Farhad, Mohammad@Waterboards

From: Wyels, Wendy@Waterboards
Sent: Thursday, April 07, 2016 10:16 AM
To: WB-RB5S-CentralValleySacramento
Subject: FW: Administrative Civil Liability Complaint R5-2016-0523
Attachments: Reply to Waterboard Complaint 6April2016.pdf

From: Jessica Murray [mailto:jessica.murray@cdcr.ca.gov]
Sent: Wednesday, April 06, 2016 1:33 PM
To: Wyels, Wendy@Waterboards
Subject: Administrative Civil Liability Complaint R5-2016-0523

Good afternoon, Ms. Wyels,

Attached please find California Department of Corrections and Rehabilitations Response, Objections to Procedures, and Request for Mediation/Settlement Discussions, and Request for Hearing on the above-referenced matter.

If you have any questions, please contact the Office of Legal Affairs at (916) 445-0495.

Thank you,

Jessica Murray
Legal Secretary
Office of Legal Affairs
California Department of Corrections and Rehabilitation
1515 S Street, #314-S
Sacramento, CA 95811

OFFICE OF LEGAL AFFAIRS
PATRICK R. McKINNEY II
General Counsel
P.O. Box 942883
Sacramento, CA 94283-0001

April 6, 2016

Ms. Pamela Creedon, Executive Officer
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670
Pamela.Creedon@waterboards.ca.gov

Ms. Wendy Wyels
Central Valley Water Board
11020 Sun Center Drive #200
Rancho Cordova, CA 95670
Wendy.Wyels@waterboards.ca.gov

Ms. Stephanie Yu, Attorney III
State Water Board, Office of Chief Counsel
P.O. Box 100
Sacramento, CA 95812
Stephanie.Yu@waterboards.ca.gov

Ms. Vanessa Young, Attorney
State Water Board, Office of Enforcement
P.O. Box 100
Sacramento, CA 95812
Young@waterboards.ca.gov

Re: 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

California Department of Corrections and Rehabilitations Response, Objections to Procedures, and Request for Mediation/Settlement Discussions, and request for Hearing

Matter ID No. 2016-001669

Dear Ms. Creedon, Ms. Wyels, Ms.Yu, and Ms. Young,

I am writing on behalf of the California Department of Corrections and Rehabilitation (CDCR) to respond to the above listed Administrative Civil Liability Complaint. CDCR concurs that it be the designated party to the proceedings. CDCR requests a hearing on the complaint.

CDCR requests that the hearing be postponed to facilitate settlement discussions. CDCR contests the complaint on both substantive and procedural grounds and desires to enter into settlement discussions without signing the waiver enclosed with the complaint.

CDCR objects to the complaint on grounds that it is in violation of the Administrative Procedures Act, the constitutional rights of CDCR to procedural due process and amounts to an abuse of administrative discretion under the statutes that it seeks to enforce.

CDCR objects to the hearing procedures set forth in the complaint in the following respects:

First Objection:

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.

OBJECTION: The time limits set forth in the procedures are far too short to permit CDCR to present its defense in a matter of such great complexity. It is also impossible to accurately predict how much time will be needed in advance of the hearing, and especially at this early date in the administrative process.

Second Objection:

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.*

OBJECTION: The restriction prevents CDCR from offering testimony on matters that arise during the hearing or in preparation for the hearing that were not evident at the time the scope was determined. This also impairs the ability of CDCR to offer rebuttal evidence if a need become evident during the hearing. The test of scope is vague and ambiguous and thus can be interpreted to improperly limit the ability of CDCR to present evidence in its defense.

Third Objection:

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.

OBJECTION: This restriction prevents CDCR from offering rebuttal evidence or evidence that only become relevant based on the arguments presented at the hearing by the prosecution or the hearing officers. CDCR should be permitted to continue the hearing to allow supplemental information to be submitted and reviewed by the prosecution before further hearing on the matter.

Fourth Objection:

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.

OBJECTION: There is no time limit to provide the evidence and no right of CDCR to seek clarification of the information provided by the prosecution in advance of the hearing. CDCR may be prejudiced by lack of opportunity to prepare its defense after receipt of the information required by this provision.

Fifth Objection:

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.

OBJECTION: CDCR is unfairly prevented from offering rebuttal evidence that CDCR determines to be needed based on arguments and statements made by the prosecution team and the hearing officer during the course of the hearing. CDCR should be allowed an opportunity to rebut evidence and arguments made at trial. CDCR should be allowed a continuance of the hearing to permit consideration by the prosecution of such evidence before completion of the hearing.

