

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

In the Matter of:

ORDER R5-2019-0520

**CITY OF GALT
SACRAMENTO COUNTY**

**SETTLEMENT AGREEMENT AND
STIPULATION FOR ENTRY OF
ADMINISTRATIVE CIVIL LIABILITY
ORDER**

I. Introduction

1. This Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order (Stipulated Order or Order) is entered into by and between the Assistant Executive Officer of the California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board or Water Board), on behalf of the Central Valley Water Board Prosecution Team (Prosecution Team), and City of Galt (City or Discharger)(collectively known as the Parties) and is presented to the Central Valley Water Board, or its delegee, for adoption as an order by settlement, pursuant to California Water Code section 13323 and Government Code section 11415.60.

II. Recitals

2. The Discharger owns and operates the City of Galt Collection System (collection system), which provides sewerage collection service to the City of Galt in Sacramento County. The Discharger's collection system consists of 75 miles of gravity sewer lines with 10 intermediate lift stations. The Discharger also collects wastewater from the California Department of Corrections and the new Liberty Ranch High School.
3. The *Statewide General Waste Discharge Requirements for Sanitary Sewer Systems*, State Board Order No. 2006-0003, as revised by WQ-2013-0058-EXEC, (SSS WDRs) regulates the collection system. The SSS WDRs requires the City to operate and maintain its collection system to prevent sanitary sewer overflows and spills. Prohibition C.1 of the SSS WDRs states that the discharge of untreated or partially treated wastewater from the collection system to waters of the United States is prohibited.
4. Section 301 of the Clean Water Act (33 U.S.C. § 1311) and Water Code section 13376 prohibit the discharge of pollutants to surface waters except in compliance with a National Pollutant Discharge Elimination System (NPDES) permit. The SSS WDRs are not a NPDES permit.

City of Galt
Sacramento County

5. On 28 November 2018, the City discharged 301,000 gallons of untreated wastewater which spilled from its sanitary sewer system into Dead Man Gulch Creek, a tributary to South Laguna Creek.
6. The City violated Prohibition C.1 of the SSS WDRs, Section 301 of the Clean Water Act, and Water Code section 13376 by discharging a total of 301,000 gallons of untreated sewage to a water of the State of California or a water of the United States on 28 November 2018.
7. On 20 December 2018, the Central Valley Water Board staff issued the City a Notice of Violation (NOV) for the sanitary sewer overflow which occurred on 28 and 29 November 2019 of approximately 301,000 gallons of untreated sewage.
8. On 11 September 2019, the Central Valley Water Board prosecution team issued a Compressed Administrative Civil Liability (CACL) which included an offer to settle the alleged violations for one hundred twenty-two thousand seven hundred sixty dollars (\$122,760). Subsequent to the issuance of the CACL the Parties agreed to enter into confidential settlement negotiations.
9. Pursuant to Water Code section 13385 subdivision (a), any person who violated Water Code section 13376 or any requirements of Section 301 of the Clean Water Act is subject to administrative civil liability pursuant to Water Code section 13385 subdivision (c), in an amount not to exceed the sum of both of the following: (1) ten thousand dollars (\$10,000) for each day in which the violation occurs; and (2) where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.
10. Pursuant to Water Code section 13327, in determining the amount of civil liability, the regional board shall take into consideration the nature, circumstances, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on the ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters as justice may require.
11. The *State Water Board's Water Quality Enforcement Policy* (Enforcement Policy) was adopted on 4 April 2017. The Enforcement Policy's effective date is 5 October 2017. The use of the Enforcement Policy's penalty methodology addresses the factors required to be considered when imposing administrative civil liability.

12. Attachment A to this Order is the penalty methodology as applied to the City's discharge of untreated sewage on 28 November 2018.
13. The total amount of the administrative civil liability (ACL) for the alleged violation is **one hundred ten thousand seven hundred fifteen dollars (\$110,715)**.
14. The Parties have engaged in confidential settlement negotiations and agree to settle the matter without administrative or civil litigation by presenting this Stipulated Order to the Central Valley Water Board, or its delegee, for adoption as an order by settlement, pursuant to Water Code section 13323 and Government Code section 11415.60. To resolve the violation by consent and without further administrative proceedings, the Parties have agreed to the imposition of an ACL in the amount of **one hundred ten thousand seven hundred fifteen dollars (\$110,715)**.
15. The Central Valley Water Board Prosecution Team believes that the resolution of the alleged violations is fair and reasonable and fulfills its enforcement objectives, that no further action is warranted concerning the violations alleged herein, and that this Stipulated Order is in the best interest of the public.

