

AGENDA



CIVIL SERVICE COMMISSION REGULAR MEETING CITY OF VALLEJO March 8, 2021 5:15 P.M.

COMMISSIONERS
Mike Nisperos, Chair
Brenda Plechaty, Vice Chair
Gregory Carter
Leslie Janik
Patricia Wright

PUBLIC COMMENT: Members of the Public may provide public comments during the Civil Service Commission Meeting via ZOOM (<https://ZoomRegular.Cityofvallejo.net>), or via phone, by dialing (669) 900-6833.

For additional instructions on how to speak during public comment, please visit, www.cityofvallejo.net/publiccomment

VIEW THE MEETING:

There are three different ways you can view this public meeting:

- Watch Vallejo local channel 28
- Stream from the City website: www.cityofvallejo.net/Streaming
- Join the Zoom webinar: <https://ZoomRegular.Cityofvallejo.net>

- 1. CALL TO ORDER**
- 2. FLAG SALUTE**
- 3. ROLL CALL**

¹ Due to the Coronavirus emergency, all Civil Service Commission meetings will be held via teleconference. Members of the public may provide public comments during the Civil Service Commission meeting via ZOOM

<https://ZoomRegular.CityofVallejo.net>

Option to join by phone:

Dial (669) 900-6833

Enter Meeting ID: 914 0075 0676#

Press *9 to digitally raise your hand from the phone

For additional instructions on how to speak during public comment, please visit, www.cityofvallejo.net/publiccomment

4. WRITTEN COMMUNICATIONS

5. EXECUTIVE SECRETARY'S REPORT

6. REPORT OF CHAIRPERSON AND COMMISSIONERS

7. COMMUNITY FORUM

Due to the current Shelter at Home Order and in conformance with the Governor's Executive Order N-29-30, the City of Vallejo has opted to hold the Civil Service Commission meeting via teleconference. Any interested members of the public desiring to communicate with the Civil Service Commission as part of the Community Forum may do so via ZOOM (<https://zoom.us/j/91400750676>) or via phone, by dialing (669)900-6833.

For additional instructions on how to speak during public comment, please visit, www.cityofvallejo.net/publiccomment

The conduct of the community forum shall be limited to a maximum of fifteen (15) minutes, with each speaker limited to three minutes.

8. CONSENT CALENDAR AND APPROVAL OF THE AGENDA

Due to the current Shelter at Home Order and in conformance with the Governor's Executive Order N-29-30, the City of Vallejo has opted to hold the Civil Service Commission meeting via teleconference. Any interested members of the public desiring to communicate with the Civil Service Commission as part of the Public Comment Regarding Consent Calendar Items may do so via ZOOM (<https://zoom.us/j/91400750676>) or via phone, by dialing (669)900-6833.

For additional instructions on how to speak during public comment, please visit, www.cityofvallejo.net/publiccomment

Each speaker is limited to three minutes.

A. APPROVAL OF THE MINUTES – Regular meeting minutes of the January 11, 2021 meeting.

B. APPROVAL OF AGENDA

9. ACTION CALENDAR

NOTICE: Due to the current Shelter at Home Order and in conformance with the Governor's Executive Order N-29-30, the City of Vallejo has opted to hold the Civil Service Commission meeting via teleconference. Any interested members of the public desiring to communicate with the Civil Service Commission as part of the Action Calendar may do so via ZOOM (<https://zoom.us/j/91400750676>) or via phone, by dialing (669)900-6833.

For additional instructions on how to speak during public comment, please visit, www.cityofvallejo.net/publiccomment

Each speaker is limited to three minutes.

A. CONSIDER EMPLOYEE APPEAL OF DISCIPLINARY ACTION – NOTICE OF SUSPENSION

Contact: Doris Papillon-Allen, Personnel Analyst II
(707) 649-3589, doris.allen@cityofvallejo.net

10. ADJOURNMENT

CERTIFICATE

I, Stephanie Sifuentes, Executive Secretary, do hereby certify that I have caused a true copy of the above notice and agenda to be delivered to each of the members of the Civil Service Commission, at the time and in the manner prescribed by law and that this agenda was posted at City Hall, 555 Santa Clara Street, CA at 5:00 p.m., Thursday, March 4, 2021.

Dated: March 4, 2021

Angelina
Joya for

Digitally signed by Angelina Joya for
DN: cn=Angelina Joya for, o=City of
Vallejo, ou=City Clerk's office,
email=Angelina.Joya@cityofvallejo.net,
c=US
Date: 2021.03.03 19:25:17 -0800

Stephanie Sifuentes, Executive Secretary

**CIVIL SERVICE COMMISSION
REGULAR MEETING MINUTES
VIA TELECONFERENCE
JANUARY 11, 2021**

1. CALL TO ORDER

The meeting was called to order at 5:26 p.m.

2. FLAG SALUTE

3. ROLL CALL

Present: Chair Nisperos, Vice Chair Plechaty, Commissioners Carter, Janik, and Wright

Absent: None

Staff present: Executive Secretary Sifuentes, Chief Assistant City Attorney Randy Risner, Deputy City Clerk Joya, and Water Director Mike Malone

4. WRITTEN COMMUNICATIONS – None

5. EXECUTIVE SECRETARY’S REPORT – None

6. REPORT OF CHAIRPERSON AND COMMISSIONERS – None

7. COMMUNITY FORUM – None

8. CONSENT CALENDAR AND APPROVAL OF THE AGENDA

Action: Moved by Vice Chair Plechaty, second by Commissioner Carter and carried unanimously approval of the Agenda and Consent Calendar.

A. APPROVAL OF THE MINUTES – Regular meeting minutes of the September 14, 2020 meeting.

B. APPROVAL OF AGENDA

9. ACTION CALENDAR

A. APPROVE CLASSIFICATION SPECIFICATION REVISIONS FOR WATER TREATMENT PLANT OPERATOR CLASS SERIES

Recommendation: By motion, approve the revisions to classification specifications for Water Treatment Plant Operator Trainee I, Water Treatment Plant Operator Trainee II, Water Treatment Plant Operator, and Advanced Water Treatment Plant Operator.

Contact: Stephanie Sifuentes, Human Resources Program Manager
(707) 648-8606, stephanie.sifuentes@cityofvallejo.net

Executive Secretary Sifuentes outline the staff report and recommendation.

Speakers – None

Executive Secretary Sifuentes responded to questions from Commissioners. Commissioners provided comment. Water Director Malone provided further clarification.

Action: Moved by Vice Chair Plechaty, second by Commissioner Wright and carried unanimously to approve the revisions to classification specifications for Water Treatment Plant Operator Trainee I, Water Treatment Plant Operator Trainee II, Water Treatment Plant Operator, and Advanced Water Treatment Plant Operator.

B. APPROVE CLASSIFICATION SPECIFICATION REVISIONS FOR HOUSING SPECIALIST CLASS SERIES

Recommendation: By motion, approve the revisions to classification specifications for Housing Specialist I, Housing Specialist II, Senior Housing Specialist, and Housing Specialist Supervisor.