Sixth Objection:

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.

OBJECTION: CDCR objects to the printed page limit in that the need for documents to present at the hearing cannot be fully determined within the time limits imposed by these procedures. CDCR should be allowed to request additional printed documents after CDCR has an opportunity to examine the evidence needed for its defense.

CDCR respectfully requests additional time to fully investigate the matters alleged by the complaint and to be accorded the opportunity to meet and confer with you to discuss a mutually satisfactory resolution of this complaint.

Sincerely,

DONALD K. STRUCKMANN
Attorney III
Office of Legal Affairs

Farhad, Mohammad@Waterboards

From: Young, Vanessa@Waterboards
Sent: Tuesday, April 12, 2016 4:31 PM
To: Creedon, Pamela@Waterboards; Yu, Stephanie@Waterboards
Cc: Struckmann, Donald@CDCR; Price, Jerome@CDCR; Rodriguez, Jaime (DVI)@CDCR; Altevogt, Andrew@Waterboards; Wyels, Wendy@Waterboards; Holmes, Kari@Waterboards; Farhad, Mohammad@Waterboards
Subject: CDCR ACLC R5-2016-0523: Prosecution Team Response to CDCR 6 April 2016 Objections and Request for Postponement
Attachments: PT Objection to CDCR Objection and Continuance Request.pdf

Good afternoon Ms. Creedon and Ms. Yu:

Please find attached the Prosecution Team's response to CDCR's objections and postponement request submitted on 6 April 2016.

Respectfully submitted,

Vanessa Young
Counsel for the Prosecution Team

Vanessa M. Young
Attorney
Office of Enforcement
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814
Ph: (916) 327-8622
Email: Vanessa.Young@waterboards.ca.gov

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

In the matter of Administrative Civil Liability Complaint No. R5-2016-0523 ("Complaint" or "ACL")(California Department of Corrections and Rehabilitation)	Prosecution Team's Opposition to Discharger's Objection to the Hearing Procedure and Request to Postpone the Hearing within 90 Days Hearing: 23/24 June 2016

The Prosecution Team for the California Regional Water Quality Control Board, Central Valley Region ("Central Valley Water Board")("Prosecution Team") hereby submits an opposition brief to the 6 April 2016 *California Department of Corrections and Rehabilitation Response, Objections to Procedures, and Request for Mediation/Settlement Discussions, and request for Hearing Matter ID. No. 2016-001669* ("Objections") submitted by Mr. Donald Struckmann on behalf of the California Department of Corrections and Rehabilitation ("Discharger" or "CDCR").

The Prosecution Team disagrees with the Discharger's assertion that the Complaint is a violation of procedural due process and with the Discharger's objections to the hearing procedure. The Prosecution Team invites the Discharger to initiate settlement negotiations and introduce substantive arguments to contest the mandatory minimum penalty violations, but opposes any postponement of the hearing date. The Discharger's objections to the hearing procedure should be dismissed because the Discharger has failed to demonstrate a denial of due process and the hearing procedure affords the Discharger adequate due process protections in accordance with Constitutional due process requirements and chapter 4.5 of the Administrative Procedures Act.

I. The Complaint is Within the Discretion and Authority of the Central Valley Central Valley Water Board

The Discharger objects to the proposed liability in administrative civil liability (ACL) complaint R5-2016-0523 on the basis that it is a violation of the Administrative Procedures Act and the constitutional rights of CDCR to procedural due process. The Discharger's contentions are unfounded. The authority to issue administrative civil liability is codified in Water Code section 13323 which authorizes the Central Valley Water Board to issue this Complaint. Water Code section 13323 provides service of process requirements and timing for adjudicative proceedings to impose administrative civil liability. Water Code section 13323, subdivision (b) requires notification to the Discharger within 90 days of a hearing. Timing requirements governing the Central Valley Water Board's hearing on the proposed ACL are also found in Government Code section 11125 which states in part, "The state body shall provide notice of its meeting to any person who requests that notice in writing. Notice shall be given and also made available on the Internet at least 10 days in advance of the meeting." The Discharger received notice of the hearing on 28 March 2016 and has been provided 90 days to prepare for the hearing. The 90-day notice clearly exceeds the mandatory 10-day notice requirement of Government Code section 11125, subdivision (a) and meets the 90-day requirement of Water Code section 13323, subdivision (b). The notice given complies with the law and the Discharger's argument has no merit.

