

**ACCEPTANCE OF CONDITIONAL RESOLUTION  
AND WAIVER OF RIGHT TO HEARING;**

**SETTLEMENT AGREEMENT AND STIPULATION FOR ENTRY OF ADMINISTRATIVE  
CIVIL LIABILITY ORDER OE-2016-0027 (UPON EXECUTION)**

City of San Luis Obispo  
 Expedited Payment Letter SWB-2008-3-0016  
 Waste Discharge Requirements Orders R3-2002-0043MOD and R3-2014-0033  
 National Pollutant Discharge Elimination System (NPDES) Permit CA0049224

By signing below and returning this Acceptance of Conditional Resolution and Waiver of Right to Hearing (Acceptance and Waiver) to the State Water Resources Control Board (State Water Board), City of San Luis Obispo (Permittee) hereby accepts the "Offer to Participate in Expedited Payment Program" and waives the right to a hearing before the State Water Board to dispute the alleged violations described in the Notice of Violation (NOV) attached to the Offer as Exhibit A and incorporated herein by reference.

The Permittee agrees that the NOV shall serve as a complaint pursuant to Article 2.5 of the Water Code and that no separate complaint is required for the State Water Board to assert jurisdiction over the alleged violations through its Enforcement Staff. The Permittee agrees to pay the penalties authorized by California Water Code section 13385, as specified in the NOV (Expedited Payment Amount), which shall be deemed payment in full of any civil liability pursuant to the Water Code sections 13385 and 13385.1 that otherwise might be assessed for the violations described in the NOV.

Expedited Payment Amount: \$30,000.

The Permittee understands that it may pay up to the maximum allowable portion<sup>1</sup> of the Expedited Payment Amount towards the Supplemental Environment Project (SEP) it indicates with an "X" in the first column of the table below. If selecting this option, the Permittee will indicate in the second column of the table below how much of the maximum allowable portion it will direct to the selected SEP. If the Permittee does not select the SEP option, the Permittee shall pay the total Expedited Payment Amount to the State Water Resources Control Board Cleanup and Abatement Account.

Maximum Allowable Portion for SEPs: **\$22,500.**

Check Below to Select the SEP Option	Amount (\$) of Maximum Allowable Portion for this SEP	SEP Name
		Central Coast Ambient Monitoring Program – Groundwater Assessment and Protection (CCAMP-GAP)

<sup>1</sup> Pursuant to Water Code section 13385(l)(1), if the penalty amount exceeds \$15,000, the amount the Water Board may direct to a SEP may not exceed \$15,000 plus 50 percent of the penalty amount over \$15,000. For penalty amounts of \$15,000 or less, the Water Board may direct half of the full amount to a SEP.

The Central Coast Ambient Monitoring Program – Groundwater Assessment and Protection (CCAMP-GAP) program is the SEP option offered above. CCAMP-GAP is focused on addressing drinking water issues in disadvantaged communities. Information on CCAMP-GAP is available here:

[http://www.waterboards.ca.gov/centralcoast/water\\_issues/programs/gap/index.shtml](http://www.waterboards.ca.gov/centralcoast/water_issues/programs/gap/index.shtml)

Funding for CCAMP-GAP is managed and administered by the non-profit Bay Foundation of Morro Bay. No SEP funds are directed to the Central Coast Regional Water Quality Control Board (Central Coast Regional Water Board).

The State Water Board's Enforcement Policy provides that payments for SEPs shall be treated as suspended liabilities pending completion of the SEP, or portion thereof, at which time the suspended liability becomes permanently waived by the Central Coast Regional Water Board and State Water Board. By selecting the SEP option, the Permittee understands and acknowledges that the suspended portion of its Administrative Civil Liability is permanently suspended upon being spent towards the SEP by the party implementing the SEP. If the implementing party is unable to spend any portion of the suspended liability towards the SEP, then Central Coast Regional Water Board staff will direct the implementing party to pay that amount to the Cleanup and Abatement Account to permanently suspend the remaining liability.

