



ADVOCATES for the WEST
PO BOX 1612 | BOISE, ID 83701
www.advocateswest.org | 208.342.7024

February 12, 2026

Via Certified Mail, Return Receipt Requested:

Steve Ormond, Mayor
City of Burley
P.O. Box 1090
Burley, ID 83318

Casey Andersen, Council President
City Council
City of Burley
P.O. Box 1090
Burley, ID 83318

Dustin Raney,
Director of Wastewater Services
City of Burley
P.O. Box 1090
Burley, ID 83318

Re: Notice of Violations at Burley-Heyburn Industrial Park Wastewater Treatment Plant and Intent to File Suit under the Clean Water Act

To Whom It May Concern:

The Idaho Conservation League (“ICL”) and Snake River Waterkeeper (“SRW”) hereby give notice to you (the addressed persons) of their intent to file suit pursuant to Section 505 of the federal Clean Water Act, 33 U.S.C. § 1365(a), for violations of the Act specified below. This letter constitutes notice as required by 40 C.F.R. part 135 (the “Notice”) to you of ICL’s and SRW’s intent to file suit in United States District Court of the District of Idaho seeking appropriate equitable relief, civil penalties, and other relief no earlier than 60 days from the postmarked date of this Notice.

The City of Burley, its directors and officers acting in their official capacity, and persons with operational control over the Burley-Heyburn Industrial Park Wastewater Treatment Plant (“Facility”) are the persons, as defined by Section 502(5) of the Clean Water Act, 33 U.S.C. § 1362(5), responsible for the violations alleged in this Notice. The City owns and operates the Facility located across the railroad tracks from the Burley Municipal Airport¹ and permitted under National Pollutant Discharge Elimination System (“NPDES”) permit number ID-000066-3 (the “Permit”).

¹ The Facility’s Permit Fact Sheet also provides a street address: 999 Railroad Avenue in Burley, ID 83318, which may or may not be correct.

As a result of the City's operations, the Facility releases a variety of pollutants into the Snake River. Based on available information, ICL and SRW believe the City has violated and continues to violate the Clean Water Act, 33 U.S.C. § 1251, *et seq.*, by failing to comply with the Permit, including by discharging pollutants to the Snake River in excess of Permit limits.

Parties Giving Notice

The full name, address, and telephone number of the parties giving notice is:

Idaho Conservation League
Att'n: Will Tiedemann
710 N 6th Street
Boise, ID 83702
208.345.6933
wtiedemann@idahoconservation.org

Snake River Waterkeeper
Att'n: Buck Ryan
1306 W. Eastman St.
Boise, ID 83702
208.806.1303
buck@snakeriverwaterkeeper.org

Representing Attorneys

The attorneys representing ICL and SRW in this matter are:

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ICL's & SRW's Commitment to Protecting the Snake River

ICL and SRW are not-for-profit 501(c)(3) organizations dedicated to protecting the environment.

Founded in 1973, ICL's mission is to create a conservation community and pragmatic, enduring solutions that restore and protect air, water, land, and wildlife in Idaho. One of ICL's seven strategic initiatives is cleaning up the Snake River. ICL achieves its goals through public outreach and professional advocacy. With offices in Boise, McCall, Ketchum, and Sandpoint, ICL is a statewide voice for conservation in Idaho and represents more than 26,000 members and supporters, many of whom have a deep personal interest in protecting and restoring water quality throughout Idaho, including in the Snake River.

SRW's mission is to protect and improve the Snake River and its surrounding communities and to ensure swimmable, fishable, and drinkable water for all. SRW uses sound science, policy advocacy, grassroots community engagement, and education to stand up for clean water together as a community. Among other programs, SRW monitors water quality at 100 recreation sites throughout the Snake River watershed, including the Snake River at Lex Kunau Park in Burley.

Your Clean Water Act Violations

Dischargers of pollutants must comply with the requirements of an NPDES permit issued under Section 402 of the Clean Water Act, 33 U.S.C. § 1342. The Act prohibits discharges not authorized by, or discharges in violation of, the terms of a valid NPDES permit. 33 U.S.C. § 1311(a). NPDES permits contain pollutant sampling and monitoring requirements and limits on the amount or concentration of allowable pollutants and contain requirements regarding control measures, best management practices, and recordkeeping and reporting.