II. There is No Due Process Violation Here and the Discharger's Objections to the Hearing Procedure Should be Denied

The ACL hearing procedure sets forth a procedure that complies with California Code of Regulations, title 23, sections 648 et seq., California Government Code, chapter 4.5, sections 11400 et seq., and applicable requirements of the Evidence Code. Substantial weight is generally given to the "good-faith judgments of the agency that its procedures assure fair

consideration of the claims of individuals." (*Mohilef v. Janovici* (1996) 51 Cal.App.4th 267, 289, citing *Matthews v. Eldridge* (1976) 412 U.S. 319, 348-349).

The hearing will be conducted in accordance with statutory requirements and is not a denial of due process. Due process is evaluated based on the specific facts of a case and involves a three-prong test in evaluating what process is afforded in an adjudicatory proceeding: (1) the private interest affected by the official action; (2) the risk of erroneous deprivation of such interest through the procedures used, and the probative value, if any, of additional, or substitute safeguards; and (3) the government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail. (*Machado v. State Water Resources Control Bd.* (2001) 90 Cal.App.4th 720, 725-726.)

Upon an analysis of the weighing and balancing of the factors in *Machado*, the private interest affected by the official action if imposed, would yield $111,000 in administrative civil liability for mandatory minimum penalties taking place from 27 May 2014 through 15 December 2015 in violation of the Discharger's Waste Discharge Requirements (WDRs Order No. R5-2014-0014 and R5-2014-0014-01.) The proposed liability is the most conservative assessment based on the violations alleged. The proposed liability is based on the minimum penalty allowed by statute. The "interest affected" must be considered in the factual context of this proceeding and the Dischargers' financial situation. The Discharger has made no claim that it is unable to pay the liability or that the liability would have an impact on its ability to continue in business.

The second factor is the risk of an erroneous deprivation of a private party's interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards. In this case, the hearing procedure fully comports with procedural due process. The procedures provide for opening statements, presentation of evidence by the parties, and cross-examination, and may also allow for recross- and redirect-examination as the

circumstances require, as well as a closing statement. (Gov. Code § 11523, subd. (b); Cal. Code Regs., title 23, § 648.5.) The Discharger is not precluded from (1) reviewing the Central Valley Water Board's files, (2) granting it the opportunity to conduct discovery, (3) permitting it to present unlimited documentary evidence, and (4) including witness statements in the form of declarations. Here, extending time limits or allowing time limits to be open-ended is not warranted when the Central Valley Water Board's decision is based on relatively objective scientific criteria (CDCR's own self-monitoring reports) concerning violations of the Discharger's waste discharge requirements. In response to the Discharger's claims that there would somehow be a due process violation in the absence of a right to discovery if new facts were presented at the hearing, there is nothing in the Central Valley Water Board's hearing procedure that would preclude the Discharger from presenting facts that contravene the facts brought forth by the Prosecution Team.

The final factor is the government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedure requirement would entail. The government's interest in the assessment of administrative civil liability is significant. The statewide program for water quality control is designed to ensure the health, safety, and welfare of all Californians. (Wat. Code § 13000.) Enforcement not only protects the public health and the environment, but creates an "even playing field," ensuring that dischargers who comply with the law are not placed at a competitive disadvantage by those who do not. Enforcement also deters potential violators and, thus, further protects the environment. Monetary penalties are an essential component for an effective regulatory program. Additionally, the court in *Machado* based its decision on the ability of an aggrieved party to petition the State Water Board for review of an order imposed by a Regional Water Board pursuant to Water Code section 13320. The court found there was adequate due process even though the Regional Water Board provided no hearing before imposing requirements in a cleanup and abatement order. Here, a

hearing procedure is in place for this proceeding and does apply, unlike in *Machado*. The same petition procedure available in *Machado* is also available to this Discharger if they are aggrieved by the ruling of the Central Valley Water Board. Therefore, the Discharger's claim that the existing procedures are a violation of due process must fail.