III. Stipulations

The Parties stipulate to the following:

16. **Jurisdiction:** The Parties agree that the Central Valley Water Board has subject matter jurisdiction over the matters alleged in this action and personal jurisdiction of the Parties to this Stipulation.
17. **Administrative Civil Liability:**
 - a) The Discharger hereby agrees to the imposition of an ACL in the amount of **one hundred ten thousand seven hundred fifteen dollars (\$110,715)** to the Central Valley Water Board to resolve the violation specifically alleged in Attachment A to this Order.
 - b) The Discharger agrees to pay **\$55,358** to the *State Water Pollution Cleanup and Abatement Account* and shall indicate this Order number on the check. The Discharger shall send the original check referencing this Order number to the following address:

Division of Administrative Services
ATTN: Accounting, State Water Resources Control Board
1001 I Street 18th Floor
Sacramento, California 95814

- c) A copy of the check described above shall be sent to the Prosecution Team contact listed in Paragraph 26.
- d) The **\$55,357** in remaining liability shall be satisfied through the completion of an Enhanced Compliance Action (ECA) as described below.

18. **Representations and Agreements:** The Discharger understands that the completed ECA is a material condition of this settlement of liability between the Discharger and the Central Valley Water Board Prosecution Team. As a material consideration for the Central Valley Water Board's acceptance of this Stipulated Order, the Discharger represents and agrees that it will complete the ECA as described herein and in Attachment B.

19. **Enhanced Compliance Actions (ECAs) and Suspended Liability:** Enforcement Policy section IX. provides,

ECAs are projects that enable a discharger to make capital or operational improvements beyond those required by law, and are separate from projects designed to merely bring a discharger into compliance. The Water Boards may approve a settlement with a discharger that includes suspension of a portion of the monetary liability of a discretionary ACL for completion of an ECA. Except as specifically provided [in the Enforcement Policy], any such settlement is subject to the rules that apply to Supplemental Environmental Projects [established in the *State Water Board Policy on Supplemental Environmental Projects*, effective May 3, 2018 (SEP Policy)].

Furthermore, the SEP Policy limits ECAs to 50 percent of the total administrative civil liability excluding the Prosecution Team investigative and enforcement costs. The Prosecution Team has determined that the City's ECA complies with the Enforcement and SEP Policies.

The City proposes to implement the following ECA:

- i. **Smart Cover Installation Project:** The City agrees to implement a Smart Cover Installation Project to provide early detection and notification of collection system issues, to reduce potential discharge events, and to operate and maintain the collection system at design standards. The Smart Cover Installation Project is described in additional detail in Attachment B.

20. **ECA Completion Deadlines:** The City shall comply with the following agreed upon ECA completion deadlines. Additionally, the City shall submit a Certificate of Completion, as described below, upon the completion of the ECA declaring

such completion and detailing fund expenditures and goals achieved. The deadline for completion of the ECA and submission of the Final Report is 11 months after the adoption of this Order.

21. **Request for Extension of Final ECA Completion Deadlines:** If the City cannot meet the ECA Completion Deadlines due to circumstances beyond the City's anticipation or control, the City shall notify the Executive Officer in writing within thirty (30) days of the date the City first knew of the event or circumstance that caused or could have caused a violation of this Stipulated Order. The notice shall describe the reason for the nonperformance and specifically refer to this Paragraph. The notice shall describe the anticipated length of time the delay may persist, the cause or causes of the delay, the measures taken or to be taken by the City to prevent or minimize the delay, the schedule by which the measures will be implemented, and the anticipated date of compliance with this Stipulated Order. The City shall adopt all reasonable measures to avoid and minimize such delays.