The discharge of any pollutant in violation of an NPDES permit, failure to conduct required monitoring, and failure to comply with other requirements of an NPDES permit are all violations of the Clean Water Act. 33 U.S.C. § 1311(a).

During the 5 years prior to the date of this letter, the City of Burley has repeatedly discharged pollutants from the Facility into waters of the Snake River from and through point sources in concentrations and amounts that exceed the discharge limits set in its NPDES permit. Additionally, the City has failed to properly operate and maintain the Facility as required under the NPDES permit.

According to the U.S. Environmental Protection Agency's ("EPA") Effluent Limit Exceedances Report,² the Facility has 748 days of violation from January 1, 2021 through December 31, 2025. The Facility often had multiple numeric effluent violations on a single day, each of which is counted separately. A summary of these violations of numeric effluent limits appears below:

² https://echo.epa.gov/trends/loading-tool/reports/effluent-exceedances?permit_id=ID0000663

Monitoring Period Date	Pollutant	Time Frame	DMR Value	Limit Value	Value Unit	Contains Potential Outliers?	% Exceedance	# of Days	Days with Exceedances
02/28/2021	TSS	MO AVG	31.0	30.0	mg/L	-	3	28	28
02/28/2021	TSS	WKLY AVG	78.5	45.0	mg/L	-	74	28	-
03/31/2022	BOD	WKLY AVG	534.0	45.0	mg/L	-	1087	31	-
03/31/2022	BOD	MO AVG	225.0	30.0	mg/L	-	650	31	-
03/31/2022	BOD	MO AVG	1323.4	272.4	kg/d	-	386	31	31
03/31/2022	BOD	WKLY AVG	3074.5	409.1	kg/d	-	652	31	-
03/31/2022	TSS	WKLY AVG	252.0	45.0	mg/L	-	460	31	-
03/31/2022	TSS	MO AVG	111.0	30.0	mg/L	-	270	31	-
03/31/2022	TSS	WKLY AVG	1788.3	409.1	kg/d	-	337	31	-
03/31/2022	TSS	MO AVG	653.8	272.4	kg/d	-	140	31	31
03/31/2022	Nitrogen	DAILY MX	991.5	298.7	kg/d	Y	232	31	-
03/31/2022	Nitrogen	MO AVG	333.7	132.6	kg/d	Y	152	31	31
03/31/2022	BOD	% REMOVAL	84.0	85.0	%	-	7	31	1
03/31/2022	TSS	% REMOVAL	63.0	85.0	%	-	147	31	1
08/31/2023	BOD	WKLY AVG	491.0	45.0	mg/L	-	991	31	-
08/31/2023	BOD	MO AVG	476.7	272.4	kg/d	-	75	31	-
08/31/2023	BOD	WKLY AVG	2333.1	409.1	kg/d	-	470	31	-
08/31/2023	BOD	MO AVG	100.0	30.0	mg/L	-	233	31	31
08/31/2023	TSS	WKLY AVG	93.0	45.0	mg/L	-	107	31	7
08/31/2023	TSS	WKLY AVG	442.7	409.1	kg/d	-	8	31	-
11/30/2023	TSS	WKLY AVG	161.0	45.0	mg/L	-	258	30	-
11/30/2023	TSS	WKLY AVG	628.3	409.1	kg/d	-	54	30	-
11/30/2023	TSS	MO AVG	50.0	30.0	mg/L	-	67	30	30
01/31/2024	TSS	MO AVG	59.0	30.0	mg/L	-	97	31	-
01/31/2024	TSS	WKLY AVG	908.0	409.1	kg/d	-	122	31	-
01/31/2024	TSS	WKLY AVG	165.0	45.0	mg/L	-	267	31	-
01/31/2024	TSS	MO AVG	333.2	272.4	kg/d	-	22	31	31
02/29/2024	BOD	MO AVG	38.0	30.0	mg/L	-	27	28	28
02/29/2024	BOD	WKLY AVG	56.0	45.0	mg/L	-	24	28	-
02/29/2024	Nitrogen	MO AVG	384.5	132.6	kg/d	Y	190	28	28
02/29/2024	Nitrogen	DAILY MX	709.1	298.7	kg/d	Y	137	28	-
03/31/2024	BOD	WKLY AVG	54.0	45.0	mg/L	-	20	31	-
03/31/2024	BOD	MO AVG	35.0	30.0	mg/L	-	17	31	-