To summarize, the Central Valley Water Board has a strong interest and mandate to protect water quality and the need for procedures allow for a fair proceeding to ensure compliance with water quality laws. On balance with the Discharger's property interest, and whether additional procedures would improve the fact-finding process, the government's paramount interests in the protection of water quality compel the conclusion that the Discharger's due process objections be overruled.

a. Hearing Time Limits (First Objection)

The Discharger argues that time limits for its case-in-chief are not appropriate because the time limits are "far too short to permit CDCR to present its defense in a matter of such great complexity" and it is "impossible to accurately predict how much time will be needed in advance of the hearing." The hearing procedure provides the Discharger with notice and a meaningful opportunity to be heard. The time limits on presenting a case-in-chief, including limits on testimony and presentation of evidence are subject to "reasonable control and limitation" by the Central Valley Water Board. (Gov. Code § 11425.10, subd. (a)(1); see Law Revision Comments thereto.) California Code of Regulations, title 23, section 648.5, provides the Central Valley Water Board with broad discretion in conducting adjudicative proceedings and ensures sufficient presentation and notice of the parties' arguments in an adversarial proceeding. The Discharger's basis for raising this objection is unsubstantiated other than the justification that it needs additional time to comprehend the violations and prepare its defense. As such, the Discharger's objection should be denied.

b. **Submittal of Case-in-Chief (Second Objection) and Prohibition on Surprise Evidence (Third Objection)**

The hearing procedure provides that the parties submit their case-in-chief, including a legal and/or technical analysis and evidence supporting the contentions raised along with a list of witnesses, in advance of the hearing. The prohibition against surprise evidence is a policy of the State and Regional Water Boards and promotes fairness at the hearing. The Discharger contends that these requirements "prevent[s] CDCR from offering testimony on matters that arise during the hearing or in preparation for the hearing." The Discharger also urges that these requirements prevent the Discharger from submitting a response on matters that arise during the hearing, and that it prevents the Discharger from offering rebuttal evidence during the hearing. To the contrary, these procedures afford the parties the constitutional due process protections. These provisions provide the parties the opportunity to examine the evidence and the legal and technical analysis and present any objections in advance of a hearing. The Discharger is on notice of the specific allegations and supporting evidence to prepare a response and rebuttal. The Discharger urges to continue the hearing to allow the submission of "supplemental information" but gives no indication as to what the "supplemental information" encompasses. The Discharger contends that the prohibition against surprise evidence prevents it "from offering rebuttal evidence or evidence that only become relevant based on the argument presented at the hearing." The Discharger fails to recognize that the policy of discouraging the introduction of surprise testimony and exhibits in accordance with California Code of Regulations, title 23, section 648.4, subdivision (a), is to provide the parties with adequate opportunity in advance of the hearing to controvert the evidence presented. As stated in the hearing procedure, the Central Valley Water Board has the discretion to allow surprise evidence if a showing of good cause or lack of prejudice is presented. No good cause exists for simply not being prepared to respond to the allegations by the Prosecution Team and granting an extension would cause undue delay.

c. Prosecution Team Time Limit for Legal and Factual Basis of Claims and No Right to Seek Clarification of Prosecution Team's Evidence (Fourth Objection)

The Discharger claims there is no time limit for the Prosecution Team to provide its evidence. To the contrary, the hearing procedure specifies a date, 29 April 2016, for the Prosecution Team to submit its evidence. The Discharger attempts to claim that it is deprived of the right to seek clarification of the information provided by the Prosecution Team. However, it may seek clarification from the Prosecution Team by contacting the Prosecution Team at any time. The Discharger has until 26 May 2016 to rebut the allegations in the Complaint. As mentioned previously, the violations alleged are based on reports prepared by the Discharger, so any claim by the Discharger suggesting that it cannot prepare its defense, is unsubstantiated.

d. **The Discharger should be allowed an opportunity to rebut evidence and arguments made at hearing and a continuance should be allowed for this purpose. (Fifth Objection)**

As required by the hearing procedure for this proceeding, evidence submitted in advance is necessary to "ensure the fairness and orderly conduct of the proceeding." (Hearing Procedure ACLC R5-2016-0523 at p. 3.) The submission of evidence in advance affords the parties an opportunity to respond in advance of the adjudicatory proceeding. The parties are not precluded from raising any additional defenses or evidence at the hearing. The hearing procedure discourages the introduction of last minute evidence, but provided a showing of good cause or lack of prejudice, the Board Chair has the discretion to admit such evidence. Here, the Discharger cites no authority that it should be entitled to rebut the Prosecution Team's rebuttal or that the hearing does not provide it with adequate opportunity to do so. The Discharger's request for a continuance should not be granted.

