

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION

Order No. R6V-2021-0004
Victor Valley Wastewater Reclamation Authority
Settlement Agreement and Stipulation for Entry of Order

Section I: INTRODUCTION

This Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order (Settlement Agreement and Stipulation for Order) is entered into by and between the California Regional Water Quality Control Board, Lahontan Region Prosecution Team (Prosecution Team) and Victor Valley Wastewater Reclamation Authority (VWWRA) (collectively, "Parties"), and is presented to the California Regional Water Quality Control Board, Lahontan Region (Lahontan Water Board), for adoption as an Order, by settlement, pursuant to Government Code section 11415.60.

Section II: RECITALS

1. VWWRA is a California Joint Powers Authority (JPA) that owns, operates, and maintains wastewater collection, treatment, and disposal facilities. Member agencies of the JPA are the City of Victorville, City of Hesperia, Town of Apple Valley, and two San Bernardino County service areas (Oro Grande and Spring Valley Lakes). VWWRA serves approximately 284,280 people within the northern portion of San Bernardino County.
2. VWWRA's wastewater treatment facility provides tertiary treatment of domestic and commercial wastewater. An annual average of up to 14 million gallons per day (mgd) may be discharged to the Mojave River and up to 22 mgd may be used as reclaimed water. Wastewater may also be discharged to percolation ponds.
3. On February 14, 2008, the Lahontan Water Board adopted Waste Discharge Requirements (WDR) Order No. R6V-2008-004 (NPDES No. CA0102822) which included effluent limitations and other requirements regarding VWWRA's discharge. On July 17, 2013, the Lahontan Water Board adopted WDR Order No. R6V-2013-0038, which contained updated requirements and rescinded the 2008 WDR Order, except for purposes of enforcement. On May 6, 2020, the Lahontan Water Board adopted WDR Order No. R6V-2020-0029, which contains updated requirements and rescinds the 2013 WDR Order, except for purposes of enforcement.
4. On February 14, 2008, the Lahontan Water Board issued Cease and Desist Order (CDO) No. R6V-2008-005 to VWWRA. Among other items, the CDO includes interim effluent limitations for ammonia and nitrate, which extend through January 31, 2013.

5. On June 16, 2010, the Lahontan Water Board issued Time Schedule Order (TSO) No. R6V-2010-0027 to VVWRA. Among other items, the TSO includes interim effluent limitations for total cyanide, chlorodibromomethane, and dichlorobromomethane, which extend through January 31, 2013.
6. On May 29, 2014, the Lahontan Water Board issued TSO No. R6V-2014-0039 to VVWRA. Among other items, the TSO includes interim effluent limitations for ammonia and total nitrogen, which extend through June 30, 2015.
7. On December 19, 2014, the Executive Officer of the Lahontan Water Board amended TSO No. R6V-2014-0039 through issuance of TSO No. R6V-2014-0039-A1. The amended TSO extended the interim effluent limitations for ammonia and total nitrogen to March 31, 2016.
8. On November 13, 2008, the Lahontan Water Board adopted Administrative Civil Liability Order (ACLO) No. R6V-2008-0036 for VVWRA. The ACLO imposed \$324,000 in Mandatory Minimum Penalties (MMPs) for effluent limitation violations that occurred between August 30, 2005 and July 31, 2008. The ACLO required payment of \$170,380 to the State Water Resources Control Board Cleanup and Abatement Account and allowed \$153,620 to be permanently suspended upon VVWRA's completion of a Supplemental Environmental Project (SEP) titled "Mojave River Characterization Study." VVWRA paid the penalty and satisfactorily completed the SEP.
9. On January 15, 2020, the Prosecution Team issued a Notice of Violation (NOV) to VVWRA. The NOV described alleged effluent limitation violations which occurred between August 1, 2008 and November 30, 2019. On March 18, 2020, VVWRA provided documentation showing that five of the alleged violations were in error. The Prosecution Team agreed and removed those five violations, decreasing the mandatory minimum penalty amount to \$129,000.
10. While preparing draft settlement documents, the Prosecution Team reviewed VVWRA's monitoring reports for the period of December 1, 2019 through April 30, 2020. The Prosecution Team issued an updated NOV on June 25, 2020, alleging an additional six effluent violations and increasing the mandatory minimum penalty to \$135,000. VVWRA responded on July 7, 2020, providing information to show that the two chlorine violations were due to sampling error. The Prosecution Team agreed with VVWRA's assessment, and on July 14, 2020, issued a revised NOV that removed the two chlorine violations and decreased the mandatory minimum penalty amount to \$129,000. The Prosecution Team has since reviewed VVWRA's most recent monitoring reports and has extended the period of review to September 30, 2020. There are no additional effluent limitation violations.
11. VVWRA is subject to \$129,000 in mandatory minimum penalties for effluent limitation violations that took place between August 1, 2008 and September 30, 2020.