The determination as to whether the circumstances were beyond the reasonable control of the City and its agents will be made by the Executive Officer. Where the Executive Officer concurs that compliance was or is impossible, despite the timely good faith efforts of the City, due to circumstances beyond the control of the City that could not have been reasonably foreseen and prevented by the exercise of reasonable diligence by the City, a new compliance deadline shall be established and provided to the City in writing with the effect of revising this Stipulated Order. The Executive Officer will endeavor to grant a reasonable extension of time, if warranted.

22. **Audits and Certification of Enhanced Compliance Actions:**

- a. **Certification of Completion:** Within 30 days of completion of the ECA, the City shall submit a certified statement of completion of the ECA ("Certification of Completion"). The City's authorized representative shall submit the Certification of Completion under penalty of perjury to the designated Central Valley Water Board contact. The Certification of Completion shall include the following:
- i. **Certification of Expenditures:** Certification documenting all expenditures by the City. The expenditures may include external payments to outside vendors or contractors implementing the ECA. If applicable, the expenditures may include the costs of internal environmental management resources and internal business unit resources, provided that such expenditures are directly related to development and implementation of the ECA. In making such certification, the official may rely upon normal company and project tracking

systems that captures employee time expenditures and external payments to outside vendors. The City shall provide any additional information requested by Central Valley Water Board staff that is reasonably necessary to verify ECA expenditures.

- ii. **Certification of Performance of Work:** Certification that the ECA has been completed in accordance with the terms of this Stipulated Order. Such documentation may include photographs, invoices, receipts, certifications, and other material reasonably necessary for the Central Valley Water Board to evaluate the completion of the ECA and the costs incurred by the City.
 - iii. **Certification that Work Performed on ECA Met or Exceeded Requirements of CEQA and other Environmental Laws [where applicable]:** Certification that the ECA meets or exceeds the requirements of CEQA and/or other environmental laws. Unless the City is exempted from compliance with CEQA, the City shall, before the ECA implementation date, consult with other interested state agencies regarding potential impacts of the ECA.
- b. **Failure to Expend All Suspended Administrative Civil Liability Funds on the Approved ECAs:** In the event that the City is not able to demonstrate to the reasonable satisfaction of the designated Central Valley Water Board contact that the entire ECA amounts pursuant to Paragraph 17 have been spent for the completed ECAs, the City shall pay as an administrative civil liability the difference between the ECA amounts and the amounts the City can demonstrate were actually spent on the ECAs.
 - c. **Failure to Complete the ECAs:** If the ECAs are not fully implemented by the Paragraph 20 *ECA Completion Deadlines* required by this Stipulated Order and an extension has not been granted by the Central Valley Water Board's Executive Officer pursuant to Paragraph 21 above, the designated Central Valley Water Board contact shall issue a Notice of Violation. As a consequence, the City shall be liable to pay the entire Suspended Liability to the *State Water Pollution Cleanup and Abatement Account*.
23. **Publicity:** Whenever the City or its agents or subcontractors publicize the ECA, they shall state in a prominent manner that the project is being undertaken as part of the settlement of an enforcement action by the Central Valley Water Board against the City.
 24. **Site Inspections:** The City shall permit Central Valley Water Board's staff to inspect during normal business hours any location where the ECA is being

implemented as well as review any documents associated with implementation of the ECA at any time without notice.

25. **Compliance with Applicable Laws:** Settling Respondent understands that payment of administrative civil liability in accordance with the terms of this Stipulated Order and/or compliance with the terms of this Stipulated Order is not a substitute for compliance with applicable laws, and that continuing violations of the type alleged herein may subject it to further enforcement, including additional administrative civil liability.

26. **Party Contacts for Communications Related to Stipulated Order:**

For the Central Valley Water Board:

Kari Holmes, Supervising Water Resources Control Engineer
NPDES Compliance and Enforcement
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670
(916) 464-4848
kari.holmes@waterboards.ca.gov

For the Discharger:

Mark Selling
Director of Public Works
City of Galt
495 Industrial Drive
Galt, CA 95632