III. Postponement of the Hearing is Unnecessary

Deferring the hearing for a later date on the basis that this is a "matter of such great complexity" is unfounded and not a reasonable basis to grant a postponement of this hearing. The Prosecution Team's evidentiary submittals are almost all reports or documents authored by the Discharger. The exhibits not authored by the Discharger are instead authored by the Central Valley Water Board, and the Discharger received these documents well before the Complaint was issued. The Discharger's contentions that it does not have an adequate time to comprehend and defend this enforcement action is unsubstantiated. Additional time to "investigate the matters alleged" in the Complaint should not be afforded to the Discharger where the Discharger should be well aware of the violations in the monitoring reports that it submitted to the Central Valley Water Board.

IV. Conclusion

Contrary to the Discharger's argument, it will not be deprived of a fair hearing. The procedures governing this proceeding satisfy Constitutional due process requirements and chapter 4.5 of the Administrative Procedures Act. The Discharger's request for a continuance of the hearing is not warranted. The Prosecution Team opposes the request and urges the Central Valley Water Board to hear this matter as scheduled.

Dated: 12 April 2016

Respectfully submitted,

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, CENTRAL VALLEY REGION PROSECUTION TEAM

By: Vanessa Young

Vanessa Young
Counsel for the Prosecution Team

Farhad, Mohammad@Waterboards

From: Pulupa, Patrick@Waterboards
Sent: Wednesday, April 13, 2016 10:04 AM
To: Struckmann, Donald@CDCR
Cc: Creedon, Pamela@Waterboards; Yu, Stephanie@Waterboards; Price, Jerome@CDCR; Farhad, Mohammad@Waterboards; Wyels, Wendy@Waterboards; Altevogt, Andrew@Waterboards; Holmes, Kari@Waterboards; Young, Vanessa@Waterboards; Rodriguez, Jaime (DVI)@CDCR; Laputz, Adam@Waterboards
Subject: CDCR ACLC R5-2016-0523 (Deuel Vocational Institution): Advisory Team's Ruling on Request for Continuance

The Central Valley Water Board's Advisory Team has consulted with the Board Chair, who is acting as Hearing Officer for the purposes of making pre-hearing decisions, and who has approved the following determinations.

The Advisory Team finds that the California Department of Corrections and Rehabilitation (CDCR) has not raised any cognizable substantive or procedural due process violations, nor any violation of applicable statutes or regulations pertaining to the Board's proposed process for administratively adjudicating the instant matter.

This proceeding stems from alleged NPDES permit violations that, if shown to be accurate, subject CDCR to statutory mandatory minimum penalties pursuant to Water Code section 13385. The Prosecution Team alleges that evidence of these violations may be found in self-monitoring reports submitted by CDCR itself. Vague references to "a matter of such great complexity" are unfounded; CDCR is well aware of the consequences of these types of violations and what it takes to defend them, since it has previously been subject to multiple mandatory minimum penalty administrative civil liability assessments for nearly identical violations.

The hearing will be conducted as scheduled, provided that the Board's Advisory Team and CDCR do not reach a settlement that assesses all required mandatory minimum penalties in accordance with Water Code section 13385.

Yours,

Patrick Pulupa, Attorney for the Board's Advisory Team

Patrick Pulupa, Attorney III
State Water Board Office of Chief Counsel
1001 I St, Sacramento, CA 95814

Farhad, Mohammad@Waterboards

From: Wyels, Wendy@Waterboards
Sent: Monday, April 25, 2016 11:24 AM
To: Holmes, Kari@Waterboards; Farhad, Mohammad@Waterboards
Subject: FW: Deuel Vocational Institution - Civil Liability Complaint - R5-2016-0523
Attachments: Non-PO - Civil Liability Complaint - INV# R5-2016-0523.pdf

Please put this email into ECM.
Also, I talked to DVI this morning and we should get a copy of the check tomorrow.

From: Reyes, Pedro@CDCR [mailto:Pedro.Reyes@cdcr.ca.gov]
Sent: Monday, April 25, 2016 9:00 AM
To: Wyels, Wendy@Waterboards
Cc: Young, Vanessa@Waterboards; Struckmann, Donald@CDCR; Cordano, Fred@CDCR; Stanley, Jeff@CDCR; Gaughan, Nathan@CDCR
Subject: Deuel Vocational Institution - Civil Liability Complaint - R5-2016-0523

Good Morning Ms. Wyels,

Attached please find a copy of the Civil Liability Complaint R5-2016-0523 with Option #1 selected. Our Regional Accounting Office is processing the required paperwork to issue a check in the amount of $111,000. The check and the original signed waiver form will be mailed to the State Water Resources Control Board, Accounting Office, Attn: ACL Payment, PO Box 1888, Sacramento, CA 95812-1888. A copy of the waiver and a copy of the check will be mailed to you at the State Water Resources Control Board, 11020 Sun Center Driver #200, Rancho Cordova, CA 95670. I was out of the office last Friday and was not able to get this paperwork to Vanessa Young before close of business last Friday. Please let me know if you need additional information so that I can provide the documentation immediately.