12. California Water Code (Water Code) section 13385, subdivisions (h) and (i) require assessment of mandatory penalties as follows:

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

For the purposes of this section, a "serious violation" means any waste discharge that violates the effluent limitation 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.

13. Water Code section 13385.1 (a)(1) requires the assessment of mandatory penalties for certain failures to submit monitoring reports, and states:

For the purposes of subdivision (h) of section 13385, a 'serious violation' also means a failure to file a discharge monitoring report required pursuant to section 13383 for each complete period of 30 days following the deadline for submitting the report, if the report is designed to ensure compliance with limitations contained in waste discharge requirements that contain effluent limitations.

14. Water Code section 13385 subdivision (j)(3) states that mandatory penalties do not apply when effluent limitation violations are in compliance with a cease and desist order or a time schedule order, and states in part:

Subdivisions (h) and (i) do not apply to any of the following:...(3) A violation of an effluent limitation where the waste discharge is in compliance with either a cease and desist order issued pursuant to Section 13301 or a time schedule order issued pursuant to Section 13300 or 13308, if all of the following requirements are met:

(A) The cease and desist order or time schedule order is issued on or after July 1, 2000, and specifies the actions that the discharger is required to take in order to correct the violations that would otherwise be subject to subdivisions (h) and (i).

15. WDR Order No. R6V-2008-004, Effluent Limitations and Discharge Specifications IV.A.1.a. includes, in part, the following: "The Discharger shall maintain compliance with the following effluent limitations at Discharge Point 001..."

Parameter	Units	Average Monthly	Maximum Daily	Instant. Minimum	Instant. Maximum	Average Annual
pH	Std. units	--	--	6.5	8.5	--
Chlorodibromo-methane	ug/L	0.41	1.3	--	--	--
Dichlorobromo-methane	ug/L	0.56	1.4	--	--	--
Bis(2-ethylhexyl) phthalate	ug/L	1.8	3.6	--	--	--
Bis(2-ethylhexyl) phthalate	lbs/day	0.21	0.42			
Chlorine, Total Residual ²	mg/L	--	0.003	--	--	--
Chlorine, Total Residual ²	lbs/day		0.350			
Total Dissolved Solids	mg/L	--	580	--	--	460

² Concentration-based effluent limitations for Total Residual Chlorine are below the expected minimum level (ML) for this constituent. Non-compliance with a Total Residual Chlorine limitation is defined by exceeding both the limitation and the Reporting Level (RL)

used by the Discharger. The Discharger must achieve the lowest possible RL for Total Residual Chlorine but, in no case, may the RL be greater than 0.1 mg/L.

16. WDR Order No. R6V-2008-004, Effluent Limitations and Discharge Specifications IV.A.1.e states “**Total Coliform**: Effluent shall at all times be adequately disinfected, oxidized, coagulated, clarified, filtered wastewater. The number of total coliform bacteria shall not exceed any of the following:

- A median Most Probable Number (MPN) of 2.2 per 100 mL based on the results of the last seven days for which analyses have been completed
- An MPN of 23 per 100 mL in more than one sample in any 30-day period
- An MPN of 240 per 100 mL at any time (instantaneous maximum).”

17. WDR Order No. R6V-2008-004, Effluent Limitations and Discharge Specifications IV.A.1.f states “**Turbidity**: Effluent shall be a filtered wastewater that does not exceed any of the following:

- An average of 2 NTU within a 24-hour period
- 5 NTU more than 5 percent of the time in a 24-hour period
- 10 NTU at any time (instantaneous maximum).”

18. WDR Order No. R6V-2013-0038, Effluent Limitations and Discharge Specifications IV.A.1.a includes, in part, the following: “The Discharger shall maintain compliance with the following effluent limitations at Discharge Point 001...”

Parameter	Units	Average Monthly	Average Weekly	Maximum Daily
Biochemical Oxygen Demand (5-day @20°C (BOD ₅))	mg/L	10	15	30
Ammonia Nitrogen, Total (as N)	mg/L	0.54	--	1.6
Total Dissolved Solids	mg/L	460 ³	--	580

³ To be applied as an annual average effluent limitation (AAEL).

19. WDR Order No. R6V-2013-0038, Effluent Limitations and Discharge Specifications IV.A.1.c states: “**Dissolved Oxygen**. Effluent concentrations of dissolved oxygen shall, at a minimum, contain:

- i. 4.0 mg/L as a daily minimum;
- ii. 5.0 mg/L as an average calendar weekly minimum; and
- iii. 6.5 mg/L as an average calendar monthly average.”