03/31/2024	TSS	WKLY AVG	157.0	45.0	mg/L	-	249	31	-
03/31/2024	TSS	WKLY AVG	903.5	409.1	kg/d	-	121	31	-
03/31/2024	TSS	MO AVG	67.0	30.0	mg/L	-	123	31	-
03/31/2024	TSS	MO AVG	398.6	272.4	kg/d	-	46	31	31
03/31/2024	Nitrogen	MO AVG	203.4	132.6	kg/d	Y	53	31	31
04/30/2024	BOD	MO AVG	84.0	30.0	mg/L	-	180	30	30
04/30/2024	BOD	WKLY AVG	1303.4	409.1	kg/d	-	219	30	-
04/30/2024	BOD	MO AVG	558.0	272.4	kg/d	-	105	30	-
04/30/2024	BOD	WKLY AVG	192.0	45.0	mg/L	-	327	30	-
04/30/2024	TSS	MO AVG	108.0	30.0	mg/L	-	260	30	30
04/30/2024	TSS	MO AVG	740.5	272.4	kg/d	-	172	30	-
04/30/2024	TSS	WKLY AVG	1510.9	409.1	kg/d	-	269	30	-
04/30/2024	TSS	WKLY AVG	216.0	45.0	mg/L	-	380	30	-
04/30/2024	Nitrogen	DAILY MX	472.6	298.7	kg/d	Y	58	30	-
04/30/2024	Nitrogen	MO AVG	281.5	132.6	kg/d	-	112	30	30
04/30/2024	Phosphorus	WKLY AVG	253.3	244.7	kg/d	-	4	30	-
04/30/2024	Phosphorus	MO AVG	170.7	163.0	kg/d	-	5	30	30
05/31/2024	BOD	MO AVG	32.0	30.0	mg/L	-	7	31	31
05/31/2024	BOD	WKLY AVG	479.0	409.1	kg/d	-	17	31	-
05/31/2024	BOD	WKLY AVG	63.0	45.0	mg/L	-	40	31	-
05/31/2024	TSS	MO AVG	46.0	30.0	mg/L	-	53	31	31
05/31/2024	TSS	WKLY AVG	500.3	409.1	kg/d	-	22	31	-
05/31/2024	TSS	WKLY AVG	83.0	45.0	mg/L	-	84	31	-
05/31/2024	TSS	MO AVG	315.5	272.4	kg/d	-	16	31	-
11/30/2024	TSS	MO AVG	33.0	30.0	mg/L	-	10	30	30
11/30/2024	TSS	WKLY AVG	449.0	409.1	kg/d	-	10	30	-
12/31/2024	TSS	WKLY AVG	489.4	409.1	kg/d	-	20	31	-
12/31/2024	TSS	MO AVG	42.0	30.0	mg/L	-	40	31	31
12/31/2024	TSS	WKLY AVG	83.0	45.0	mg/L	-	84	31	-
02/28/2025	BOD	WKLY AVG	48.0	45.0	mg/L	-	7	28	7
02/28/2025	TSS	MO AVG	61.0	30.0	mg/L	-	103	28	28
02/28/2025	TSS	MO AVG	332.8	272.4	kg/d	-	22	28	-
02/28/2025	TSS	WKLY AVG	622.4	409.1	kg/d	-	52	28	-
02/28/2025	TSS	WKLY AVG	103.0	45.0	mg/L	-	129	28	-
04/30/2025	TSS	WKLY AVG	51.0	45.0	mg/L	-	13	30	-

04/30/2025	TSS	MO AVG	39.0	30.0	mg/L	-	30	30	30
05/31/2025	TSS	WKLY AVG	53.0	45.0	mg/L	-	18	31	-
05/31/2025	TSS	MO AVG	42.0	30.0	mg/L	-	40	31	31
05/31/2025	TSS	MO AVG	299.6	272.4	kg/d	-	10	31	-
06/30/2025	TSS	WKLY AVG	3754.6	409.1	kg/d	-	818	30	-
06/30/2025	TSS	WKLY AVG	790.0	45.0	mg/L	-	1656	30	-
06/30/2025	TSS	MO AVG	217.0	30.0	mg/L	-	623	30	-
06/30/2025	TSS	MO AVG	1472.8	272.4	kg/d	-	441	30	30
07/31/2025	BOD	WKLY AVG	686.4	409.1	kg/d	-	68	31	7
07/31/2025	BOD	WKLY AVG	74.0	45.0	mg/L	-	64	31	-
07/31/2025	TSS	MO AVG	194.0	30.0	mg/L	-	547	31	-
07/31/2025	TSS	MO AVG	1677.5	272.4	kg/d	-	516	31	31
07/31/2025	TSS	WKLY AVG	7517.3	409.1	kg/d	-	1738	31	-
07/31/2025	TSS	WKLY AVG	809.0	45.0	mg/L	-	1698	31	-
12/31/2025	TSS	% REMOVAL	Unknown		%	-	80	31	1
12/31/2025	TSS	Unknown				-	9 to 211	31	Unknown