Thanks,

Pedro B. Reyes
Regional Manager
California Department of Corrections and Rehabilitation
Facilities Asset Management Branch
Facility Planning, Construction and Management
Phone: (916) 255-0516
E-mail: pedro.reyes@cdcr.ca.gov

STATE OF CALIFORNIA
DEPARTMENT OF CORRECTIONS AND REHABILITATION
NON-PURCHASE ORDER INVOICE PAYMENT APPROVAL

BUSINESS information SYSTEM

INSTRUCTIONS: Originator to complete Section 1, 2 and 3. Approver to complete Section 4.
Only one invoice per approval form
For **Direct Pay (DP)** see Instructions on page 2
For **Other Request** see Instructions on page 2.
Requests **under $25** should be paid by petty cash, Cal card or submitted on a TEC.

Section 1: Requestor and Distribution Information

TO: Click here for Drop Down List

Date: 4/18/2016
Requestor: Shannen Vazquez
Phone: 209-835-4141 Ext 5519
Authorization Number*: DVI-NP 16-069

☐ Mail to Vendor
☑ Return check to requestor

Section 2: Purpose: Mark the appropriate box, add account numbers and attach documentation where applicable.

☐ Booth Rental Fee (Attach supporting documentation including address, location of booth, date of rental)
☐ Postage (Check one)
- ☐ AMS - TMS — Account # _____
- ☐ American Mailing Equip — Account # _____
- ☐ Pitney Bowes Postage — Account # _____
- ☐ Postage by Phone — Account # _____
- ☐ RMRS-Postage by Phone — Account # _____
- ☐ U.S. Postmaster for:
  - ☐ _____ stamps @ _____ cents
  - ☐ Post Office Box Fee for P.O. Box _____ City: and ZIP : _____

☐ Subscriptions or Memberships (Attach Renewal Forms)
☐ Registration Fee (Include copy of approved Training Request Form:)
Attach registration form and other information indicating the name of vendor or school, dates, location and cost of training
Indicate Name of participant(s) in space below. (Attach memo if necessary)

1. _____ 3. _____
2. _____ 4. _____

☑ Other: (Attach Memo if necessary) -
☐ **Direct Pay:** (See Instructions on page 2)

Section 3: Vendor/SAP Accounting Coding Information (Must be completed)

Issue Check to:
Vendor Number: 403656 x☐ **Vendor Number Verified in SAP**
Name: SWRCB
Address: PO Box 1888
City, Zip: Sacramento, CA 95812
Check Amount: 111,000.00

Text Field Info: Account # Invoice # R5-2016-0523 (* plus 49 Characters Only)

				(Enter only one)		
GL ACCT	**Amount**	**Fund**	**Functional Area**	**Cost Center**	**Internal Order**	**WBS Element**
9044461400	111,000.00	15G0010000	2710030	1060000000		
MJW						

Section 4: APPROVAL INFORMATION (Required)

Supervisor Signature: AW Date: 4/19/16
Name & Title: Nathan Gaughan/AWBS
Div/Branch Name: CDCR-DVI
Phone Number: 209-830-3855

ACCOUNTING OFFICE USE ONLY:

Document Number: _____ Date: _____
Check Number: _____ Date: _____
Schedule Number: _____ Date: _____
Amount: _____

Appropriate use and correct classification of prepaid expenses in accordance with (GC 16401 and SAM 8110) are identified below:
Items listed below could be for (DP) or Revolving Fund Check

1) Postage Meter- Filling by phone
2) Memberships
3) Subscriptions
4) License (Including permit fees)
5) Registration Fees
6) Death Certificates
7) Rents/Leases
8) Bus Tokens (Parolee)-Non DP
9) Food Stamps (Parolee)-Non DP

Items **not** appropriate for consideration for request for prepayment

1) Vendor offers goods/services for less than other approved Statewide Vendors, but requires prepayment.
2) Prompt/Expeditious Delivery on condition of prepayment