27. **Attorney's Fees and Costs:** Except as otherwise provided herein, each Party shall bear all attorneys' fees and costs arising from the Party's own counsel in connection with the matters set forth herein.
28. **Public Notice:** The Discharger understands that this Stipulated Order will be noticed for a 30-day public review and comment period prior to consideration by the Central Valley Water Board, or its delegee. If significant new information is received that reasonably affects the propriety of presenting this Stipulated Order to the Central Valley Water Board, or its delegee, for adoption, the Assistant Executive Officer may unilaterally declare this Stipulated Order void and decide not to present it to the Central Valley Water Board, or its delegee. The Discharger agrees that it may not rescind or otherwise withdraw its approval of this proposed Stipulated Order.
29. **Procedure:** The Parties agree that the procedure that has been adopted for the approval of the settlement by the Parties and review by the public, as reflected in this Order, will be adequate. In the event procedural objections are raised prior

to this Stipulated Order becoming effective, the Parties agree to meet and confer concerning any such objections and may agree to revise or adjust the procedure as necessary or advisable under the circumstances.

30. **No Waiver of Right to Enforce:** The failure of the Prosecution Team or Central Valley Water Board to enforce any provision of this Stipulated Order shall in no way be deemed a waiver of such provision, or in any way affect the validity of this Stipulated Order. The failure of the Prosecution Team or Central Valley Water Board to enforce any such provision shall not preclude it from later enforcing the same or any other provision of this Stipulated Order. No oral advice, guidance, suggestions, or comments by employees or officials of any Party regarding matters covered under this Stipulated Order shall be construed to relieve any Party regarding matters covered in this Stipulated Order. The Central Valley Water Board reserves all rights to take additional enforcement actions, including without limitation, the issuance of ACL complaints or orders for violations other than those addressed by this Order.
31. **Effect of Stipulated Order:** Except as expressly provided in this Stipulated Order, nothing in this Stipulated Order is intended nor shall it be construed to preclude the Central Valley Water Board or any state agency, department, board or entity or any local agency from exercising its authority under any law, statute, or regulation.
32. **Interpretation:** This Stipulated Order shall not be construed against the party preparing it but shall be construed as if the Parties jointly prepared it and any uncertainty and ambiguity shall not be interpreted against any one party.
33. **Modification:** This Stipulated Order shall not be modified by any of the Parties by oral representation whether made before or after the execution of this Order. All modifications must be made in writing and approved by the Central Valley Water Board or its delegee.
34. **Integration:** This Stipulated Order constitutes the entire agreement between the Parties and may not be amended or supplemented except as provided for in this Stipulated Order.
35. **If Order Does Not Take Effect:** In the event that this Stipulated Order does not take effect because it is not approved by the Central Valley Water Board, or its delegee, or is vacated in whole or in part by the State Water Board or a court, the Parties acknowledge that the Prosecution Team may proceed to a contested evidentiary hearing before the Central Valley Water Board to determine whether to assess an ACL for the underlying alleged violations, or may continue to pursue settlement. The Parties agree that all oral and written statements and agreements made during the course of settlement discussions will not be admissible as evidence in any subsequent administrative or judicial proceeding

or hearing and will be fully protected by California Evidence Code sections 1152 and 1154; California Government Code section 11415.60; Rule 408, Federal Rules of Evidence; and any other applicable privilege under federal and/or state law. The Parties also agree to waive any and all objections related to their efforts to settle this matter, including, but not limited to:

Objections related to prejudice or bias of any of the Central Valley Water Board members or their advisors and any other objections to the extent that they are premised in whole or in part on the fact that the Central Valley Water Board members or their advisors were exposed to some of the material facts and the Parties settlement positions, and therefore may have formed impressions or conclusions, prior to conducting any contested evidentiary hearing in this matter; or laches or delay or other equitable defenses based on the time period that the Order or decision by settlement may be subject to administrative or judicial review.

36. **Waiver of Hearing:** The Discharger has been informed of the rights provided by Water Code section 13323, subdivision (b), and hereby waives its right to a hearing before the Central Valley Water Board.
37. **Waiver of Right to Petition:** The Discharger hereby waives the right to petition the Central Valley Water Board's adoption of the Stipulated Order as written for review by the State Water Board, and further waives the right, if any, to appeal the same to a California Superior Court and/or any California appellate level court.
38. **Covenant Not to Sue:** Upon the effective date of this Stipulated Order, the Discharger shall and does release, discharge, and covenant not to sue or pursue any civil or administrative claims against any State Agency or the State of California, its officers, agents, directors, employees, attorneys, representatives, for any and all claims or cause of action, which arise out of or are related to this action.
39. **Water Boards Not Liable:** Neither the Central Valley Water Board members, nor the Central Valley Water Board staff, attorneys, or representatives shall be liable for any injury or damage to persons or property resulting from the negligent or intentional acts or omissions by the Discharger or its respective directors, officers, employees, agents, representatives, or contractors in carrying out activities pursuant to this Order, nor shall the Central Valley Water Board, its members, staff, attorneys, or representatives be held as parties to or guarantors of any contract entered into by the Discharger, or its directors, officers, employees, agents, representatives, or contractors in carrying out activities pursuant to this Order.