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

Upon execution by the Permittee, the Permittee shall return this Acceptance and Waiver to:

Ms. Erin Mustain  
Senior Water Resource Control Engineer  
Office of Enforcement  
State Water Resources Control Board  
1001 I Street, 16<sup>th</sup> Floor  
Sacramento, CA 95814

The Permittee understands that federal regulations set forth in title 40, Code of Federal Regulations, section 123.27(d)(2)(iii) require the State Water Board to publish notice of and provide at least 30 days for public comment on any proposed resolution of this enforcement action. Accordingly, this Acceptance and Waiver, prior to execution by the Executive Director of the State Water Board, will be published as required by law for public comment.

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

If no comments are received within the notice period that causes the Executive Director to reconsider the Offer, the Executive Director will execute the Acceptance and Waiver as Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order OE-2016-XXXX (Settlement and Order).

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

By: David C. Hix  
(Signed Name)

1/13/2016  
(Date)

David C. Hix  
(Printed or typed name)

Deputy Director  
(Title)



**David C. Hix**  
Deputy Director  
**Public Utilities**

Wastewater

879 Morro Street  
San Luis Obispo, CA 93401-2710

E dhix@slocity.org

T 805.781.7039

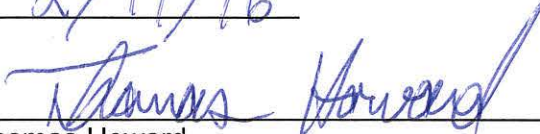
F 805.781.7218

[slocity.org](http://slocity.org)

Expedited Payment Letter (EPL) **SWB-2008-3-0016**  
NPDES Permit **CA0049224**

IT IS SO ORDERED PURSUANT TO WATER CODE SECTION 13385

Date: 2/19/16

By: 

Thomas Howard  
Executive Director  
State Water Resources Control Board

**Exhibit A – Notice of Violation**  
**City of San Luis Obispo WWTP**  
 ALLEGED VIOLATIONS (October 25, 2005 – June 10, 2014)  
 MANDATORY MINIMUM PENALTY VIOLATIONS REQUIRING ENFORCEMENT

The Enforcement Staff of the Regional Water Quality Control Board, Central Coast Region (Central Coast Regional Water Board) reviewed information submitted by this facility to determine whether the discharger is subject to mandatory minimum penalties (MMPs) pursuant to subdivisions (h) and (i) of California Water Code section 13385. The following table lists this facility's alleged violations of Waste Discharge Requirements Order R3-2002-0043MOD and Order R3-2014-0033, NPDES Permit CA0049224 from October 25, 2005, through June 10, 2014, for which the Central Coast Regional Water Board has not assessed MMPs. Final calculation of MMP amounts owed and definitions of some of the terms used in this document are listed below the table.

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

#	Violation Number	Violation Date	Pollutant	Pollutant Type	Limitation Period	Limit	Result	Units	% Over Limit	Serious or Non-Serious Violation	Date 180 Days Prior	No. of Viols within 180 days	Penalty
1	364879	10/25/2005	Temperature (Receiving Water)	Dismissed									\$ 0
2	365131	01/22/2006	Chlorine, Total Residual	Group 2	Not to exceed a specific limit more than once within any 30-day period	0.1	0.3	mg/L	200	S	N/A	N/A	\$ 3,000

EPL OE-2015-XXXX – Exhibit A  
 City of San Luis Obispo WWTP

#	Violation Number	Violation Date	Pollutant	Pollutant Type	Limitation Period	Limit	Result	Units	% Over Limit	Serious or Non-Serious Violation	Date 180 Days Prior	No. of Viols within 180 days	Penalty
3	365132	01/26/2006	Chlorine, Total Residual	Group 2	Not to exceed a specific limit more than once within any 30-day period	0.1	0.16	mg/L	60	S	N/A	N/A	\$ 3,000
4	368379	02/06/2006	Dissolved Oxygen	Other	Instantaneous Minimum	4	2.9	mg/L	N/A	N/A	08/10/2005	3	\$ 0
5	408839	4/30/2006	Flow	Dismissed									\$ 0
6	428623	06/24/2006	Chlorine, Total Residual	Group 2	Not to exceed a specific limit more than once within any 30-day period	0.1	0.11	mg/L	10	C	12/26/2005	4	\$ 3,000
7	437997	08/24/2006	Total Coliform	Other	7-Day Median	23	30	MPN/100 mL	N/A	N/A	02/25/2006	2	\$ 0
8	438001	08/24/2006	Fecal Coliform	Other	7-Day Median	2.2	4	MPN/100 mL	N/A	N/A	02/25/2006	3	\$ 0
9	437998	08/25/2006	Total Coliform	Other	7-Day Median	23	30	MPN/100 mL	N/A	C	02/26/2006	4	\$ 3,000
10	438002	8/25/2006	Fecal Coliform	Dismissed									
11	438003	8/26/2006	Fecal Coliform	Dismissed									
12	437999	08/26/2006	Total Coliform	Other	7-Day Median	23	30	MPN/100 mL	N/A	C	02/27/2006	5	\$ 3,000
13	437996	08/27/2006	Total Coliform	Other	7-Day Median	23	30	MPN/100 mL	N/A	C	02/28/2006	6	\$ 3,000