1. All data was reported from outfall 003-A

2. BOD = Biological Oxygen Demand, 5-day, 20 deg. C, TTS = Solids, total suspended, Nitrogen = ammonia total [as N], Phosphorous = total [as P]

3. "Outliers" = an EPA assigned data quality flag to identify potential outliers or data errors in DMR data. "Y" indicates that a pollutant load is calculated from DMR measurements that vary by more than three orders of magnitude during the reporting year. (<https://echo.epa.gov/help/loading-tool/reports/multi-year-loading-help>)

4. Days with Exceedances calculated by EPA ECHO's DMR Exceedances Report tool as per the EPA Interim Clean Water Act Settlement Penalty Policy, March 1, 1995

5. 12/31/2025 violation was reported within EPA "ECHO's Notify" Results for JAN 10, 2026 - JAN 17, 2026. ECHO Notify provides weekly email notifications of changes to enforcement and compliance data in ECHO. Additional information regarding this violation has yet to be entered into EPA ECHO's DMR Exceedance Report tool.

According to EPA's Enforcement and Compliance History Online ("ECHO") database,³ the Facility's current status is "Significant / Category I Noncompliance," and the Facility violated its numeric effluent limits every quarter for the last 13 quarters, often by several hundred percent of the numeric effluent limits.

In addition, the Facility's ECHO webpage shows repeated and continuing monitoring, reporting, and permit schedule violations in each of the last 13 quarters.

Each violation is a separate and distinct violation of the City's NPDES permit and Sections 301 and 402 of the Clean Water Act, 33 U.S.C. §§ 1311, 1342. ICL's and SRW's lawsuit will, at a minimum, include allegations regarding all of these violations.

Additional information, including information in the City's possession, may reveal additional violations. This letter expressly covers violations occurring after the date of the most

³ <https://echo.epa.gov/detailed-facility-report?fid=ID0000663&sys=ICP>

recent publicly available DMR data. This letter also covers violations that continue or reoccur, or that can reasonably be expected to continue or reoccur, after the date of this letter, to the full extent permitted by law.

Every day on which the City has failed and continues to fail to comply with the requirements of the Clean Water Act and NPDES Permit No. ID-000066-3 is a separate and distinct violation of the City's NPDES permit and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). Moreover, multiple violations on a single day each count as a separate and distinct violation.

These violations are ongoing, continuous, and presumed likely to continue indefinitely barring changes to bring the Facility into full compliance with the permitting requirements of the Clean Water Act.

The City, its directors and officers acting in their official capacity, and persons with operational control over the Facility are liable for the above-described violations occurring prior to the date of this letter, and for every day that these violations continue. Pursuant to Section 309(d) of the Act, 33 U.S.C. § 1319(d), and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. §§ 19.2, 19.4, each separate violation of the Act subjects you to a penalty up to \$68,445 per day, per violation. ICL and SRW intend to seek the full penalties allowed by law.

In addition to civil penalties, ICL and SRW will seek declaratory relief and injunctive relief to prevent further violations of the Clean Water Act pursuant to Sections 505(a) and (d), 33 U.S.C. § 1365(a) and (d), and such other relief as permitted by law. ICL and SRW will seek an order from the Court requiring the City to correct all identified violations through direct implementation of control measures and demonstration of full regulatory compliance.

Lastly, pursuant to Section 505(d) of the Act, 33 U.S.C. § 1365(d), ICL and SRW will seek recovery of their litigation costs, including attorneys' and experts' fees.