Contact: Stephanie Sifuentes, Human Resources Program Manager
(707) 648-8606, stephanie.sifuentes@cityofvallejo.net

Executive Secretary Sifuentes outline the staff report and recommendation.

Speakers – None

Executive Secretary Sifuentes responded to questions from Commissioners. Commissioners provided comment.

Action: Moved by Vice Chair Plechaty, second by Commissioner Wright and carried unanimously to approve the revisions to classification specifications for Housing Specialist I, Housing Specialist II, Senior Housing Specialist, and Housing Specialist Supervisor.

10. ADJOURNMENT

Action: Moved by Commissioner Wright, second by Vice Chair Plechaty to approve adjournment of the meeting at 5:49 p.m.

MIKE NISPEROS, CHAIRPERSON

ATTEST:

STEPHANIE SIFUENTES, EXECUTIVE SECRETARY



DATE: March 8, 2021
TO: Members of the Civil Service Commission
FROM: Meera H. Bhatt, Assistant City Attorney
SUBJECT: **APPEAL OF NOTICE TO SUSPEND FOR FIVE (5) DAYS ISSUED TO WATER TREATMENT PLANT OPERATOR KENNETH MCKAY**

RECOMMENDATION

Staff recommends the Civil Service Commission issue a decision upholding in full the five (5) day suspension issued to Kenneth McKay on November 19, 2020.

FACTUAL BACKGROUND

Michael ("Mike") Malone has served as the City's Water Director since April 2017, overseeing more than a hundred staff who operate and maintain the City's multi-billion-dollar water treatment and distribution systems.

The Water Department ("Department") operates and maintains three water treatments plants: Green Valley Treatment Plant ("GVTP"), Fleming Hill Water Treatment Plant ("Fleming Hill"), and the Travis Air Force Base Water Treatment Plant. These plants treat raw water, ensuring public access to clean water that meets or exceeds stringent regulatory and safety requirements.

Monitoring plant operation and water quality is critical to ensuring public health and safety, compliance with state mandates, and proper functioning of City equipment. For example, under-dosing of chemicals in treating water risks spreading disease, including dysentery or giardia. Chemical over-dosing risks poisoning the public. Failing to monitor plant operation may result in equipment failure and costly repairs, particularly at GVTP due to its aged infrastructure. Regulations governing water treatment, distribution, and operation are complex. Violations may result in fines or revocation of operating licenses. At GVTP, failing to monitor plant operation may result in total plant shut-down and potentially cut off firefighters' and the public's access to water.

The City will prove by a preponderance of the evidence that Appellant committed the violations set forth in the Notice to Suspend issued on November 19, 2020.

"Preponderance of the evidence" is the evidentiary standard that applies. It means more likely not. The standard is met if the City proves there is a greater than a 50% chance that Appellant committed one or more of the above violations. Members of the Commission may have heard this standard expressed as "a grain of sand that ever so slightly tips the balance," or words to that effect.

While the City is not required to prove each violation for the level of discipline to be upheld, it will do so.

For this Commission's convenience, the parties have submitted a joint exhibit packet.

A. Public Safety Power Shutoffs Require Round the Clock Onsite Monitoring

Ordinarily, GVTP's operations are remotely monitored via a T1 line connection between GVTP and Fleming Hill. Computer screens at Fleming Hill provide a visual representation of GVTP operations, including chemical and pH levels at GVTP.

On occasion and to reduce the risk of fire during severe weather, PG&E has implemented Public Safety Power Shutoffs ("PSPS"). During a PSPS, PG&E de-energizes power lines and GVTP runs on emergency generator power. The T1 line connection between GVTP and Fleming Hill is lost. Thus, the ability to remotely monitor GVTP is also lost for the PSPS' duration. To ensure continued water quality and plant operations during a PSPS, state law requires round-the-clock on-site physical monitoring at GVTP.

The Department takes proactive measures to protect the public's access to clean water, ensure continued plant operations, and comply with state mandates. For example, the Department ensures twenty-four hour staffing at GVTP by assigning an on-site Water Treatment Plant Operator ("WTPO") to cover a day shift and a night shift.

The WTPO is required to attentively monitor GVTP by actively watching two computer screens in the Operations Room in GVTP. These computer screens provide a visual of GVTP operations, detecting water quality issues and equipment failure. Should a water quality or equipment failure issue be detected, visual alarms will flash on the computer screens. The alarms are not audible. Thus, if a WTPO is not attentively watching the computer screens, water quality or equipment malfunctions will remain undetected and thus unresolved.

The Operations Room is visible from a window that faces GVTP's front entrance. It is a few feet from the front entrance. GVTP's walls are corrugated and thin. To get to GVTP, staff drive up a long winding road using utility trucks, often loaded with heavy equipment.

B. Appellant Volunteers for a PSPS Over-Night Shift for which He is Paid Over-time

In October 2019, PG&E alerted the Department of a PSPS in effect from October 9, 2019 through October 10, 2019. The PSPS was later extended. For the entire PSPS, the T1 connection was lost, requiring the Department to ensure a WTPO was physically onsite at GVTP to monitor its operations.

Appellant is a WTPO who has worked with the Department for over twenty years and has previously covered PSPS shifts.

On the afternoon of October 9, 2019, Appellant received a phone call from the desk operator on duty asking if was available to work overtime by covering the overnight shift that night. Appellant volunteered to cover the night shift. He was not required to do so. As Appellant volunteered to cover the shift, he was expected to be ready and willing to perform his job duties.

C. Appellant's Admission He Intended to Use His City-Paid Overtime Shift to Sleep During a PSPS

Between 10:30-11:00 p.m., Instrument Technician Jacob Parsons went to GVTP to check fuel levels, the generator, other equipment, and the Operations Room.

While in the Operations Room, Mr. Parsons encountered Appellant. Upon seeing a black sleeping mat and white pillow on the floor, Mr. Parsons asked Appellant if he was planning to sleep on that during the night Appellant replied that he was.

Knowing that nesting and sleeping during a PSPS was in dereliction of his duties, Appellation asked Mr. Parsons if anyone would see him if they visited the plant that night. As defined in the Investigative Report, "nesting" refers to making a bed or creating a place conducive to sleeping." It is a deliberate neglect of job duties.

Mr. Parsons replied "yes" to Appellant's question of whether someone would see him sleeping. Believing Appellant was joking about intending to sleep during a PSPS overtime shift, Mr. Parsons finished checking some equipment, and left.

D. Two Independent Witnesses a Few Feet from Appellant Witness Him Sleeping on the Mat and Pillow, Leaving GVTP Unattended During the PSPS

Around 3:00 a.m. and while Appellant was expected to remain attentively monitoring the computer screens at the desk, Instrument Technician Jacob Barlow and Utility Mechanic James Grandrath arrived at GVTP. They were there to check fuel levels, generators, and other equipment.

Mr. Barlow and Mr. Grandrath drove a utility truck loaded with equipment and pulled up next to the window by the Operations Room. As they approached GVTP, they could see the lights in the Operations Room turned off. This struck them as unusual as the lights are usually on when WTPOs are working.