20. WDR Order No. R6V-2013-0038, Effluent Limitations and Discharge Specifications IV.A.1.e states “**Total Coliform Organisms**: Effluent at all times shall be adequately disinfected, oxidized, coagulated, clarified, and filtered. The number of total coliform bacteria shall not exceed any of the following:
- i. A median most probable number (MPN) of 2.2 per 100 mL based on the results of the last seven days for which analyses have been completed;
 - ii. 23 MPN/100 mL in more than one sample in any 30-day period; and,
 - iii. 240 MPN/100 mL at any time (instantaneous maximum).”
21. According to VVWRA’s self-monitoring reports, VVWRA committed three (3) serious violations of Group I constituents contained in WDR Orders No. R6V-2008-004 and No. R6V-2013-0038 between August 1, 2008 and September 30, 2020. The violations are defined as serious because measured concentrations of Group I constituents exceeded maximum prescribed levels by more than 40 percent. The mandatory minimum penalty for these three serious violations is nine thousand dollars (\$9,000).
22. According to VVWRA’s self-monitoring reports, VVWRA committed sixteen (16) serious violations of Group II constituents contained in WDR Orders No. R6V-2008-004 and No. R6V-2013-0038 between August 1, 2008 and September 30, 2020. The violations are defined as serious because measured concentrations of Group II constituents exceeded maximum prescribed levels by more than 20 percent. The mandatory minimum penalty for these 16 serious violations is forty-eight thousand dollars (\$48,000).
23. According to VVWRA’s self-monitoring reports, the District committed thirty-eight (38) non-serious (chronic) violations of the effluent limitations contained in WDR Orders No. R6V-2008-004 and No. R6V-2013-0038 between August 1, 2008 and September 30, 2020. Twenty (20) violations are subject to mandatory minimum penalties because these violations were preceded by three or more similar violations within a six-month period. The mandatory minimum penalty for these 20 non-serious (chronic) violations is sixty thousand dollars (\$60,000).
24. VVWRA submitted three late self-monitoring reports between August 1, 2008 and September 30, 2020. Because these reports were designed to ensure compliance with the effluent limitations in WDR Orders No. R6V-2008-004 and No. R6V-2013-0038, each complete period of 30-days following the submittal deadline is a serious violation subject to mandatory minimum penalties. There were four (4) 30-day periods following the submittal deadlines; therefore, the mandatory penalty for these late reports is twelve thousand dollars (\$12,000).
25. The total amount of mandatory minimum penalties assessed for the cited effluent limitation violations is **one hundred twenty-nine thousand dollars (\$129,000)**. A detailed list of the effluent limitation violations is included in Attachment A, a part of

this Order. This Order addresses administrative civil liability for violations that are specifically listed in Attachment A as subject to mandatory minimum penalties.

26. On August 13, 2020, VVWRA requested that the entire \$129,000 penalty be suspended upon completion of a Supplemental Environmental Project (SEP). The proposed SEP would augment the City of Victorville's current SEP which is described and authorized by Settlement Agreement Order No. R6V-2020-0001 (https://www.waterboards.ca.gov/lahtontan/board_decisions/adopted_orders/2020/r6_v_2020_0001_city_of_vvl_sep.pdf). The City of Victorville's SEP establishes a grant program to assist residents and commercial property owners to connect to the City sewer system and properly abandon their septic systems. VVWRA's proposed SEP would waive the fees needed to connect residents and commercial property owners to the City of Victorville's sewer system.
27. Water Code section 13385(l) allows a discharger to complete a SEP in lieu of paying the full amount of a mandatory minimum penalty, as quoted in relevant part below. For this matter, up to \$72,000 may be applied toward a SEP.

(l)(1) In lieu of assessing penalties pursuant to subdivision (h) or (i), the state board or the regional board, with concurrence of the discharger, may direct a portion of the penalty amount to be expended on a supplemental environmental project in accordance with the enforcement policy of the state board. If the penalty amount exceeds fifteen thousand dollars (\$15,000), the portion of the penalty amount that may be directed to be expended on a supplemental environmental project may not exceed fifteen thousand dollars (\$15,000) plus 50 percent of the penalty amount that exceeds fifteen thousand dollars (\$15,000).

(2) For the purposes of this section, a "supplemental environmental project" means an environmentally beneficial project that a person agrees to undertake, with the approval of the regional board, that would not be undertaken in the absence of an enforcement action under this section.

Section III: STIPULATIONS

The Parties stipulate to the following:

28. **Administrative Civil Liability:** VVWRA hereby agrees to the imposition of an administrative civil liability totaling **one hundred twenty-nine thousand dollars (\$129,000)**. Further, VVWRA agrees that **seventy-two thousand dollars (\$72,000)** of the penalty shall be suspended pending completion of a SEP as set forth in Paragraph 26 of Section II and Paragraph 31 of Section III of this document.
29. **Payment:** VVWRA will make a payment of \$57,000 made payable to the "State Water Resources Control Board Cleanup and Abatement Account" **within 30 days**

of the Lahontan Water Board or Executive Officer issuing this Settlement Agreement and Stipulation for Entry of Order (Order). The check or money order shall reference Administrative Civil Liability Order No. R6V-2021-0004 and be submitted to:

State Water Resources Control Board Accounting Office
Attn: ACL Payment
P.O. Box 1888
Sacramento, CA 95812-1888

VVWRA shall email a copy of the check to Lahontan@waterboards.ca.gov with the subject line "VVWRA MMP Payment."