Conclusion

During the 60-day notice period, ICL and SRW are willing to discuss possible remedial measures for the violations described above that may avoid the necessity of litigation. If you wish to engage in preliminary settlement negotiations, please have your attorney contact Zachary Griefen, Bryan Hurlbutt, and Margaret Parker within the next 20 days so that negotiations may be completed before the end of the 60-day notice period. We do not intend to delay the filing of a complaint in federal court if discussions are ongoing at the conclusion of the 60-day period.

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Respectfully,



Bryan Hurlbutt



Margaret Parker

ADVOCATES FOR THE WEST

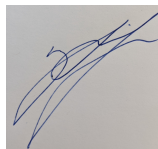
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cc: Via U.S. Certified Mail, Return Receipt Requested

Lee Zeldin, Administrator
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Boise, ID 83706

Emma Pokon, Regional Administrator
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Seattle, WA 98101

cc: clients, via e-mail



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PO BOX 1612 | BOISE, ID 83701
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February 12, 2026

Via Certified Mail, Return Receipt Requested:

Jerry Merrill, Mayor
City of Rexburg
35 N 1st East
Rexburg, ID 83440

Jared Gunderson
Wastewater Treatment Foreman
P.O. Box 280
Rexburg, Idaho 83440

Keith Davidson
Public Works Director
35 N 1st East
Rexburg, ID 83440

Eric Erickson
City Council
35 N 1st East
Rexburg, ID 83440

Re: Notice of Violations at City of Rexburg Wastewater Treatment Facility and Intent to File Suit under the Clean Water Act

To Whom It May Concern:

The Idaho Conservation League (“ICL”) and Snake River Waterkeeper (“SRW”) hereby give notice to you (the addressed persons) of their intent to file suit pursuant to Section 505 of the federal Clean Water Act, 33 U.S.C. § 1365(a), for violations of the Act specified below. This letter constitutes notice as required by 40 C.F.R. part 135 (the “Notice”) to you of ICL’s and SRW’s intent to file suit in United States District Court of the District of Idaho seeking appropriate equitable relief, civil penalties, and other relief no earlier than 60 days from the postmarked date of this Notice.

The City of Rexburg, its directors and officers acting in their official capacity, and persons with operational control over the City of Rexburg Wastewater Treatment Facility (“Facility”) are the persons, as defined by Section 502(5) of the Clean Water Act, 33 U.S.C. § 1362(5), responsible for the violations alleged in this Notice. The City owns and operates the Facility located at 525 North 5th West, Rexburg, Idaho 83440, and permitted under National Pollutant Discharge Elimination System (“NPDES”) permit number ID-0023817 (the “Permit”).

As a result of the City’s operations, the Facility releases a variety of pollutants into the South Fork of the Teton River. Based on available information, ICL and SRW believe the City has violated and continues to violate the Clean Water Act, 33 U.S.C. § 1251, *et seq.*, by failing to comply with the Permit, including by discharging pollutants to the South Fork of the Teton River in excess of Permit limits.

Parties Giving Notice

The full name, address, and telephone number of the parties giving notice is:

Idaho Conservation League
Att'n: Will Tiedemann
710 N 6th Street
Boise, ID 83702
208.345.6933
wtiedemann@idahoconservation.org

Snake River Waterkeeper
Att'n: Buck Ryan
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Boise, ID 83702
208.806.1303
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Representing Attorneys

The attorneys representing ICL and SRW in this matter are:

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Margaret Parker
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ICL's & SRW's Commitment to Protecting Water Quality

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During the 5 years prior to the date of this letter, the City of Rexburg has repeatedly discharged pollutants from the Facility into waters of the South Fork of the Teton River from and through point sources in concentrations and amounts that exceed the discharge limits set in its NPDES permit. Additionally, the City has failed to properly operate and maintain the Facility as required under the NPDES permit.