With his set of jangling keys, Mr. Barlow unlocked the front entrance doors. Immediately to the left, Mr. Barlow saw Appellant lying on a bed roll on the floor and on a pillow asleep in the Operations Room. Appellant's shoes were placed under a table next to the door in the Operations Room. Appellant was lying prone and on his side. Mr. Barlow was only a few feet from Appellant and could see there was no movement, no reaction, and no sound from him.

Mr. Barlow was taken aback at the sight of Appellant sleeping on a pillow and mat during a PSPS shift. He motioned for Mr. Grandrath to come take a look. At one point, Mr. Barlow and Mr. Grandrath were inside the Operations Room just a few feet from Appellant.

Mr. Barlow and Mr. Grandrath spoke in normal voices and made no attempt to remain quiet. Still, Appellant continued to lie prone on the mat and pillow, on his side, motionless, shoes off, non-responsive, and appearing unconscious to his surroundings.

**Subject: APPEAL OF NOTICE TO SUSPEND FOR FIVE (5) DAYS ISSUED TO WATER TREATMENT
PLANT OPERATOR KENNETH MCKAY**

Page 4

After confirming the alarms on the computer screens in the Operations Room were not flashing, Mr. Grandrath and Mr. Barlow proceeded to check lab readings and confirmed the plant was normally operating. During this time, they continued to speak in normal voices and move about normally.

After confirming the plant was functioning properly, Mr. Grandrath and Mr. Barlow climbed into the utility truck to leave. They were parked close to the window looking into the Operations Room. As they left, the truck sounded its back-up alarms. The back-up alarms' volume and pitch is akin to the alarms on garbage trucks. Still, Mr. Grandrath and Mr. Barlow could not detect movement or reaction of any kind from the Operations Room. Altogether, Mr. Barlow and Mr. Grandrath spent about a half hour at GVTP.

E. The Department's Response

At the end of shifts, the Department conducts "shift turn-overs." During these shift turn-overs, staff are expected to share with management any information needed to aid the Department in ensuring water quality, plant operation, and legal compliance.

The shift-turn over occurred around 6:00 a.m., less than three hours after Mr. Barlow and Mr. Grandrath left GVTP. When Water Facilities Superintendent John Palesi learned from Mr. Parsons, Mr. Barlow, and Mr. Grandrath about what had transpired, he felt concerned that GVTP was left unattended given the serious risks. Thus, Mr. Palesi directed the three to send emails to Water Operations Superintendent Joe Abitong apprising him of what they observed.

Mr. Abitong reports directly to Mr. Malone, oversees water treatment distribution and treatment, and ensures compliances with regulations. Upon learning of these reports, Mr. Abitong felt it was important to advise Director Malone. Mr. Abitong forwarded Mr. Parsons', Mr. Barlow's, and Mr. Grandrath's accounts to Director Malone.

Upon review, Director Malone felt gravely disturbed, particularly at Appellant's nesting during a PSPS. Given the potential consequences and his responsibility in protecting the public's access to clean water and compliance with laws, Director Malone felt he needed to turn to Human Resources.

F. Human Resources' Independent Investigation and Appellant's Admission that "He Does Not Remember Falling Asleep or Waking Up"

Human Resources conducted an investigation in which it reviewed pertinent documents and interviewed witnesses. Appellant was interviewed as part of the investigation.

When asked if he went to sleep during his shift, Appellant responded "I do not remember falling asleep or waking up." As though to provide an alibi for volunteering for a shift during which he slept, Appellant stated he was drowsy from taking medication and had not slept all day.

While the investigation was still ongoing and on November 5, 2019, Appellant emailed Mr. Abitong and Appellant's direct supervisor Kevin Brown. Appellant claimed he did not recall anyone coming by nor did he recall sleeping, but claimed it was possible he did get drowsy. Again, Appellant seemed to craft a way out of

his answer by claiming it was a “mitigating circumstance” that he had taken a prescription that made him drowsy.

Instead of showing accountability and taking responsibility for his actions, Appellant focused on shifting the blame and making excuses. In his email, Appellant blamed the Department for involving Human Resources to investigate, complaining this was “worrisome” to him. Appellant blamed taking prescription medications that made him drowsy, though he volunteered for the overtime shift. Appellant blamed his co-workers for not waking him up, though his job duties require the ability to work independently and though his co-workers could not remain physically attentive for him. Appellant blamed the very nature of his job duties, in that his job that night “was only to monitor the plant.” This statement showed how Appellant disregarded the potential impacts of his inattention and inability to address any water quality or system malfunctions issue that arose.

The investigation ultimately sustained the findings that: (1) Appellant slept while on duty and left the GVTP running unattended; (2) violated Administrative Rule 2.28 (Alcohol and Drug Policy) which prohibits employees from reporting to work impaired due to drug use (including prescription medications) and requires employees to notify their supervisors before beginning work when taking medications that could impair their ability to perform their duties.

Given Appellant’s misconduct as shown by his deliberate nesting and disregard of duties; his neglect of duties as shown by his sleeping and leaving GVTP unattended; and violations of the Alcohol and Drug Policy, Appellant also violated Civil Service Rule 18 – Suspension, Fine, or Removal. A Notice of Intended Order for a five-day suspension was issued to Appellant on March 3, 2020.

G. The Skelly Decision and Director Malone’s Decision to Move Forward with the Discipline

The City afforded Appellant his due process rights. Specifically, Appellant was afforded the right to respond to the charges at a Skelly hearing in which he was represented by the Union.

The Skelly Officer recommended discipline be reduced to a one-day suspension based on Mr. Barlow and Mr. Grandrath not physically waking Appellant up to verify he was actually asleep. The recommendation was also based on Appellant’s request to use personal exercise/stretching equipment at work.

During the Skelly hearing, Appellant was asked what he would do differently next time. Appellant responded only that he would tell his supervisor if he took a prescription that impacted his ability to do his job in advance. Nothing more.

Director Malone carefully considered the Skelly decision, which is only a recommendation. Director Malone was not required to follow it and could uphold the discipline in full.

After review of the Skelly decision and the investigative report, Director Malone found it incredulous to require co-workers to wake Appellant up to verify he was actually sleeping. Director Malone has served as a Skelly Officer many times and received training in conducting Skelly hearings. Director Malone also had an advantage in that he was familiar with GVTP’s physical layout. This was an advantage the Skelly Officer did not have.

**Subject: APPEAL OF NOTICE TO SUSPEND FOR FIVE (5) DAYS ISSUED TO WATER TREATMENT
PLANT OPERATOR KENNETH MCKAY**

Director Malone deemed the preponderance of the evidence standard met, agreeing with the investigator's findings that Appellant had used his City paid shift to sleep, leaving GVTP unattended. This was based on the following, among other factors Director Malone is anticipated to testify to:

(1) Appellant's admission to Mr. Parsons that he intended to sleep on the pillow and mat he brought and asking if anyone would come by GVTP and see him, showing Appellant intended to nest in deliberate disregard of his duties.

(2) Two independent witnesses that provided corroborating accounts of seeing Appellant lying in a prone position, on his side, on a pillow, on a mat, motionless, with the lights off, the door locked, and his shoes off – so “out” that he appeared unconscious of the events around him, despite back-up alarms, a utility truck driving up a hill, and normal conversational voices.