40. **Authority to Bind:** Each person executing this Stipulated Order in a representative capacity represents and warrants that he or she is authorized to execute this Order on behalf of and to bind the entity on whose behalf he or she executes the Order.
41. **Necessity for Written Approvals:** All approvals and decisions of the Central Valley Water Board under the terms of this Stipulated Order shall be communicated to the Discharger in writing. No oral advice, guidance, suggestions, or comments by employees or officials of the Central Valley Water Board regarding submissions or notices shall be construed to relieve the Discharger of its obligation to obtain any final written approval required by this Stipulated Order.
42. **No Third Party Beneficiaries:** This Stipulated Order is not intended to confer any rights or obligation on any third party or parties, and no third party or parties shall have any right of action under this Stipulated Order for any cause whatsoever.
43. **Severability:** This Stipulated Order is severable; should any provision be found invalid the remainder shall remain in full force and effect.
44. **Effective Date:** This Stipulated Order shall be effective and binding on the Parties upon the date the Central Valley Water Board, or its delegee, enters the Order.
45. **Counterpart Signatures:** This Order may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterparts shall together constitute one document.

IT IS SO STIPULATED.

California Regional Water Quality Control Board Prosecution Team

Central Valley Region

By: Original signed by
John J. Baum
Assistant Executive Officer

6/5/2020
Date

City of Galt

By: Original signed by
Thomas Haglund
Interim City Manager

05/07/2020
Date

HAVING CONSIDERED THE PARTIES STIPULATIONS, THE CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD, BY AND THROUGH ITS EXECUTIVE OFFICER, FINDS THAT:

1. The foregoing Stipulation is fully incorporated herein and made part of this Order.
2. This is an action to enforce the laws and regulations administered by the Central Valley Water Board. The Central Valley Water Board finds that issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, sections 21000 et seq.), in accordance with section 15321, subdivision (a)(2), Title 14, of the California Code of Regulations.
3. The Executive Officer of the Central Valley Water Board is authorized to refer this matter directly to the Attorney General for enforcement if the Discharger fails to perform any of its obligations under this Order.

Pursuant to Water Code section 13323 and Government Code section 11415.60, **IT IS HEREBY ORDERED** on behalf of the California Regional Water Quality Control Board, Central Valley Region.

Original Signed by
Patrick Pulupa
Executive Officer
Central Valley Regional Water Quality Control Board

08/04/2020
Date

Attachment A: Penalty Methodology

Attachment B: Enhanced Compliance Action Project Proposal

**ATTACHMENT A
 PENALTY CALCULATION METHODOLOGY FOR
 CITY OF GALT
 SEWER COLLECTION SYSTEM
 R5-2019-0520**

SACRAMENTO COUNTY

The State Water Board’s *Water Quality Enforcement Policy* (Enforcement Policy) establishes a methodology for determining administrative civil liability by addressing the factors that are required to be considered under California Water Code section 13385(e). Each factor of the nine-step approach is discussed below, as is the basis for assessing the corresponding score. The Enforcement Policy can be found at:

https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2017/040417_9_final%20adopted%20policy.pdf

Violation – Discharge of Untreated Sewage to Surface Waters

The City of Galt (City or Discharger) is regulated by the Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, Order 2006-0003-EXEC, as modified by Order No. 2013-0058-EXEC (SSS WDRs). This permit prohibits the discharge of untreated wastewater to water of the United States. On 28 and 29 November 2018, an estimated 301,000 gallons of untreated wastewater spilled from the sanitary sewer system into Dead Man Gulch Creek, tributary to South Laguna Creek. For purposes of settlement, Board staff has not included penalties for the 12 discharges of raw sewage to land between 25 May 2013 and 28 November 2018. However, if this matter goes to hearing, these additional sewage spills will be considered. In addition, the penalty factors as assigned below will be reevaluated which may result in a higher liability.