31. **Description of SEP:** VVWRA will waive up to \$72,000 in VVWRA connection fees associated with the SEP currently underway by the City of Victorville as part of Settlement Agreement Order No. R6V-2020-0001. The City of Victorville has established a grant program to assist residents and commercial property owners in connecting into the City sewer system and properly abandoning their septic systems in the Old Town area of the City. Under its SEP, the City will also manage construction activities necessary to connect such properties to the City sewer system. Many of the septic systems in the Old Town area of the City are in close proximity to the Mojave River and/or have high groundwater conditions. Such conditions often result in adverse impacts to groundwater quality and cause potential threats to public health. The connection fees and construction costs to connect to the City's sewer system have proven cost-prohibitive for several property owners in the project area, identified as disadvantaged by the California Environmental Protection Agency's CalEnviroScreen System. The sewer connection grant program will assist such property owners, allowing them to connect to the City sewer system and cease discharging domestic wastewater to onsite wastewater treatment systems. Priority projects for this program will include an area in Old Town where properties are adjacent to an existing sewer main and usually only require a lateral connection to connect to the sewer system. Additional criteria elevating a property's priority for connection include those in close proximity to known contaminants (e.g., petroleum hydrocarbons, chlorinated hydrocarbons) and properties with a failing septic system that must connect to the sewer system in accordance with the City's codes.

The City's SEP includes payment of all costs associated with abandoning a septic system and connecting to the City sewer system, estimated to be \$26,000 per property owner. This includes payment of the VVWRA connection fee of approximately \$4,000 per connection. Because VVWRA's SEP waives the connection fees, the City's cost will be reduced by about \$4,000 per property owner, thus allowing the City to provide grants to an additional 3-5 properties to abandon their septic systems and connect to the City sewer system.

32. **SEP Requirements:** VVWRA's augmentation of the City of Victorville's SEP meets the characteristics of an acceptable SEP as specified in Water Code section 13385(l)(2) as follows:
- a. Environmentally beneficial project: VVWRA's SEP will improve groundwater quality by providing a monetary contribution toward eliminating septic tank waste discharges and associated pollutants to the groundwater from the properties connecting to the City of Victorville's sewer system. Doing so will reduce the risks to public health and the environment by reducing high nutrient and bacteria levels caused by septic tank waste discharges in areas of high groundwater and in close proximity to surface waters.
 - b. "Voluntarily" agrees to undertake: The SEP is not otherwise required of VVWRA by any rule or regulation of any federal, state, or local entity.
 - c. In settlement of an enforcement action: VVWRA's commitment to implement the SEP is included in this Order, a legally enforceable settlement document. Although the City of Victorville's project has begun, VVWRA's waiving of the connection fees has not commenced and will not commence prior to the adoption of this Order.
33. **SEP Completion Date:** The SEP shall be completed in its entirety no later than November 29, 2021 ("SEP Completion Date"). If other circumstances beyond the control of VVWRA prevent completion of the SEP by that date, the Executive Officer may extend the SEP Completion Date in writing. VVWRA must send its request for an extension in writing with the necessary justification to the Executive Officer a minimum of 30 days prior to the SEP Completion Date.
34. **Representations of VVWRA:** As a material consideration for the Lahontan Water Board's acceptance of this Order, VVWRA represents that it will utilize the funds outlined in Paragraph 31 in cooperation with the City of Victorville. VVWRA understands that its promise to implement the SEP, in its entirety and in accordance with the schedule for implementation, is a material condition of this settlement of liability between VVWRA and the Lahontan Water Board. VVWRA represents that it will spend the SEP amount as described in this Order, and that within 30 days of the completing the SEP, it will provide written certification, under penalty of perjury, that VVWRA followed all applicable environmental laws and regulations in implementing the SEP including the California Environmental Quality Act (CEQA) (14 CCR § 15000 et seq.) and the federal Clean Water Act (33 U.S.C. § 1251 et seq.).
35. **Publicity:** Whenever VVWRA or its agents or subcontractors publicizes one or more elements of the SEP, it shall state in a **prominent manner** that the project is being undertaken as part of the settlement of an enforcement action by the Lahontan Water Board against VVWRA.