(3) Appellant's admission to the investigator that he “did not remember falling asleep or waking up” yet attempting to frame an excuse in admittedly taking a prescription that caused him to be drowsy and reporting to a PSPS shift.

(4) Appellant's admission he did not remember anyone stopping by GVTP during his shift, despite three staff who independently contradict this.

(5) Appellant's admission that he did not tell his supervisor he had taken a prescription that made him drowsy, as shown by Appellant's statements to the investigator, in his email to Mr. Abitong, and during the Skelly hearing.

(6) Director Malone's knowledge of GVTP's layout and specifically the witnesses' vantage point in seeing Appellant in the Operations Room such that Director Malone believed Appellant would have to be deep in sleep to remain non-responsive when Mr. Barlow and Mr. Grandrath arrived.

(7) Appellant's attempts to shift blame and refusal to take responsibility or show accountability.

Arbitrators would likely agree with Director Malone that the preponderance of the evidence standard has been met based upon the evidence. This is not a criminal case where the standard of proof is beyond a reasonable doubt. When considering whether an employee is actually sleeping, arbitrators consider factors including the environment (e.g., darkness or secluded location) and the employee's condition or appearance (e.g., lying in a prone position, motionless, or non-reactive). If an employee is found in a dark area away from his specific job duties (i.e., here at the desk monitoring the computer screens), there is a strong inference the employee was sleeping. Lying down with a makeshift pillow and not moving for an extended time also supports an inference of sleeping. (See Discipline and Discharge in Arbitration by Norman Brand and Melissa H Biren Ch. 8.IV.B). Under these factors there is both direct and circumstantial evidence that meets or exceeds the evidentiary standard.

On June 18, 2020 and after carefully considering the Skelly Officer's decision, Director Malone met with Human Resources and advised of his decision to move forward with a five-day suspension.

From the time Director Malone made his decision to issue the five-day suspension to the Final Order's issuance in March 2020, there was significant delay. In the summer of 2020, the City was gripped in the wake of an officer-involved shooting that sparked national attention. The City was beset by looters, widespread protests, and the National Guard descended. Emergency curfews were put in place and Human Resources was burned down and flooded. Files were destroyed and Human Resources staff were unable to work from their offices until two months ago. At the same time, the City faced unprecedented operational challenges brought on through COVID, all while battling with staff shortages, turn-over, and heavy workloads.

While the City is cognizant of this delay and willing to accept its share of accountability as it continues to navigate the challenges of our times, these challenges do not afford Appellant a "get out jail free" card. They do not and should not immunize employees from accountability for their actions.

ISSUES ON APPEAL

There are only three questions for this Commission to consider on appeal.

1. **Question One:** By a preponderance of the evidence, did Appellant violate Administrative Rule 18, Suspension, Fine, or Removal through one or more of the following: misconduct, failing to perform the duties of his job, and/or failing to observe the Department's rules and regulations?

The answer to this question is yes.

Appellant engaged in misconduct in nesting. He intended to sleep during the PSPS shift, brought a mat and pillow, and admitted to an employee he intended to sleep. He flagrantly asked Mr. Parsons if anyone would see him sleeping on the pillow and mat, knowing this was wrong. Appellant was not discipline for bringing a mat to work, but for the way in which he used it - to nest. This amounts to a willful and deliberate disregard of Appellant's duties and the grave risks this posed to the City and the public in a PSPS.

Further, Appellant decided he would use City paid overtime as an opportunity to catch up on sleep. It is important to distinguish this case from that of an employee simply dozing off for a short time during work, given the intentionality here. Not only does Appellant's intentional use of City paid overtime to sleep amount to a theft of City paid time, it is demoralizing for co-workers who work hard at their jobs each day to see an employee blatantly slake off when all hands are needed on deck.

Even if Appellant did not engage in deliberate disregard to his duties (and he did), Appellant grossly neglected his duties by sleeping during his shift on a pillow and mat, neglecting his duty to attentively monitor and be prepared to respond to water quality issues or malfunctions.

Appellant further neglected his duties in failing to abide by the Alcohol and Drug Policy. Appellant had a duty to notify his supervisor of medications that could impair his ability to do his job and was not prohibited from reporting to work impaired.

2. **Question Two:** By a preponderance of evidence, did Appellant violate Administrative Rule 2.28, Alcohol and Drug Abuse Policy?

The answer to this question is yes.

The investigation sustained findings that Appellant violated Administrative Rule 2.28. Appellant has signed an acknowledgment attesting that he received and understands the City's Alcohol and Drug Abuse Policy, yet he volunteered for overtime while admittedly drowsy from medication.

Appellant did not notify Mr. Brown that he had taken a medication before his shift that made him drowsy, in violation of the Administrative Rule 2.28. Appellant's admissions to the investigator and to Mr. Abitong and statement to the Skelly Officer that next time he would have informed his supervisor if he took any medication that made him drowsy are indisputable proof his policy violations.

3. **Question Three:** Does just cause exist to support the five-day suspension?

The answer to this question is yes. Given Appellant's nesting and intentional disregard of his duties, neglect of his duties, and violations of the Alcohol and Drug Abuse Policy, a five-day suspension is justified.

Historically, there are seven factors that comprise just cause. The City is not required to prove all seven factors, but has done so. These factors include whether: (1) the employee was provided notice of the expectations; (2) the expectations were reasonably related to the Department's operations; (3) there was an investigation prior to discipline; (4) the investigation was fair and objective; (5) the sufficiency of the proof of the violation; (6) the expectation was applied in a non-discriminatory way; and (7) whether the discipline was reasonable and proportional. This test was first developed in 1966 by arbitrator Carroll Dougherty and is widely applied in both labor and employment settings.

Here, Appellant was provided notice that he was expected to remain attentive during his shift and not to use City paid time to sleep through his job description (and common sense). Appellant also signed an acknowledgment that he understood the Alcohol and Drug Policy. The expectations an employee will not sleep during a PSPS shift, will notify his supervisor of impairment, and not report to work impaired are directly related to the Department's operations. There was an investigation by Human Resources that was independent, fair, and objective. The City's proof is strong, as detailed above. During Director Malone's tenure, no employees have deliberately nested so the non-discriminatory prong has no bearing here. Given the seriousness of the infraction and risks to the City and public, the discipline is reasonable and proportional.

As this Commission may recall from training, progressive discipline (i.e., escalating discipline, counseling, reprimand, suspension, demotion, termination) is not always required for just cause to exist. The City's policies state this and nothing in the applicable Memorandum of Understanding requires progressive discipline.

Administrative Rule 2.35 states:

The City of Vallejo, may, in its sole discretion, employ a progressive discipline sequence involving some or all of the following steps: counseling, oral reprimand, written reprimand, suspension, reduction in pay, demotion and discharge. The City may, however, decide to skip one or more of these steps, depending on the circumstances. In addition, the City reserves the right not to employ progressive discipline, and proceed directly to termination whether the City deems it appropriate to do so.