Adjustments for Discharger Conduct

PENALTY FACTOR	VALUE	DISCUSSION
The Degree of Toxicity of the Discharge	3	Untreated sewage contains elevated concentrations of ammonia, nitrate, coliform organisms and other substances which are known to cause adverse impacts to aquatic life, and to human health. Because the discharged material possessed “an above moderate risk or a direct threat to potential receptors”, a score of 3 was assigned for this factor.
Actual Harm or Potential Harm to Beneficial Uses	2	The untreated sewage entered Dead Man Gulch Creek, tributary to South Laguna Creek, during a storm event. The beneficial uses of the Laguna Creek and its tributaries that could be impacted by the untreated sewage include municipal and domestic water supply, agricultural irrigation and stock watering, contact and non-contact water recreation, warm freshwater habitat, cold freshwater habitat, and wildlife habitat. The untreated sewage contains pathogens, nitrogen, ammonia, and biological oxygen demand. Elevated levels of these constituents can lead to low dissolved oxygen in the receiving water, impacts to aquatic life, and impacts to human health. The discharge was expected to have a below

		moderate impact to beneficial uses as it is measurable in the short term, but not appreciable.
Susceptibility to cleanup or abatement	1	None of the spill was recovered because the spill entered surface waters during a rain event.
Per gallon and per day factor for discharge violations	0.15	The “Deviation from Requirement” is moderate because the SSS WDRs prohibit any discharge of sanitary sewage overflows from entering waters of the United States. The Prosecution Team has determined that the Discharger’s intent was to have backup power available and it was the failure of the equipment that caused the spill. The discharge, therefore, is a moderate deviation from the requirements of the SSS WDRs.
Volume discharged minus 1,000 gallons per event	300,000 gallons	According to the Discharger, 301,000 gallons was discharged to surface water and not recovered. The total volume, minus 1,000 gallons per event, is used in the calculation.
Adjustment for high volume discharges	Yes, \$2/gallon	For large volume spills, the Enforcement Policy allows a reduction from the statutory maximum of \$10/gallon and suggests \$2/gallon for sewage spills. The Prosecution Team has determined that \$2/gallon is appropriate in this matter.
Per gallon penalty	\$90,000	The liability is calculated as per day factor multiplied by the number of gallons multiplied by \$2/gallon.
Days of discharge	1 day	Untreated sewage was discharged to Dead Man Gulch Creek between 23:45 on 28 November 2018 and 00:15 on 29 November 2018.
Per day penalty	\$3,000	The liability is calculated as per day factor multiplied by the number of days multiplied by the statutory maximum per day (\$10,000).
Initial Liability for Violation	\$91,500	Sum of the per-gallon and per-day penalties.
Culpability	1.1	The spill occurred during evening hours due to a storm related power failure and the dialer modem failed to auto dial the standby utilities operator. The power failure caused all four of the lift station’s sewage pumps to become unavailable. The spill was not discovered until the following morning. The Discharger updated its Sanitary Sewer Management Plan (SSMP) in February 2016, after the Live Oak Lift Station and force main were improved and brought online. Since February 2016, including during the discharge event, the Discharger properly implemented its SSMP. Prior to the incident, the Discharger installed an emergency generator to ensure the lift station has auxiliary power in case of a power outage. Additionally, a mounted crane and concrete pad were installed to facilitate better maintenance. After the incident, the Discharger swiftly implemented steps to ensure that a similar incident does not occur in the future. The Discharger purchased and installed a smartcover system upstream of Live Oak Lift Station, which allows the Discharger to continuously measure, acquire, and communicate data via satellite for better maintenance and response to Sanitary Sewer Overflows at the lift station. This allows the Discharger to communicate and receive notifications about the lift station’s status during a power outage or communication blackout with the Supervisory Control and Data Acquisition (SCADA) system. In addition, the Discharger is planning to install additional smartcover systems at all major lift stations that are close in proximity to waters of the United States or receive major flows during