36. **Progress Reports:** VVWRA shall provide quarterly progress reports as follows:

Monitoring Period	Report Due Date
January 1 – March 31	May 1
April 1 – June 30	August 1
July 1 – September 30	November 1
October 1 – December 31	February 1

The first quarterly progress report is due May 1, 2021. The progress reports shall at a minimum, provide the following information:

- a. A description of SEP activities conducted during the Monitoring Period;
- b. An accounting of SEP expenditures for the Monitoring Period; and
- c. A description of SEP activities planned for the next Monitoring Period.

37. **Final SEP Report and Certification of Expenditures:** Within 30 days of completing the SEP, VVWRA shall submit a Final SEP Report identifying all completed SEP-related work and providing a certified statement by a responsible official documenting VVWRA's expenditures in implementing the SEP. In making such certification, the official may rely upon normal project tracking systems that capture employee time expenditures and external payments to outside vendors or contractors. VVWRA shall provide any additional information requested by the Executive Officer that is reasonably necessary to verify SEP-related completed work and VVWRA's expenditures.
38. **Third Party Audit:** Upon completing the SEP, or failure to complete the SEP, and at the discretion of the Executive Officer, VVWRA, at its sole cost, shall submit a report prepared by an independent third party acceptable to the Executive Officer providing such third party's professional opinion that VVWRA has expended money in the amounts claimed. Such information shall be provided to the Executive Officer within three months of the Executive Officer's request for the third-party audit.
39. **Lahontan Water Board Acceptance of Completed SEP:** Upon VVWRA's satisfaction of its obligations under this Settlement Agreement and Stipulation for Order, the completion of the SEP, and any audits, the Executive Officer shall issue a "Satisfaction of Order." The issuance of the Satisfaction of Order shall terminate any of VVWRA's further obligations under this Settlement Agreement and Stipulation for Order.
40. **Failure to Expend All Suspended Administrative Civil Liability Funds on the Completed SEP:** In the event that VVWRA is not able to explain to the reasonable satisfaction of the Executive Officer that it has spent the entire SEP amount on the completed SEP, VVWRA shall pay the difference between the suspended \$72,000 and the amount that VVWRA can reasonably demonstrate was actually spent on

the SEP as an administrative civil liability. Such payment shall be made to the State Water Resources Control Board Cleanup and Abatement Account after service of the Executive Officer's determination.

41. **Failure to Complete the SEP:** If the SEP is not fully implemented within the SEP time schedule required by this Order, or there has been a material failure to satisfy a milestone requirement, VVWRA shall be liable to pay the entire suspended amount of \$72,000, or some portion thereof less the value of the completion of any milestone requirement (e.g., a parcel's connection fee). Unless otherwise ordered, VVRWA shall not be entitled to any credit, offset, or reimbursement from the Lahontan Water Board for expenditures made on the SEP prior to the failure to complete the SEP. Upon a determination by the Executive Officer that an amount of the suspended liability is due, the amount owed shall be paid to the State Water Resources Control Board Cleanup and Abatement Account after service of the Executive Officer's determination. Payment of the assessed amount shall satisfy the City's obligations to implement the SEP in its entirety.
42. **Lahontan Water Board is Not Liable:** Neither the Lahontan Water Board members nor the Lahontan Water Board staff, attorneys, or representatives shall be liable for any injury or damage to persons or property resulting from acts or omissions by VVWRA, its directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Order, nor shall the Lahontan Water Board, its members or staff be held as parties to or guarantors of any contract entered into by VVWRA, its directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Order. VVWRA covenants not to sue or pursue any administrative or civil claim or claims against any State Agency or the State of California, or their officers, employees, representatives, agents, or attorneys arising out of or relating to any matter expressly addressed by this Order.
43. **Compliance with Applicable Laws:** VVWRA understands that payment of administrative civil liability in accordance with the terms of this Order or compliance with its terms is not a substitute for compliance with applicable laws, and that continuing violations of the type alleged herein may subject VVWRA to further enforcement, including additional administrative civil liability.
44. **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.
45. **Matters Addressed by Stipulation:** Upon adoption by the Lahontan Water Board or the Executive Officer issuing the proposed Order as final, this Order represents a final and binding resolution and settlement of all claims, violations or causes of action alleged herein. The provisions of this Paragraph are expressly conditioned on the full payment of the administrative civil liability by the deadline specified in

Section III, Paragraph 29 and VVWRA's full satisfaction of the obligations described in Section III, Paragraphs 31, 33, and 36.