The decision to use progressive discipline lies within the agency's discretion and in cases where the underlying conduct is especially serious, resulted in, or was likely to result in harm to the public, progressive discipline is not required. See *Talmo v. Civil Service* (1991) 231 Cal.App.3d 210, 230, finding progressive discipline was not required given the seriousness of the employee's conduct and its potential for harm to the public. As in *Talmo*, here the seriousness of Appellant's conduct given its intentionality and grave risks justifies the discipline.

DISCUSSION

This case is about supporting leaders who strive to hold staff accountable for intentional violations that risk the public's health and expose the City. The Union has a job to do and given the strength of the City's evidence, the Union may attempt to distract this Commission from the three questions before it. Lacking any evidence to refute the charges, the Union engages in "whataboutism," defined in the Merriam-Webster dictionary as a rhetorical device that involves accusing others of offenses as a way of deflecting attention from one's own deeds." In this way, the Union focuses on discrediting the City without refuting or disproving the charges. This is a logical fallacy. Rather than addressing the charges, the Union simply changes the subject.

The City requests the Commission critically consider the timeline of when Director Malone made his decision to discipline and why he did so. The City asks the Commission to not lose sight of the evidence amongst smoke and mirrors.

This Commission is empowered to send a message that it supports both accountability and fairness for the employee and the employer. City staff who work hard at their jobs should not be left to feel that employees can intentionally use City paid overtime to catch up on sleep, while others are expected to perform their jobs.

The City has proven its case. The five-day suspension is justified.

CONTACT

Meera H. Bhatt, Assistant City Attorney

IBEW Local Union 1245
30 Orange Tree Circle
Vacaville, CA 95687
Telephone: (707) 452-2700
Fax: (707) 452-2701
www.ibew1245.com

Janval "JV" Macor
Sr. Business Representative
(707) 761-1948
Jvm6@ibew1245.com



IBEW1245

THE POWER IS IN OUR HANDS

BOB DEAN, BUSINESS MANAGER
CECELIA DE LA TORRE, PRESIDENT

IBEW LOCAL 1245 POSITION STATEMENT

- Appeal: Notice to Suspend, K. McKay

City of Vallejo, Civil Service Commission Open Session:

City of Vallejo Civil Service Commission

Dear Commissioners,

Please accept this position statement provided by the International Brotherhood of Electrical Workers, Local Union 1245 (Local 1245), for review, discussion and consideration regarding the Appeal filed on behalf of and at the request of its member Kenneth McKay (Appellant) for a Notice to Suspend – Five (5) Days (NTS) issued on or about November 19, 2020.

Page numbers referenced herein pertain to the NTS and other previously presented supporting documents, which the parties have agreed to uniformly refer to as the Joint Exhibit Package (JEP) in order to avoid redundancy of materials presented to the Commission. Local 1245 Exhibits are incorporated into the JEP.

The following Local 1245 Exhibits are referenced accordingly throughout this document:

- Local 1245 Exhibit 1: Local 1245 Responses to Relevance of its Information Requested, Pages 001 - 008
- Local 1245 Exhibit 2: Photos of Control Room Related to 10/2019 Allegations, Pages 009 - 011
- Local 1245 Exhibit 3: Excerpts from AR 2.23, Fleming Hill Emergency Action Plan, Pages 012 - 018
- Local 1245 Exhibit 4: Excerpts from 2017 Interactive Process Meeting Notes (Redacted), Pages 019 - 021

- Local 1245 Exhibit 5: Excerpts from 2018 Interactive Process Meeting Notes, Pages 022 - 026
- Local 1245 Exhibit 6: COVID 19 Complaints and accommodation request from April 2020 to October 2020 (Redacted), Pages 027 - 032
- Local 1245 Exhibit 7: Appellants last available annual evaluation and associated rebuttal letters from 2015, Pages 033 - 039

Local 1245 Position Statement

Local 1245 would like to present the following mitigating circumstances/positions for the Civil Service Commission to consider that it alleges will show questionable application of the just cause principles of employee discipline with regards to the NTS and the City's reasons provided therein for upholding the five-day suspension in this case (see "Facts Supporting Violation of Administrative Rules", JEP, pages 040 - 042).

- The City is providing that the omission by the Appellant to let his supervisor know of his prescribed medication when accepting an overtime assignment that started at 2000 hours on or about October 9, 2019 is one of the key allegations providing the weight needed to uphold a five-day suspension.
 - What is not presented to the Commissioners is that the Appellant has been properly prescribed medication for his on-going back pain due to a work-related injury sustained in 2015 while working for the City. The Appellant has consistently abided by his primary care physician's prescribed therapies. I, as an authorized representative of Local 1245, have been present at reasonable accommodation meetings for the Appellant in 2017 and again in 2018, when the requesting accommodations for his back, including the yoga mat that is incorporated to this overall Appeals matter, witnessing him tell the City's designees present that he takes medication for his back injuries per his prescribed instructions. The City has known for years that the Appellant takes prescribed medication for his 2015 work-related back injury (See Local 1245 Exhibit 4&5 in the JEP, Pages 019 - 026). As a matter of fact, the Appellant has continually up until this incident adjusted his medications with his physician's help to minimize any potential impact on his work but claiming that the City was not aware of his medications is not a viable fact that should be relied on to impose discipline in this case.
 - Furthermore, with regards to the prescribed medication in question, Local 1245 presents that it finds it very difficult to determine how the City could make any assumption as to the Appellant's potential impairment on or about October 9, 2019. The City's Confidential Administrative Investigation Report states that the Appellant volunteered that he was feeling drowsy while on duty due to his medication, implying that he was impaired (See JEP, Page 140). There were no reasonable suspicion triggers or follow-up investigations or questions at all asked

- surrounding this occurrence to present to the decision makers that he was at all impaired (See Item No. 6 in Local 1245 Exhibit/JEP 1, page 007).
- It should also be noted that there have never been any reasonable suspicion allegations made against the Appellant since his injury in 2015 to date with respect to his known therapy involving prescribed medication that in any way “interfered with the safe and effective performance” of his duties (See Item No. 6 in Local 1245 Exhibit/JEP 1, page 007).
 - Local 1245 would like to point out that notwithstanding the Appellant’s email sent one month after the fact to his leadership, to remedy his situation (see JEP page 298), he never provided that he had in fact taken any medication at a time that may have negatively impacted him on night in question. As a matter of fact, he City, in its efforts to pursue disciplinary action, omitted any further questioning regarding any aspect of his medications that may have rendered the issue moot in the case.
- The City also presents, as a fact supporting its decision to suspend the Appellant, the testimony of a co-worker, Jacob Parsons, who on or about October 9, 2019, had what appears to be an editorial and friendly conversation with the Appellant at the beginning of his overtime shift regarding the Appellant’s yoga mat (Local 1245 Exhibit/JEP 5), which Mr. Parsons incorrectly referred to as a “sleeping mat” in his October 15, 2019 email to Joe Abitong (see JEP, page 158).
 - The contents and subject of the Appellant’s conversation with Mr. Parsons, as much as the City would like to place weight on it, are immaterial and should not be taken out of context here. Local 1245 and the City should understand the Appellant has no obligation whatsoever to discuss or explain his protected American with Disabilities Act accommodations with anyone other than those specific individuals within the organization who have been involved in the Appellant’s situation from the onset of his work-related injury.
 - The City then goes on to rely on and use the testimony of two additional co-workers who, on or about October 10, 2019 at approximately 0300, allegedly witnessed the appellant with his eyes closed and laying on his yoga mat, which they unknowingly, or purposefully, described as a “mattress and pillow” or “bed roll and a pillow” (see JEP pages 160 & 162). It was alleged by the City and at least one of the witnesses, Mr. Barlow, in his email statement, that this alleged action would have left the City with “no clue of a main break or other major issue” (see JEP, page 160, Barlow Statement) posed a “potential for serious risk to the public” (Quote taken from NTS, JEP, page 171, second paragraph).
 - What we know as a fact is that nothing in the realm of major issues or serious risk to the public occurred at the time in question. Local 1245 presents that it is difficult to sustain this position made by the witnesses and the City due to the following mitigating circumstances:
 - The situation allegedly found was apparently not as big of a safety or operational issue as the Appellant, Local 1245 and this Commission are