According to the U.S. Environmental Protection Agency’s (“EPA”) Effluent Limit Exceedances Report,¹ the Facility has 482 days of violation from January 1, 2021 through December 31, 2025. The Facility often had multiple numeric effluent violations on a single day, each of which is counted separately. A summary of these violations of numeric effluent limits appears below:

Monitoring Period Date	Outfall	Pollutant	Time Frame	DMR Value	Limit Value	Value Unit	% Exceedance	Number of Days	Days with Exceedances
02/28/2021	001-B	Nitrogen	MO AVG	1.0	0.7	mg/L	45.0	28	28
02/28/2021	001-B	Nitrogen	DAILY MX	5.6	1.9	mg/L	195.0	28	-
02/28/2021	001-B	Nitrogen	DAILY MX	74.2	26.3	kg/d	182.0	28	-
02/28/2021	001-B	Nitrogen	MO AVG	13.3	9.5	kg/d	39.0	28	-
04/30/2021	001-B	BOD	WKLY AVG	637.1	612.9	kg/d	4.0	30	-
04/30/2021	001-B	BOD	WKLY AVG	48.0	45.0	mg/L	7.0	30	7
04/30/2021	001-B	TSS	MO AVG	130.0	30.0	mg/L	333.0	30	30
04/30/2021	001-B	TSS	WKLY AVG	3238.8	612.9	kg/d	428.0	30	-
04/30/2021	001-B	TSS	WKLY AVG	244.0	45.0	mg/L	442.0	30	-
04/30/2021	001-B	TSS	MN % RMV	66.0	85.0	%	127.0	30	1
01/31/2022	001-B	Nitrogen	DAILY MX	2.9	1.9	mg/L	54.0	31	-
01/31/2022	001-B	Nitrogen	DAILY MX	41.1	26.3	kg/d	56.0	31	1

¹ https://echo.epa.gov/trends/loading-tool/reports/effluent-exceedances?permit_id=ID0023817&report_type=EFF&start_date=01/01/2021&end_date=12/31/2025.

04/30/2022	001-B	Nitrogen	DAILY MX	134.0	27.7	kg/d	384.0	30	1
04/30/2022	001-B	Nitrogen	DAILY MX	9.7	2.0	mg/L	386.0	30	-
05/31/2023	001-M	TSS	WKLY AVG	3043.0	612.9	kg/d	397.0	31	-
05/31/2023	001-M	TSS	MO AVG	72.8	30.0	mg/L	143.0	31	31
05/31/2023	001-M	TSS	WKLY AVG	204.0	45.0	mg/L	353.0	31	-
05/31/2023	001-M	TSS	MO AV MN	83.0	85.0	%	13.0	31	31
06/30/2023	001-M	TSS	WKLY AVG	49.8	45.0	mg/L	11.0	30	7
03/31/2024	001-M	BOD	MO AVG	832.8	409.1	kg/d	104.0	31	-
03/31/2024	001-M	BOD	WKLY AVG	3186.9	612.9	kg/d	420.0	31	-
03/31/2024	001-M	BOD	WKLY AVG	224.0	45.0	mg/L	398.0	31	-
03/31/2024	001-M	BOD	MO AVG	58.2	30.0	mg/L	94.0	31	31
03/31/2024	001-M	TSS	MO AVG	1458.5	409.1	kg/d	257.0	31	-
03/31/2024	001-M	TSS	WKLY AVG	6709.4	612.9	kg/d	995.0	31	-
03/31/2024	001-M	TSS	WKLY AVG	886.0	45.0	mg/L	1869.0	31	-
03/31/2024	001-M	TSS	MO AVG	188.4	30.0	mg/L	528.0	31	31
03/31/2024	001-M	TSS	MO AV MN	40.0	85.0	%	300.0	31	31
05/31/2024	001-M	TSS	MO AVG	266.8	30.0	mg/L	789.0	31	-
05/31/2024	001-M	TSS	MO AVG	2032.5	409.1	kg/d	397.0	31	31
05/31/2024	001-M	TSS	WKLY AVG	1127.0	45.0	mg/L	2404.0	31	-
05/31/2024	001-M	TSS	WKLY AVG	8534.5	612.9	kg/d	1292.0	31	-
05/31/2024	001-M	TSS	MO AV MN	49.0	85.0	%	240.0	31	31
04/30/2025	001-M	TSS	WKLY AVG	59.0	45.0	mg/L	31.0	30	7
09/30/2025	001-M	TSS	MO AVG	30.8	30.0	mg/L	3.0	30	30
10/31/2025	001-M	TSS	WKLY AVG	719.4	612.9	kg/d	17.0	31	-
10/31/2025	001-M	TSS	WKLY AVG	95.0	45.0	mg/L	111.0	31	-
10/31/2025	001-M	TSS	MO AVG	69.5	30.0	mg/L	132.0	31	31
10/31/2025	001-M	TSS	MO AVG	603.3	409.1	kg/d	47.0	31	-
10/31/2025	001-M	TSS	MO AV MN	78.0	85.0	%	47.0	31	31
11/30/2025	001-M	TSS	MO AVG	781.5	409.1	kg/d	91.0	30	30
11/30/2025	001-M	TSS	WKLY AVG	251.0	45.0	mg/L	458.0	30	-
11/30/2025	001-M	TSS	MO AVG	103.2	30.0	mg/L	244.0	30	-
11/30/2025	001-M	TSS	WKLY AVG	1900.8	612.9	kg/d	210.0	30	-
11/30/2025	001-M	TSS	MO AV MN	84.0	85.0	%	7.0	30	30