		storm events. Together, these factors serve to increase the culpability factor above a neutral multiplier.
History of Violations	1.1	The City of Galt has a history of violations for which the Central Valley Water Board has taken formal enforcement. Between 1 January 2015 and 30 June 2019, the Board issued two enforcement actions against the Discharger. On 28 March 2016, the Assistant Executive Officer issued Administrative Civil Liability Complaint (ACLC) R5-2016-0516, which was settled by Stipulated Order R5-2016-0566. On 13 March 2017, the Assistant Executive Officer issued ACLC R5-2017-0511 for mandatory minimum penalties, which was settled by payment and completion of a Supplemental Environmental Project.
Cleanup and Cooperation	1	The Discharger appears to have adequately responded to the spill event once discovered. The Discharger provided prompt notification to Central Valley Water Board staff and other agencies once it was aware of the incident. The Discharger also made significant efforts to clean up the spill. The Discharger was not able to recover the sanitary sewer spill since it had already flowed into the creek.
Total Base Liability for Violation	\$110,715	The base liability is calculated as the initial liability multiplied by each of the above three factors.

The Enforcement Policy states that five other factors must be considered before obtaining the final liability amount.

Total Base Liability for all violations: \$110,715

Other Factor Considerations

PENALTY FACTOR	VALUE	DISCUSSION
Ability to pay and continue in business	No adjustment	The City is a public entity with the ability to raise funds. The Discharger has an annual operation and maintenance budget of \$4,136,495 for sanitary sewer system facilities according to the SSS WDRs' annual CIWQS questionnaire.
Economic benefit	\$2,460	Pursuant to Water Code section 13385(e), civil liability, at a minimum, must be assessed at a level that recovers the economic benefit of noncompliance derived from the acts that constitute the violation. The economic benefit of noncompliance for the violations is estimated at \$2,460 (see Exhibit 1 to this document).

PENALTY FACTOR	VALUE	DISCUSSION
Other factors as justice may require	No adjustment	The costs of investigation and enforcement are “other factors as justice may require” and could be added to the liability amount. The Central Valley Water Board has incurred over \$3,000 in staff costs associated with the investigation and enforcement of the alleged violations. The Prosecution Team retains discretion to seek staff costs should this matter proceed to hearing.
Maximum liability	\$3,020,000	Based on California Water Code section 13385: \$10,000 per day per spill and \$10 per gallon, minus the first 1,000 gallons per spill event.
Minimum liability	\$2,706	Based on California Water Code section 13385, civil liability must be at least the economic benefit of non-compliance. Per the Enforcement Policy, the minimum liability is to be the economic benefit plus 10%. Here, the proposed penalty exceeds the minimum liability.
Final Liability	\$110,715	The final liability amount is the total base liability plus any adjustment for the ability to pay, economic benefit, and other factors. The final liability must be more than the minimum liability and less than the maximum liability.

Attachment: Exhibit 1

Exhibit 1: Economic Benefit Analysis

Economic Benefit Analysis													
Galt													
Compliance Action	One-Time Non-Depreciable Expenditure				Annual Cost			Non-Compliance Date	Compliance Date	Penalty Payment Date	Discount Rate	Benefit of Non-Compliance	
	Amount	Basis	Date	Delayed?	Amount	Basis	Date						
Aquire Smart Covers	\$ 39,934	GDP	4/29/2019	Y				11/28/2018	6/10/2019	9/25/2019	4.00%	477	
Annual Smart Cover					\$ 3,640	GDP	4/29/2019	11/28/2018	6/10/2019	9/25/2019	4.00%	1,983	
Income Tax Schedule: Municipality USEPA BEN Model Version: Version 2019.0.0 (March 2019) Analyst: Bryan Elder Date/Time of Analysis: 6/25/19 15:17											Total Benefit: \$	2,460	
Assumptions: 1 Smart Cover cost based on purchase of 10 covers with installation and shipping included. Quote dated 3/15/19, valid for 30 days. 2 Annual Smart Cover fee of \$364 per cover per quote dated 3/15/19, valid for 30 days. 3 Costs indexed using Gross Domestic Product (GDP). 4 Cost estimate date based on date of signed agreement with City of Galt. 5 Non-compliance Date based on date sanitary sewer overflow occurred. 6 Compliance date based on six week lead time on equipment (per 3/15/19 quote). 7 Penalty Payment Date assumed to be September 25, 2019. 8 The City of Galt is a municipality.													