being asked to believe because no action whatsoever to “protect” the system was immediately made by anyone involved who provided testimony during the investigatory phase of this case.

- There was no physical attempt by anyone involved to check on the condition of the Appellant, who may have been stretching his back, or passed out from a medical condition or worse. This was apparently not as important as the witnesses relaying what they believe they saw many hours later to their leadership, as evidenced by the statements taken.
 - There was also no attempt whatsoever to contact management at the time the alleged unsafe condition was discovered to seek a decision on how to proceed for the safety of the system, much less the Appellant. This fact was also apparently not as important as the witnesses relaying what they believe they saw hours later to their leadership, again as evidenced by the statements taken.
 - There was no follow up tailboard or job hazard analysis after this incident to reaffirm with field staff what steps to take when an unsafe act or condition is found.
 - Local 1245 presents that these hearsay statements by the witnesses and subsequent positions taken by the City can hold no merit when held to the light of the basic principles regarding the immediately reporting and acting on Hazardous Conditions, including possible medical emergencies, that employees, including management, should all be trained on. This is made evident throughout various City and Department-specific documents on the subject (See Local 1245 Exhibit/JEP 3, pages 013 – 018 for examples).
- The City also states that these co-workers were in the Operators room for “at least 30 minutes before they left” (See first paragraph, JEP page 171). Local 1245 would ask that upon understanding the actual size of the control room in question, approximately 12’ x 14’, it would be impossible for two adult males to stay in such a small space with a third adult male for 30 minutes (see Local 1245 Exhibit/JEP 2, pages 010 - 011). If the statement made in the NTS were in fact true, it would further place into suspect the actions, or immediate lack thereof, of the witnesses in this case.
 - 1245 would like to present the Commissioners with one of the most glaring mitigating circumstances that cannot be overlooked in any fashion. The actual and unprofessional timeline from the date of alleged occurrence to the final issuing of the discipline in this case.
 - On or about October 9/10, 2019 the alleged violations occur.
 - On or about October 30, 2019, an Administrative Investigation takes place.
Approximately 22 Calendar Days after the occurrence.
 - On or about March 4th, 2020, a Notice of Intent to Suspend is issued to the Appellant. **Now we are at approximately 147 Calendar Days after the**

occurrence and 126 days after the Administrative Investigation was conducted.

- Local 1245 immediately requests a due process Skelly /Pre-disciplinary meeting for the Appellant within the provided timeline and actively provided dates for Skelly meeting scheduling.
- On or about March 13, 2020, COVID 19 impacts in-person meetings and Local 1245 works with the City until an in-person Skelly meeting can be scheduled.
- On or about June 10, 2020, a Pre-disciplinary Skelly meeting was held with City of Vallejo Fire Chief presiding as the Skelly Officer, observing all COVID protection protocols in place. **Approximately 237 Calendar Days after the occurrence.**
- On or about June 10, 2020, the Skelly officer very timely provides Water Director Mike Malone, Human Resources Director Heather Ruiz and Human Resources Analyst Doris Papillon-Allen a written Skelly Hearing Findings report (See JEP, pages 365 - 372). **At this point, we are still 237 Calendar Days after the occurrence.**
- On or about November 19, 2020, the City issues the NTS, disregarding the recommendation of the respected Skelly Officer, Chief Arbuthnott, after his careful consideration of the Appellant's statements, supporting documents provided and the points raised by Local 1245 on or about June 10, 2020. **Approximately 161 Calendar Days from the June 10th Skelly meeting.**

Approximately

407 Calendar Days from the occurrence, or

1 Year, 1 Month and 8 days

- Local 1245 hold this Civil Service Commission in the same respectful light as it would any third party neutral/arbitrator or Administrative Law Judge who could potentially oversee such a case. With that in mind, Local 1245 simply presents the amount of time, the 400 plus calendar days it took this City from occurrence to issuing of discipline as a very compelling mitigating circumstance supporting rescinding the discipline in this case with regards to any behavior changing effects the discipline may have been intended to address had the City processed this matter in a timely fashion.

Opinion Statement

On behalf of the Appellant in this case, Local 1245 respectfully has presented mitigating circumstances in its statement that it believes will assist the Commissioners in deciding with regards to an outcome that differs from what the City is seeking.

The City chose to use the email statement sent by the Appellant to his superintendent a month after the fact regarding his prescribed medication, as evidence that he willfully

and maliciously violated AR 2.28, but we provide that the City cannot truthfully deny it has been aware of his medications since 2015. The City is relying on this email as its “smoking gun” that he willfully and deceitfully violated Drug and Alcohol administrative rules. Additionally, it is used, without any supporting evidence, to also imply that he may have been impaired while performing his duties.

The City chose to give a great deal of weight to assumptions made by employees in this case as to the Appellant’s possession and use of accommodation equipment. Local 1245 believes this practice should be avoided by co-workers and employers alike for obvious reasons up to and including ADA violations. Additionally, the employees in this case, with no legal basis or need for knowledge of the Appellants ADA accommodations, felt it important to provide their assumptions as signed testimony to what they reported as a “sleeping mat and pillow” or “mattress and pillow” or “bed roll and a pillow”. This is not their fault at all, but what is surprising is the employer’s use of these statements to bolster its case, when the Appellant has gone as far as providing photographs of what he uses and has been approved to possess at work as his accommodations. Local 1245 is cautious to reserve any opinions that the witnesses in this case acted with any malicious intent to see the Appellant disciplined when they initially had their conversations with management hours after the fact. Maybe we will come to a better understanding as why the unsafe act or condition allegedly found was only attributed to the Appellant and not all involved for lack of immediate address.

Local 1245 requested copies of the Appellant’s Annual Evaluations to determine if there were any documented patterns of similar instances or other issues including any recorded performance improvements that may have assisted all the decision makers in assessing the outcome of this matter. Local 1245 was surprised to see presented that the only recent annual evaluation prepared by the Department on file was from 2015 (See Local 1245 Exhibit/JEP 7, pages 34 - 36), six years ago.

