004
Settlement Agreement and Stipulation for Entry of
Administrative Civil Liability Order No. R3-2024-0004

I hereby affirm that I am duly authorized to act on behalf of and to bind the Permittee in the making and giving of this Acceptance and Waiver and the terms of the Settlement and Order.

DocuSigned by:
Derek Johnson
By: _____
(Signed Name)

1/2/2024 | 3:32 PM PST

(Date)

Derek Johnson

(Printed or typed name)

City Manager

(Title)

Expedited Payment Letter (EPL) No. R3-2024-0004
Settlement Agreement and Stipulation for Entry of
Administrative Civil Liability Order No. R3-2024-0004

IT IS HEREBY ORDERED pursuant to Water Code section 13323, Government Code section 11415.60, and Resolution No. R3-2014-0043, on behalf of the California Regional Water Quality Control Board, Central Coast Region.

By: _____

Ryan E. Lodge
Executive Officer
Central Coast Water Board

File Location: R:\RB3\Enforcement\EPLs\2024-0004 SLO WWTP\SLO City WRRF MMP EPL 24-0004
Waiver.docx

ECM Primary Indexing # 255380

Exhibit A – Notice of Violation
City of San Luis Obispo Water Resource Recovery Facility
Mandatory Minimum Penalty Violations Requiring Enforcement
Alleged Violation Dates: October 4, 2022 – December 3, 2022

The enforcement staff of the Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board) reviewed information submitted by this facility to determine whether the discharger is subject to mandatory minimum penalties (MMPs) pursuant to subdivisions (h) and (i) of California Water Code section 13385. The following table lists this facility’s alleged violations of Waste Discharge Requirements Order No. R3-2014-0033, National Pollutant Discharge Elimination System Permit No. CA0049224 from October 4, 2022, through December 3, 2022, for which the Central Coast Water Board has not assessed MMPs. Final calculation of MMP amounts owed and definitions of some of the terms used in this document are listed below the table.

For additional information about the alleged violations listed in the table, please refer to [the State Water Resources Control Board CIWQS Public Reports webpage](#) and select the “Mandatory Minimum Penalty (MMP) Report” link located under the “Violations Reports” category. Once in the Mandatory Minimum Penalty Reports search page, select Region 3 along with the beginning and ending dates shown in this exhibit, select Run Report, and then select your facility to access the list of violations. Expand the “Effluent MMP Violations” section of the page by selecting the “+” icon to the left of the section title. To view details of a violation, select the “Violation ID” number. For chronic (non-serious) violations, select the “Chronic” link in the “MMP Type” column to see a list of the three or more violations preceding each chronic violation within 180 days and thus qualifying the chronic violation as an MMP.

EPL No. R3-2024-0004 – Exhibit A
 Stipulated ACL Order No. R3-2024-0004
 City of San Luis Obispo Water Resource Recovery Facility

#	Violation Number	Violation Date	Pollutant	Pollutant Type	Limitation Period	Limit	Result	Units	% Over Limit	Serious or Non-Serious (Chronic) Violation	Date 180 Days Prior	No. of Viols within 180 days	Mandatory Minimum Penalty
1	1112903	10/4/22	Dibromochloromethane	Group 2	Daily Maximum	1	2.1	ug/L	110%	S	N/A	N/A	\$ 3,000
2	1112904	10/4/22	Dichlorobromomethane	Group 2	Daily Maximum	1	17.8	ug/L	1680%	S	N/A	N/A	\$ 3,000
3	1112902	10/31/22	Dichlorobromomethane	Group 2	Monthly Average	0.56	17.8	ug/L	3079%	S	N/A	N/A	\$ 3,000
4	1112901	10/31/22	Dibromochloromethane	Group 2	Monthly Average	0.4	2.1	ug/L	425%	S	N/A	N/A	\$ 3,000
5	1111364	11/30/22	Nitrate, Total (as N)	Group 1	Monthly Average	42.6	43.2	mg/L	1%	C	6/3/22	5	\$ 3,000
6	1112441	12/3/22	Chlorine, Total Residual	Group 2	Daily Maximum	0.1	0.76	mg/L	660%	S	N/A	N/A	\$ 3,000

Total Penalty: \$18,000

Calculation of Total Mandatory Minimum Penalty Amount for Effluent Violations:
 (5 Serious Violations + 1 Non-Serious Violations) × \$3,000 = \$18,000

EPL No. R3-2024-0004 – Exhibit A
Stipulated ACL Order No. R3-2024-0004
City of San Luis Obispo Water Resource Recovery Facility

For Group 1 pollutants, a violation is serious when the limit is exceeded by 40% or more, and non-serious when the limit is exceeded by less than 40%. “Non-serious” is also referred to as “chronic” in CIWQS, indicating violations are occurring too frequently.

For Group 2 pollutants, a violation is serious when the limit is exceeded by 20% or more, and non-serious when the limit is exceeded by less than 20%. “Non-serious” is also referred to as “chronic” in CIWQS, indicating violations are occurring too frequently.

Each serious violation is subject to a mandatory minimum penalty of \$3,000.

A non-serious (also known as chronic) violation is subject to a mandatory minimum penalty of \$3,000 when it is preceded by three or more chronic or serious violations in a 180-day period representing six consecutive months (e.g., period commencing on the date of the violation being evaluated and ending 180 days before that date). The three most recent preceding chronic or serious violations within the 180-day period that are counted first toward qualifying a chronic violation for a mandatory minimum penalty are not penalized within that specific determination.

For example, if a violation named V4 is preceded by three violations V1, V2, and V3 within a 180-day period, V4 is determined to be subject to a mandatory minimum penalty of \$3,000. Within that specific determination for violation V4, V1 through V3 are counted but not penalized. However, each violation is subject to its own specific determination. So, V1, V2, and V3 are each subject to their own evaluation based on their specific occurrence dates and applicable 180-day periods and may warrant or have warranted in a previous enforcement action their own penalty as a chronic or serious violation.

Accordingly, all violations indicating “C” for “Chronic” in the above table also show four or more violations within 180 days because each of the chronic violations is preceded by three or more violations in that period. Please see the instructions on the first page of this exhibit if you would like to view in CIWQS all of the preceding violations applicable to the above chronic violations.

Term	Definition
Units	ug/L = micrograms per liter mg/L = milligrams per liter

EPL No. R3-2024-0004 – Exhibit A
 Stipulated ACL Order No. R3-2024-0004
 City of San Luis Obispo Water Resource Recovery Facility

Term	Definition
N/A	Not Applicable
CIWQS	California Integrated Water Quality System database used by the Water Boards to manage violation and enforcement activities, as well as other data types relevant to water quality protection.
Violation Number	Identification number assigned to a violation in CIWQS.
Violation Date	Date that a violation actually occurred, with the exception that for some violation types, such as a monthly average, the last day of the reporting period is used. If the occurrence date is unknown, the date used is the day the violation was first discovered by staff, the Discharger, or a third party.
Pollutant Types: Group 1 & 2	Groups of pollutants defined in the State Water Resources Control Board Water Quality Enforcement Policy. Also referred to as Category 1 or CAT1 and Category 2 or CAT2, respectively.

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