46. **Public Notice:** VVWRA understands that this Order will be noticed for a 30-day public comment period prior to consideration by the Lahontan Water Board or the Executive Officer. If significant new information is received that reasonably affects the propriety of presenting this Order to the Lahontan Water Board for adoption, the Prosecution Team Lead may unilaterally declare it void and decide not to present it to the Lahontan Water Board. VVWRA agrees that it may not rescind or otherwise withdraw its approval of this Order.
47. **Addressing Objections Raised During Public Comment Period:** The Parties agree that the procedure contemplated for adopting this Order by the Lahontan Water Board or the Executive Officer and its review by the public is lawful and adequate. In the event procedural objections are raised prior to the 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.
48. **Interpretation:** This Order shall be construed as if the Parties prepared it jointly. Any uncertainty or ambiguity shall not be interpreted against any one Party. VVWRA is represented by counsel in this matter.
49. **Modification:** This Order shall not be modified by any of the Parties by oral representation made before or after its execution. All modifications must be in writing, signed by all Parties and approved by the Lahontan Water Board or the Executive Officer. All approvals and decisions of the Lahontan Water Board and the Executive Officer under the terms of this Order shall be communicated to VVWRA in writing. No oral advice, guidance, suggestions or comments by employees or officials of the Lahontan Water Board regarding submissions or notices shall be construed to relieve VVWRA of its obligation to obtain any final written approval required by this Order.
50. **If the Order Does Not Take Effect:** In the event that this Order does not take effect because it is not approved by the Lahontan Water Board or Executive Officer, or is vacated in whole or in part by the State Water Board or a court, the Parties acknowledge that they expect to proceed to a contested evidentiary hearing before the Lahontan Water Board to determine whether to assess administrative civil liabilities for the underlying alleged violations, unless the Parties agree otherwise. 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 the hearing. The Parties agree to waive any and all objections based on settlement communications in this matter, including but not limited to:
 - a. Objections related to prejudice or bias of any of the Lahontan Water Board members or their advisors and any other objections that are premised in whole

or in part on the fact that the Lahontan Water Board members or their advisors were exposed to some of the material facts and the Parties' settlement positions as a consequence of reviewing the Order, and therefore may have formed impressions or conclusions prior to any contested evidentiary hearing in this matter; or

- b. Laches or delay or other equitable defenses based on the time period for administrative or judicial review to the extent this period has been extended by these settlement proceedings.
51. **Waiver of Hearing:** VVWRA has been informed of the rights provided by California Water Code section 13323, subdivision (b), and hereby waives its right to a hearing before the Lahontan Water Board prior to the adoption of the Order.
 52. **Waiver of Right to Petition or Appeal:** VVWRA hereby waives its right to petition the Lahontan Water Board's adoption of the Order for review by the State Water Board, and further waives its rights, if any, to appeal the same to a California Superior Court and/or any California appellate level court. This explicit waiver of rights includes potential future decisions by the Lahontan Water Board, or its delegate related to this Order, including but not limited to time extensions and other terms contained in this Order.
 53. **Covenant Not to Sue:** VVWRA covenants not to sue or pursue any administrative or civil claim(s) against any state agency or the State of California, their officers, Board Members, employees, representatives, agents, or attorneys arising out of or relating to any matter covered herein.
 54. **Authority to Bind:** Each person executing this Order in a representative capacity represents and warrants that he or she is authorized to execute it on behalf of and to bind the entity on whose behalf he or she executes it.
 55. **Effective Date:** The obligations in this Order are effective and binding only upon the entry of an Order by the Lahontan Water Board or Executive Officer which incorporates the terms of this Order.
 56. **Severability:** This Stipulation and Order are severable; should any provision be found invalid the remainder shall remain in full force and effect.
 57. **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
Lahontan Region

--original signed by--
By: _____ Date: *January 27, 2021*
Scott C. Ferguson
Supervising Water Resources Control Engineer

Victor Valley Wastewater Reclamation Authority

--Original signed by--
By: _____ Date: *February 2, 2021*
Darron Poulsen
General Manager

Order of the Lahontan Water Board

This Order incorporates the foregoing Settlement Agreement and Stipulation for Entry of Order.

1. In accepting the foregoing Settlement Agreement and Stipulation for Entry of Order, the Lahontan Water Board has considered, where applicable, each of the factors prescribed in California Water Code section 13327. The Lahontan Water Board's consideration of these factors is based upon information obtained by the Lahontan Water Board staff in investigating allegations or otherwise provided to the Lahontan Water Board.
2. Issuance of this Settlement Agreement and Stipulation for Entry of Order is being taken for the protection of the environment and to enforce the laws and regulations administer by the Lahontan Water Board. As such, it is exempt from provisions of the California Environmental Quality Act (CEQA) (Public Resources Code, sections 21000 et seq.), in accordance with California Code of Regulations, title 14, sections 15307, 15308, and 15321.

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

--Original signed by--

Mike Plaziak
Executive Officer

June 22, 2021

Date: _____

Attachment A. Mandatory Minimum Penalties for the period of August 1, 2008 to September 30, 2020

ATTACHMENT A

Record of Violations for Mandatory Penalties (August 1, 2008 – September 30, 2020)

Data reported under Monitoring and Reporting Programs Nos. R6V-2008-004, R6V-2013-0038, and R6V-2020-0028. The following tables list the alleged violations subject to mandatory minimum penalties (MMPs), pursuant to Water Code section 13385.