Local 1245 was made aware of previous incidents involving allegations of employees in Water Operations accused of similar actions, such as allegedly sleeping on the job, and we requested redacted copies of the discipline issued in that case. Local 1245 has since also discovered that in one case, a written reprimand with no harm to the employee’s wages and benefits was imposed (See Item No. 5, Local 1245 Exhibit/JEP 1, page 007). We present that given what we see as being serious mitigating circumstances in this case; one can only conclude that the Appellant is exposed to undue disparity and scrutiny when faced with the imposition of his 5-day suspension.

Likewise, we may also conclude that the start to finish timing of this discipline is questionable due to its uncanny imposition after so much time had elapsed from the Skelly meeting, not to mention the event itself, yet it was quickly resurrected soon after the Appellant’s numerous complaints of COVID 19 safety violations and requests for COVID 19 accommodations took place. The Appellant’s complaints and requests began in April of 2020 and then escalated in the months between the delivery of the

Skelly Report on June 10, 2020 and the subsequent NTS on November 19, 2020 (See Local 1245 Exhibit/JEP, pages 028 - 032). Though Local 1245 is not accusing the City of deliberately using these instances as a cause to retaliate via the issuing of discipline 400 plus days after the fact, the timing of the City's actions here begs one to question why or how the two may possibly be associated. If deliberate or the City simply forgot to follow through in a timely fashion, both can only render the upholding of this discipline to be without merit or just cause.

However, of all that 1245 has presented so far, the one item we hope no one at this hearing will disregard is the glaring untimely and unfairly extended period of 400 plus days from alleged occurrence until a decision to issue discipline was made in this case. That is not a benchmark of positive discipline in any book of standards and it should not be acceptable to any professional organization or group of decision makers.

Local 1245 may conclude that in those 400 plus days it may not have been "convenient" to reduce staff to issue punitive punishment during over one year of time due to ongoing wildfire events, Public Safety Power Shut Off events, COVID 19 operations etcetera, but those are not real reason to prolong the process for impacted employees. Disciplinary action and its timely processing have never been a matter of convenience for either party in Local 1245's experience, especially that of the imposing party. Allowing such lengthy timeframes shows a lack of desire to truly change any alleged behavior in the spirit of positive discipline, but rather a desire to be purely punitive. That can be seen as especially true in this case given that there were no repeat occurrences or issues to note in the elapsed 400 plus days from the alleged event occurring in 2019. Not only did other similar issues never arise in that extended time frame, but neither did any performance issues arise supporting additional punitive action, as evidenced by the lack of any annual employee evaluation records presented.

Remedy Requested

Local 1245 respectfully requests that, at the conclusion of this hearing, the City of Vallejo Civil Service Commission rescind or reduce the discipline issued and served in this case, making the Appellant whole in all ways, including lost wages and benefits.

Decision

A written decision by the Civil Service Commission regarding this case is hereby requested by Local 1245 of the International Brotherhood of Electrical Workers delivered by mail to

Janval Macor, Business Representative

c/o Local 1245, IBEW

30 Orange Tree Circle

Vacaville, CA 95687

An electronic copy in PDF format may also be sent to jvm6@ibew1245.com



Janval Macor
Business Representative
Local 1245, IBEW

Presented to Human Resources, the Legal Department and the CSC Executive Secretary on or about March 2, 2021 via electronic delivery and addition to the CSC Agenda Packet of March 8, 2021.



LOCAL UNION 1245

30 ORANGE TREE CIRCLE
VACAVILLE, CA 95687
P.O. BOX 2547, VACAVILLE, CA 95696

Bob Dean, BUSINESS MANAGER
Cecelia De La Torre, President

(707) 452-2700
FAX (707) 452-2701

January 20, 2021

Meera Bhatt
Assistant City Attorney
City of Vallejo
555 Santa Clara Street
Vallejo, CA 94590

Via email: meera.bhatt@cityofvallejo.net

Re: City of Vallejo's Response to Request for Information Related to Appeal of Five-Day Suspension of Water Treatment Plan Operator Kenneth McKay

Dear Ms. Bhatt:

I would like to take this opportunity to address any requests for relevance generated by the RFI responses we received from the City on or about January 19, 2021.

For the purposes of efficiency, I will only address the applicable numbered items taken from the January 19th RFI response as follows:

(2) Request Number Two: Copies of the Appellant's annual reviews from 2015 to present.

City Response: The City objects on the grounds that the requested information is equally available to Mr. McKay and is or should be in his possession. Without waiving this objection, the City will produce responsive documents in its possession.

Local 1245 Response: Local 1245 consistently requests an employee's annual performance reviews when they are not initially provided in disciplinary packets in order to assist in determining if there existed a pattern relevant to the case Local 1245 is processing. Annual evaluations assist in determining if the employer is doing its due diligence in effectuating annual reviews that determine, but are not limited to, recognizing positive achievements, satisfactory performance, establishment goals, address deficiencies for improvement, when necessary and present the results of any improvements undertaken by the employee. In this case, Local 1245 may additionally be concerned that no evaluations were performed by the City because Mr. McKay has no recollection or records of having been properly evaluated on an annual basis for a number of years now.

(3) Request Number Three: Copies of any material specific to the Appellant's back injury from date of occurrence in 2015 to present, including but not limited to:

- Meeting notes taken by Risk Management on behalf of any interactive process meetings held for the Appellant from the date of injury in 2015 to date.
- Any accommodation requests, doctor's notes or other documents related to the Appellant's back injury from 2015 to date.

City Response: The City objects to this request on the grounds of relevancy. The discipline imposed is based upon Mr. McKay's misconduct as detailed in the Order. The discipline is not based on the use of or requests for accommodations. Thus, if the Union is unwilling to provide a release from Mr. McKay, the City requests the Union explain how the requested information is relevant and necessary to Mr. McKay's defense at hearing.

Without waiving these objections, the City will provide responsive documents in its possession upon receipt of Mr. McKay's signed authorization.

Local 1245 Response: Local 1245 is providing, attached to this letter, a release form signed by Mr. McKay. The relevance of this request is to show that Mr. McKay had disclosed the need for on-going prescribed treatments and therapies related to his work-related injuries that the City should have been aware of at the time of this occurrence.

(4) Request Number Four: Copies of any COVID-19 accommodation requests made by the Appellant in 2020 to management and/or Human Resources.

City Response: The City objects on the grounds of relevance. The City does not understand the relevancy of this request to the discipline, particularly as the discipline was imposed before Mr. McKay raised any issues related to COVID-19 to management and/or Human Resources. The City requests the Union explain how the requested information is relevant and necessary to Mr. McKay's defense.

The City further objects on the grounds that the Union has equal access to the requested information which is or should be in Mr. McKay's possession.

Local 1245 Response: Local 1245 presents that the relevancy of this request is related directly to the imposition of the five-day suspension as a punitive response to Mr. McKay's requests for accommodations seeking protections from COVID 19 due to continuing unsafe conditions that he reported. It is important to understand that the disciplinary decision being appealed here occurred on or about October of 2019. It was as then, in Local 1245's opinion, untimely addressed by the City prior to the arrival of COVID 19 in March of 2020 (close to six months). Eventually Mr. McKay's due process resulted in a June 10, 2020 Skelly meeting with a favorable Skelly Officer decision and recommendation provided to Human Resources and the Department Head found in the "Skelly Hearing Findings – Kenneth McKay" document Local 1245 received dated June 10 of 2020. We had to request this document when the imposed discipline was presented, which did not occur until more than five months later, November 23, 2021, which is after the requests for these COVID 19 accommodations initiated by Mr. McKay in September of 2020, not to mention subsequent on-going complaints of COVID 19 protection non-compliance in his workplace.