EPL OE-2015-XXXX – Exhibit A  
 City of San Luis Obispo WWTP

#	Violation Number	Violation Date	Pollutant	Pollutant Type	Limitation Period	Limit	Result	Units	% Over Limit	Serious or Non-Serious Violation	Date 180 Days Prior	No. of Viols within 180 days	Penalty
14	438004	8/27/2006	Total Coliform	Dismissed									\$ 0
15	438000	8/27/2006	Fecal Coliform	Dismissed									\$ 0
16	443476	09/12/2006	Dichlorobromomethane	Group 2	Daily Maximum	27	31.4	ug/L	16	C	03/16/2006	7	\$ 3,000
17	495601	12/30/2006	Dissolved Oxygen	Other	Instantaneous Minimum	5	1.1	mg/L	N/A	C	07/03/2006	7	\$3,000
18	568225	02/06/2007	Cyanide, Total (as CN)	Dismissed									\$ 0
19	712402	10/30/2007	Chlorine, Total Residual	Group 2	Not to exceed a specific limit more than once within any 30-day period	0.1	0.43	mg/L	330	S	N/A	N/A	\$ 3,000
20	865307	01/21/2010	Oil and Grease	Dismissed									\$ 0
21	937670	08/31/2012	Chlorine, Total Residual	Group 2	Instantaneous Maximum	2	3.44	mg/L	72	S	N/A	N/A	\$ 3,000
22	974370	06/10/2014	Oil and Grease	Group 1	Monthly Average	5	8	mg/L	60	S	N/A	N/A	\$ 3,000

**Total Penalty: \$33,000**

**Total Mandatory Minimum Penalty Amount for Effluent Violations**

(5 Serious Violation + 6 Non-Serious Violations) × \$3,000 = \$33,000

For Group 1 pollutants, a violation is serious when the limit is exceeded by 40 percent or more, and non-serious (formerly “chronic”) when the limit is exceeded by less than 40 percent.

For Group 2 pollutants, a violation is serious when the limit is exceeded by 20 percent or more, and non-serious when the limit is exceeded by less than 20 percent.

For “Other” (i.e., Other Effluent Violation) pollutants, a violation is non-serious when the limit is exceeded by any amount. For the purposes of MMP enforcement, Other Effluent Violations are not categorized as serious.

Serious violations are subject to a penalty of no less than \$3,000 each, as are non-serious violations when preceded by three or more specified violations within any period of 180 days.

**Definitions**

CIWQS	California Integrated Water Quality System database used by the Water Boards to manage violation and enforcement activities, as well as other data types relevant to water quality protection.
NPDES	National Pollutant Discharge Elimination System permit program that controls water pollution by regulating point sources that discharge pollutants into waters of the United States.
Violation Number	Identification number assigned to a violation in CIWQS.
Violation Date	Date that a violation actually occurred, with the exception that for some violation types, such as a monthly average, the last day of the reporting period is used. If the occurrence date is unknown, the date used is the day the violation was first discovered by staff, the Discharger, or a third party.
Pollutant Types: Group 1 & 2	Groups of pollutants defined in the State Water Resources Control Board Water Quality Enforcement Policy. Also referred to as Category 1 or CAT1, Category 2 or CAT2, respectively.
Pollutant Type: Other	“Other” refers to “Other Effluent Violation”. Group of pollutants other than those included in Group 1 or 2.