1. BOD = Biological Oxygen Demand, 5-day, 20 deg. C TSS = Solids, total suspended, Nitrogen = ammonia total [as N]
2. Days with Exceedances calculated by EPA ECHO's DMR Exceedances Report tool as per the EPA Interim Clean Water Act Settlement Penalty Policy, March 1, 1995

According to EPA's Enforcement and Compliance History Online ("ECHO") database,² the Facility's current status is "Significant / Category I Noncompliance," and the Facility violated its numeric effluent limits every quarter for the last 8 quarters, often by several hundred percent of the numeric effluent limits.

In addition, the Facility's ECHO webpage shows repeated and continuing monitoring, reporting, and permit schedule violations in each of the last 8 quarters.

Each violation is a separate and distinct violation of the City's NPDES permit and Sections 301 and 402 of the Clean Water Act, 33 U.S.C. §§ 1311, 1342. ICL's and SRW's lawsuit will, at a minimum, include allegations regarding all of these violations.

Additional information, including information in the City's possession, may reveal additional violations. This letter expressly covers violations occurring after the date of the most recent publicly available DMR data. This letter also covers violations that continue or reoccur, or that can reasonably be expected to continue or reoccur, after the date of this letter, to the full extent permitted by law.

Every day on which the City has failed and continues to fail to comply with the requirements of the Clean Water Act and NPDES Permit No. ID-0023817 is a separate and distinct violation of the City's NPDES permit and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). Moreover, multiple violations on a single day each count as a separate and distinct violation.

These violations are ongoing, continuous, and presumed likely to continue indefinitely barring changes to bring the Facility into full compliance with the permitting requirements of the Clean Water Act.

The City, its directors and officers acting in their official capacity, and persons with operational control over the City's Facility are liable for the above-described violations occurring prior to the date of this letter, and for every day that these violations continue. Pursuant to Section 309(d) of the Act, 33 U.S.C. § 1319(d), and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. §§ 19.2, 19.4, each separate violation of the Act subjects you to a penalty up to \$68,445 per day, per violation. ICL and SRW intend to seek the full penalties allowed by law.

In addition to civil penalties, ICL and SRW will seek declaratory relief and injunctive relief to prevent further violations of the Clean Water Act pursuant to Sections 505(a) and (d), 33 U.S.C. § 1365(a) and (d), and such other relief as permitted by law. ICL and SRW will seek an order from the Court requiring the City to correct all identified violations through direct implementation of control measures and demonstration of full regulatory compliance.

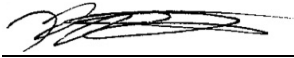
² <https://echo.epa.gov/detailed-facility-report?fid=110009726029>.

Lastly, pursuant to Section 505(d) of the Act, 33 U.S.C. § 1365(d), ICL and SRW will seek recovery of their litigation costs, including attorneys' and experts' fees.

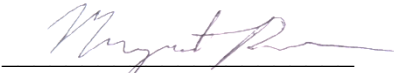
Conclusion

During the 60-day notice period, ICL and SRW are willing to discuss possible remedial measures for the violations described above that may avoid the necessity of litigation. If you wish to engage in preliminary settlement negotiations, please have your attorney contact Zachary Griefen, Bryan Hurlbutt, and Margaret Parker within the next 20 days so that negotiations may be completed before the end of the 60-day notice period. We do not intend to delay the filing of a complaint in federal court if discussions are ongoing at the conclusion of the 60-day period.

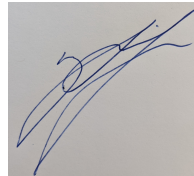
Respectfully,



Bryan Hurlbutt



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cc: clients, via e-mail