**ATTACHMENT B
SETTLEMENT AGREEMENT AND STIPULATION FOR ENTRY OF
ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2019-0520**

IV. Enhanced Compliance Action Description

1. **Project Title:** Smart Cover Installation
2. **Service Area:** City of Galt
3. **Name of Responsible Entity:** City of Galt
4. **Contact Information:**

Mark A. Clarkson, P.E., Deputy Public Works Director (mclarkson@ci.galt.ca.us)
495 Industrial Drive, Galt, Ca 95632
(209) 366-7260

5. **Project Goals and Description:**

The Smart Cover Installation Project has the following objectives:

- a. To provide early detection and notification of collection system issues;
- b. To reduce potential sanitary sewer overflow (SSO) events; and
- c. To operate and maintain the collection system at design standards.

This Smart Cover system monitors the flow levels within selected parts of the collection system which in turn can detect any significant level/flow anomalies. These anomalies could either be from plugged lines, high inflow and infiltration, or other restrictions. In any case, the Smart Covers will immediately notify City of Galt staff of impending problems thus affording staff enough time to respond and prevent a potential SSO event.

6. **Estimated Cost of Project Completion:** The anticipated cost of the Smart Cover Installation Project is \$71,960, which includes \$55,357.50 of suspended liability.

Itemized Expenses:

Description	Quantity	Unit Price	Line Total
Smart Cover System: Includes controls, power packs, antennas, and mounting brackets.	12	\$4,350	\$52,200
Smart Cover Active Site Management - Annual Fee, First Year	12	\$435	\$5,220
Installation of Each Smart Cover	12	\$420	\$5,040

Description	Quantity	Unit Price	Line Total
Staff Support, Testing, Training, Standard Operating Procedures Development			\$9,500
Project Total			\$71,960

7. Water body, beneficial use and/or pollutant addressed: If the Smart Cover Installation Project is successful, the additional information and real time monitoring gained will enable the City to manage its wastewater collection and treatment processes in a way that protects drainage courses such as Dead Man Gulch, Dry Creek, and South Laguna Creek.

8. Project Task, Schedule, and Milestones: The Smart Cover Installation Project will include the following milestones, measured from the date the Central Valley Regional Water Quality Control Board or its delegee signs this Settlement Agreement (ECA Effective Date).

a. Study Funding: The City will obtain bids, prepare purchase agreement, and obtain City Council approval and budget appropriation for the project within 4 months of the ECA Effective Date.

b. Equipment Delivery: The equipment delivery is estimated to take approximately 3 months following the receipt of the purchase order provided under section 8(a) above and receipt of any engineering or site information requested by the vendor. The equipment delivery is estimated to be completed within 7 months from the ECA Effective Date.

c. Equipment Installation: The selected vendor will install the Smart Covers equipment within 2 months of equipment delivery. The Smart Cover Installation Project proposes to install 12 Smart Covers with an estimated completion date of 9 months after ECA Effective Date.

d. Support, Testing, SOP Development: Once the system is installed, the City will test the system, train staff in the operation and maintenance, and develop Standard Operating Procedures in the continued operation and maintenance of the system. The project will also be closed out. This testing, training, and close-out will require 1 month to complete. Project close-out has an estimated completion date of 10 months after ECA Effective Date.

9. Project Deliverables: The City is responsible for all deliverables described below. Due dates are measured from the date the Central Valley Water Board or its delegee signs this Settlement Agreement (ECA Effective Date).

a. Project Progress Report: The City will submit a progress report summarizing activities it has completed. At minimum, the progress report

shall include the status of the ECA project update and equipment delivery and installation summary.

Due Date: Within 6 months of the ECA Effective Date

b. Final Report: The City shall provide a final report documenting completion of the Smart Cover Installation Project. The final report will document that the ECA project has been completed and a post project accounting of all expenditures. The accounting will clearly show whether the final cost of the ECA project is less than, equal to, or more than the liability suspended amount.

Due Date: Within 11 months of the ECA Effective Date.