Process for submitting request for payment for prepaid or Direct Pay (DP) items from $.01-$999.99:

1) Complete all appropriate sections (if form is not completely filled out request will be returned to requestor)
2) Ensure that form is signed by authorized approver
3) Three Quotes are required for DP
4) ***Submit DP documentation to the applicable RAO Fax Number.***
5) Mail a copy of the Non-PO Approval form with actual invoice to Accounting
6) Accounting Office will determine if the payment can be made through the claim schedule process or issue a check directl

Process for submitting request for Other Request

1) Complete all appropriate sections (if form is not completely filled out request will be returned to requestor)
2) Ensure that form is signed by authorized approver
3) ***Submit Other Request documentation to the applicable RAO Fax Number.***
4) Mail a copy of the Non-PO Approval form with actual invoice to Accounting
   Note: "This request was previously submitted"
5) Accounting Office will determine if the payment can be made through the claim schedule process or issue a check directl

Institutions and Division must submit request to the accounting officer in an expeditious manner, to ensure that vendors do not interrupt or terminate their business relationships with them. This will eliminate creating unnecessary emergencies from ordinary transactions. All supporting documentation presented with request must be sufficient and acceptable to meet State Controller's Office standards.

***The State Controllers Office' requires an authorization number on every invoice that goes through the claim schedule process to be paid. The authorization number could be a delegation number or any other number that your office is using to keep track of expeditures. Please include the authorization number when completing this form. If no number is listed, this form will be returned to the requestor and must be resubmitted to accounting.**

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 Rehablilitations (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.

J. Price, Warden
(Print Name and Title)

(Signature)

4/18/16
(Date)

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.

Andrew Altevogt

ANDREW ALTEVOGT, Assistant Executive Officer

28 March 2016
DATE

Attachment A: Record of Violations

CALIFORNIA
Water Boards

EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIQUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

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

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.

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)

	Date	Parameter	Units	Limit	Measured	Period	Remarks	CIWQS
*	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

	Date	Parameter	Units	Limit	Measured	Period	Remarks	CIWQS
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.

VIOLATIONS AS OF:	12/31/15
Group I Serious Violations:	2
Group II Serious Violations:	0
Non-Serious Violations Not Subject to MMPs:	4
Non-serious Violations Subject to MMPs:	35
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 asses 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	
Pamela Creedon, Executive Officer 11020 Sun Center Drive, Suite 200 Rancho Cordova, CA 95670 Phone: (916) 464-4839 Pamela.Creedon@waterboards.ca.gov	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
BOARD PROSECUTION TEAM*	
Wendy Wyels, Environmental Program Manager 11020 Sun Center Drive, Suite 200 Rancho Cordova, CA 95670 Phone: (916) 464-4835 Wendy.Wyels@waterboards.ca.gov	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
DISCHARGER	
Jerome Price, Warden Deuel Vocational Institution P.O. Box 400, Tracy, CA 95378-0400 Phone: (209) 835-3850 Jerome.Price@cdcr.ca.gov	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

*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	▪ Prosecution Team issues ACL Complaint and Hearing Procedure.
6 April 2016	▪ Objections due on Hearing Procedure. ▪ Deadline to request "Designated Party" status. Hard copies of all of these documents must be submitted to the Prosecution Team.
27 April 2016	▪ Discharger's deadline to submit 90-Day Hearing Waiver Form. If the Prosecution Team accepts the waiver, all the following deadlines may be revised.
29 April 2016	▪ 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	▪ 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. Hard copies of all of these documents must be submitted to the Prosecution Team.
26 May 2016	▪ 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. Hard copies of rebuttal documents must be submitted to the Prosecution Team. ▪ 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	▪ 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 received by the Advisory Team by this date.
23/24 June 2016	Board Hearing

Farhad, Mohammad@Waterboards

From: Wyels, Wendy@Waterboards
Sent: Monday, April 25, 2016 3:18 PM
To: Altevogt, Andrew@Waterboards; Young, Vanessa@Waterboards; Holmes, Kari@Waterboards; Farhad, Mohammad@Waterboards
Subject: FW: ACL Complaint R5-2016-0523
Attachments: [Untitled].pdf

DVI has paid their MMPs!