Table A: Effluent Violations Subject to Mandatory Penalties

Item	Date	Parameter	Units	Permit Limit	Measured	Period	Remarks	CIWQS Violation
*	7/9/2008	Residual Chlorine	mg/L	0.003	0.482	Maximum daily	5	779693
<i>February 14, 2008: Interim effluent limitations found in Cease and Desist Order No. R6V-2008-005 in effect.</i>								
<i>April 4, 2008: Final and interim effluent limitations found in WDR Order No. R6V-2008-004 in effect.</i>								
1	1/5/2009	pH	pH units	8.5	8.73	Instantaneous max	3	802614
2	1/10/2009	pH	pH units	6.5	6.42	Instantaneous min	3	877531
3	1/17/2009	pH	pH units	8.5	8.6	Instantaneous max	3	803326
4	6/14/2009	pH	pH units	6.5	5.86	Instantaneous min	4	1067843
5	6/15/2009	pH	pH units	6.5	6.41	Instantaneous min	4	1068007
<i>May 18, 2010: Interim effluent limitations found in WDR Order No. R6V-2008-004 expire.</i>								
6	5/31/2010	Chlorodibromomethane	ug/L	0.41	1.1	Monthly average	2	1068010
7	5/31/2010	Dichlorobromomethane	ug/L	0.56	7.0	Monthly average	2	1068011
<i>June 16, 2010: Interim effluent limitations found in Time Schedule Order No. R6V-2010-0027 in effect.</i>								
8	10/12/2010	Total Dissolved Solids	mg/L	580	601	Maximum daily	3	887692
9	11/5/2010	Residual Chlorine	mg/L	0.003	0.594	Maximum daily	2	888213
10	11/28/2010	pH	pH units	8.5	9.59	Instantaneous max	3	888214
11	12/1/2010	Residual Chlorine	mg/L	0.003	1.174	Maximum daily	2	1009827
12	12/1/2010	Residual Chlorine	lbs/day	0.35	8.75	Maximum daily	2	896211
13	12/3/2010	Residual Chlorine	mg/L	0.003	1.194	Maximum daily	2	1009828
14	12/3/2010	Residual Chlorine	lbs/day	0.35	1.93	Maximum daily	2	896438
15	12/7/2010	Bis(2-ethylhexyl)phthalate	ug/L	3.6	8.20	Maximum daily	2	896441
16	12/7/2010	Bis(2-ethylhexyl)phthalate	lbs/day	0.42	0.66	Maximum daily	2	1009830
17	12/13/2010	Residual Chlorine	mg/L	0.003	5.73	Maximum daily	2	1009832
18	12/13/2010	Residual Chlorine	lbs/day	0.35	1.193	Maximum daily	2	896442
19	12/22/2010	Turbidity	NTU	10	>20	Instantaneous max	4	896448
20	12/22/2010	Turbidity	NTU	2	7.92	24-hour period	4	896444
21	12/22/2010	Turbidity	NTU	5	>20	More than 5% in a 24-hour period	4	1068012
22	12/23/2010	Residual Chlorine	mg/L	0.003	0.944	Maximum daily	2	896449
23	12/31/2010	Bis(2-ethylhexyl)phthalate	ug/L	1.8	8.20	Monthly average	2	1009829