From: Vazquez, Shannen@CDCR [mailto:Shannen.Vazquez@cdcr.ca.gov]
Sent: Monday, April 25, 2016 3:01 PM
To: Wyels, Wendy@Waterboards
Cc: Miramontes, Esthermarie@CDCR; Gaughan, Nathan@CDCR; Siegel, LeighAnn@CDCR; Morrison, Trish@CDCR; Pendergast, Cynthia C.@CDCR; Price, Jerome@CDCR; Schumacher, Tony@CDCR; Rodriguez, Jaime (DVI)@CDCR
Subject: ACL Complaint R5-2016-0523

Good Afternoon Ms. Wyels,

It was a pleasure speaking with you earlier today. As per our conversation, please see the attached ACL payment. It is being overnighted today, by Golden State Overnight, #GSO AB108413779. If you have any questions or concerns, please contact me at the number listed below.

Thank you,

Shannen Vazquez
Business Services Assistant
CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION
Deuel Vocational Institution
25300 Kasson Road, Tracy, CA 95376
http://www.cdcr.ca.gov
phone: 209.835.4141 ext. 5519
fax: 209.830.3804
email: Shannen.Vazquez@cdcr.ca.gov

From: DVI-CUST-119732@cdcr.ca.gov [mailto:DVI-CUST-119732@cdcr.ca.gov]
Sent: Monday, April 25, 2016 2:38 PM
To: Vazquez, Shannen@CDCR
Subject: Scan from MFP

STATE OF CALIFORNIA - DEPARTMENT OF CORRECTIONS AND REHABILITATION

P.O. BOX 4147 Stockton, CA 95204-0147 (209) 948 7004

VENDOR #: 0401437
DATE: 04/25/2016
CHECK #: 706042

VENDOR: STATE WATER RESOURCES CONTROL
PAGE: 1 of 1
AMOUNT: $111,000.00

INV. DATE	INVOICE#	PO#	CDCR DOC#	GROSS	DISCOUNT	NET AMOUNT
04/19/2016	R5-2016-0523 ACL Complaint R5-2016-0523		19009 2400	111,000.00	0.00	111,000.00
TOTAL				111,000.00	0.00	111,000.00

HOLD AT AN ANGLE TOWARD LIGHT TO VERIFY ARTIFICIAL WATERMARK ON BACK

ACCOUNT - NUMBER - SERIAL
158 - 706042

JOHN CHIANG, TREASURER
STATE OF CALIFORNIA
SACRAMENTO

90-142
1211
706042

ISSUE DATE	CHECK AMOUNT
04/25/2016	$**111,000.00**

PAY TO THE ORDER OF

CDCR Deuel Vocational Institution

STATE WATER RESOURCES CONTROL
BOARD
ACCOUNTING OFFICE
P O BOX 1888
SACRAMENTO CA 95812-1888

Jaime Corvera, Associate Director

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.

ANDREW ALTEVOGT, Assistant Executive Officer

28 March 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 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.

J. Price, Warden
(Print Name and Title)

(Signature)

4/18/16
(Date)

7 June 2016

Donald K. Struckmann
Staff Counsel III
Office of Legal Affairs
Department of Corrections and Rehabilitation
1515 S Street, South, 3rd Floor, Rm. 301
Sacramento, CA 95811

CONFIRMATION OF ADMINISTRATIVE CIVIL LIABILITY COMPLAINT SETTLEMENT R5-2016-0523, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION, DEUEL VOCATIONAL INSTITUTION, SAN JOAQUIN COUNTY

The California Department of Corrections and Rehabilitation (Discharger) discharges treated wastewater from the Deuel Vocational Institution, which is regulated by Waste Discharge Requirements (WDRs) Order R5-2014-0014-01 (NPDES CA0078093) and Cleanup and Abatement Order (CAO) R5-2015-0704.

On 28 March 2016, Board staff issued Administrative Civil Liability Complaint (ACLC) R5-2016-0523 to the Discharger for committing several effluent limitation violations occurring between 1 April 2014 and 31 December 2015. These violations subjected the Discharger to a mandatory minimum penalty (MMP) of $111,000. The Discharger has submitted the full payment amount and the Central Valley Water Board considers ACLC R5-2016-0523 resolved.

If you have any questions, please contact Mohammad Farhad at (916) 464-1181 or at mfarhad@waterboards.ca.gov.

KARI HOLMES, P.E.
Senior Water Resource Control Engineer
NPDES Compliance and Enforcement Unit

cc: J. Price, Warden, Deuel Vocational Institution
Vanessa Young, Office of Enforcement, State Water Resources Control Board, Sacramento