24	12/31/2010	Bis(2-ethylhexyl)phthalate	lbs/day	0.21	0.66	Monthly average	2	1009831
25	1/31/2011	Total dissolved solids	mg/L	460	488	12-month average	4	1068020
26	2/23/2011	Residual Chlorine	mg/L	0.003	0.08	Maximum daily	2	1068023
27	3/2/2011	Turbidity	NTU	10	>10	Instantaneous max	4	1060841
28	3/23/2011	pH	pH units	8.5	8.88	Instantaneous max	4	1068042
29	3/28/2011	pH	pH units	8.5	8.67	Instantaneous max	4	1068043
30	4/27/2011	Turbidity	NTU	2	2.29	24-hour period	4	1068044
31	4/28/2011	Turbidity	NTU	2	11.6	24-hour period	4	905513
32	4/28/2011	Residual Chlorine	mg/L	0.003	4.14	Maximum daily	2	902554
33	8/4/2011	Turbidity	NTU	2	3.12	24-hour period	4	912055
34	11/25/2011	Total Coliform Organisms	MPN/100 ml	2.2	4.0	7-day median	4	916720
35	11/26/2011	Total Coliform Organisms	MPN/100 ml	2.2	4.0	7-day median	3	916722
36	11/27/2011	Total Coliform Organisms	MPN/100 ml	2.2	4.0	7-day median	4	916723
37	11/28/2011	Total Coliform Organisms	MPN/100 ml	2.2	4.0	7-day median	4	1067851
38	11/29/2011	Total Coliform Organisms	MPN/100 ml	2.2	4.0	7-day median	4	1067852
39	11/30/2011	Total Coliform Organisms	MPN/100 ml	2.2	4.0	7-day median	4	1067853
40	12/15/2012	Total Coliform Organisms	MPN/100 ml	23	30	More than once in a 30-day period	3	1067854
<i>January 31, 2013: Interim effluent limitations in Cease and Desist Order No. R6V-2008-005 expire.</i>								
<i>September 5, 2013: Final and interim effluent limitations found In WDR Order No. R6V-2013-0038 in effect.</i>								
41	10/31/2013	Ammonia-N	mg/L	0.54	0.60	Monthly average	3	965564
42	12/2/2013	Ammonia-N	mg/L	1.6	3.20	Daily maximum	1	965560
43	12/31/2013	Ammonia-N	mg/L	0.54	1.16	Monthly average	1	965557
44	1/29/2014	Total Coliform Organisms	MPN/100 ml	23	50	More than once in a 30-day period	4	1068053
45	4/30/2014	Ammonia-N	mg/L	0.54	0.55	Monthly average	4	1068054
<i>May 29, 2014: Interim limitations found in Time Schedule Order No. R6V-2014-0039 in effect.</i>								
46	6/4/2014	Dissolved Oxygen	mg/L	5.0	4.71	Average weekly min	3	1068055
47	6/10/2014	Dissolved Oxygen	mg/L	5.0	4.58	Average weekly min	4	1068056
48	7/15/2014	Dissolved Oxygen	mg/L	5.0	4.91	Average weekly min	4	1068057
49	2/17/2015	Total Coliform Organisms	MPN/100 ml	240	280	Instantaneous max	3	988595
50	2/28/2015	Biochemical Oxygen Demand	mg/L	10	10.5	Monthly average	3	1068972
51	3/10/2015	Ammonia-N	mg/L	6.7*	9.2	Daily maximum	1	989524
52	3/11/2016	Total Coliform Organisms	MPN/100 ml	240	900	Instantaneous max	3	1006574
<i>March 31, 2016: Interim limitations in Time Schedule Order No. R6V-2014-0039-A1 expire.</i>								

53	3/31/2016	Ammonia-N	mg/L	0.54	0.55	Monthly average	3	1068018
54	7/18/2016	Total Dissolved Solids	mg/L	580	650	Daily maximum	3	1068947
<i>September 5, 2017: Interim effluent limitations found in WDR Order No. R6V-2013-0038 expire.</i>								
55	10/5/2019	Total Coliform Organisms	MPN/100 ml	2.2	3.0	7-day median	3	1071291
56	4/16/2020	Total Coliform Organisms	MPN/100 ml	2.2	4.5	7-day median	3	1074975
57	4/17/2020	Total Coliform Organisms	MPN/100 ml	2.2	4.5	7-day median	3	1074976
58	4/18/2020	Total Coliform Organisms	MPN/100 ml	2.2	4.5	7-day median	3	1074977
<i>May 6, 2020: Final effluent limitations in WDR Order No. R6V-2020-0028 in effect. No violations through Sept 30, 2020.</i>								

*Interim limitation in TSO No. R6V-2014-0033

Table B. Reporting Violations Subject to Mandatory Penalties

<u>Item</u>	<u>Report</u>	<u>Due Date</u>	<u>Date Submitted</u>	<u># of 30-day periods after due date</u>	<u># of serious violations</u>	<u>CIWQS</u>
1	May 2017 Monthly	7/1/2017	8/7/2017	1	1	1067894
2	May 2019 Monthly	7/1/2019	9/4/2019	2	2	1067895
3	June 2019 Monthly	8/1/2019	9/4/2019	1	1	1067896

Remarks:

1. Serious violation: For Group 1 pollutants (e.g., ammonia, total dissolved solids) that exceed the effluent limitation by 40% or more.
2. Serious Violation: For Group 2 pollutants (e.g., chlorine, Bis(2-ethylhexyl)phthalate, cyanide, Dibromochloromethane) that exceed the effluent limitation by 20% or more.
3. Non-serious violation not subject to MMPs: the violation falls within the first three violations within a 180-day period, and thus is not subject to MMPs.
4. Non-serious violation subject to MMPs.
5. Supporting violation for which MMPs have already been assessed in ACLO-R6V-2008-0036. Used to determine the 180-day period for non-serious violations.

VIOLATIONS AS OF: Sept 30, 2020

Group I serious violations: 3
 Group II serious violations: 16
 Serious reporting violations: 4
Non-serious violations subject to MMPs: 20 (Non-serious violations not subject to MMPs: 8)
 Total Violations Subject to MMPs: 43

43 MMP violations x \$3,000 per violation = \$129,000