(5) Request Number Five: Copies (redacted of personal information) of any disciplinary actions, records of counseling, written reprimands, for similar infractions as those provided to the Appellant.

City Response: The City objects on the grounds that disclosure would violate the constitutional privacy rights of employees. Even with redaction, a description of the surrounding facts and circumstances contained in the documentation will likely reveal the identities of employee(s) disciplined.

The City further objects on the grounds that the phrase “similar” is vague and ambiguous. As the request is unlimited in time and scope, the City further objects on the grounds that it is unduly burdensome.

Without waiving these objections, the City has conducted a diligent and reasonable search. The City is not in possession of copies of any disciplinary actions, counseling records, or written reprimands pertaining to employees of the Water Department who committed “similar” infractions (i.e., who reported to work, failed to notify their supervisor of taking medications which could interfere with job duties, who premeditated sleeping during work hours, and who slept during work hours).

However, to accommodate the Union, the City will provide the Union with a redacted copy of a written reprimand issued to another Water Treatment Plan Operator on June 13, 2016 by a former director, subject to the Union’s agreement limiting the use and dissemination of the written reprimand at the requested open hearing and to not disclose any confidential personnel information during the open hearing.

Local 1245 Response: Local 1245 presents that the relevance in this request lies in ability for Local 1245 and the Civil Service Commission to assess whether disciplinary action is applied consistently and without disparate treatment for similar occurrences, where applicable.

(7) Request Number Seven: Any historical documentation (redacted of personal information) where the City has disregarded the recommendations of a Skelly Officer who recommends a reduction in disciplinary action, inclusive [of] any final decisions rendered either by the Civil Service Commission or a third party neutral (arbitrator).

City Response: The City objects on the grounds of relevance. The City does not understand the relevancy of this request. Each disciplinary action is based upon its own unique facts and circumstances. The City requests that the Union explain how the requested information is relevant and necessary to Mr. McKay’s defense.

The City further objects on the grounds that the request requires disclosure of confidential information and invades employees’ constitutional privacy rights. Even with personal information redacted, disclosure of the facts and circumstances underlying disciplinary actions will likely reveal employees’ identities.

The City further objects on the grounds that this request is unduly burdensome as it is unlimited in time and scope. Additionally, the City objects on the grounds that the phrase “disregarded” is vague and ambiguous and improperly assumes a fact for which there is no evidence (i.e., that the City “disregards” Skelly Officers’ recommendations and the related connotation of this).

Local 1245 Response: Local 1245 is simply trying to establish if the City consistently applies or discards the decisions presented by Skelly officers it appoints to oversee an appellant’s due process rights. The evidence exists in this very case that Human Resources and the Department Head decided that the Skelly Officer’s decision and recommendation to reduce the discipline in this case to one day not be followed, effectively disregarding it.

(8) Request Number Eight: Any pertinent City policy or procedure that provides for addressing hazardous condition, inclusive [of] employee responsibilities when encountering a hazardous condition.

City Response: The City objects on the grounds that this request is vague and ambiguous as to the phrase "hazardous condition." The City requests the Union clarify this phrase.

Without waiving these objections, the City will produce documents it deems responsive in its possession.

Local 1245 Response: As to relevancy of this request, Local 1245 presents that one of the reasons presented by the City in its Notice, which it fortified through the written statements and testimony of those interviewed in the investigative report eventually provided by the City, is that the situation allegedly created by Mr. McKay left an unsafe condition and hazard to the water system (Note: the Investigative report was not part of the original Notice of Intent received by Mr. McKay, Local 1245 had to actually request it). Local 1245 wants to establish through this request the validity of such an allegation towards Mr. McKay because it subsequently appears that it was perfectly acceptable by those involved, including management and the decision makers in this case, that it was not important at all to immediately address the alleged hazard but rather concentrate only on an opportunity many hours later to turn in, investigate and discipline Mr. McKay. If there is no consistency in applying and managing the addressing of hazardous conditions, it raises suspicion that the decision to impose discipline in this case from the onset of the occurrence is purely punitive against Mr. McKay for being Mr. McKay.

I do hope these responses assist the City in understanding the relevance of Local 1245's information requests. I will be reaching out to you to discuss exhibit exchange, scheduling of the hearing, and other pre-hearing procedural matters. We do need to discuss establish what disciplinary packet the City intends to utilize for this case since Mr. McKay and Local 1245 have received no less than three different versions, varying in levels of completion, order, and content, from the first Notice of Intent through to the final Notice to Suspend.

Thank you,


Janval "JV" Macor
Sr. Business Representative
IBEW Local Union 1245

CC: Kenneth McKay, Appellant
File



Department of Human Resources · 555 Santa Clara Street · Vallejo · CA · 94590 · 707.648.4363

January 19, 2021

Janval "JV" Macor
Sr. Business Representative
IBEW Local Union 1245
30 Orange tree Circle
Vacaville, CA 95687

Via email: JVM6@IBEW1245.com

Re: City of Vallejo's Response to Request for Information Related to Appeal of
Five Day Suspension of Water Treatment Plan Operator Kenneth McKay

Dear Mr. Macor:

I have been forwarded your request for information pertaining to Mr. McKay. The City appreciates your patience given the operational impacts of COVID-19, staff shortages, and the holidays. As I will be representing the City in the appeal, please direct all correspondence regarding this matter to me.

The City responds to your requests for information as follows:

- (1) Request Number One: A list of witnesses the City is calling for questioning and testimony.

Response: The City anticipates it may call the following witnesses at hearing:

1. Jacob Parsons
2. Jacob Barlow
3. James Grandrath
4. Michael Malone
5. Joe Abitong
6. Nick Rolley
7. Doris Papillon-Allen
8. Kenneth McKay
9. Kevin Brown

10. John Palesi

As hearing preparation is still underway, the City reserves the right to modify or supplement this witness list.

- (2) Request Number Two: Copies of the Appellant's annual reviews from 2015 to present.

Response: The City objects on the grounds that the requested information is equally available to Mr. McKay and is or should be in his possession.

Without waiving this objection, the City will produce responsive documents in its possession.

- (3) Request Number Three: Copies of any material specific to the Appellant's back injury from date of occurrence in 2015 to present, including but not limited to:

- meeting notes taken by Risk Management on behalf of any interactive process meetings held for the Appellant from the date of injury in 2015 to date.
- Any accommodation requests, doctor's notes or other documents related to the Appellant's back injury from 2015 to date.

Response: The City objects to this request on the grounds of relevancy. The discipline imposed is based upon Mr. McKay's misconduct as detailed in the Order. The discipline is not based on the use of or requests for accommodations. Thus, if the Union is unwilling to provide a release from Mr. McKay, the City requests the Union explain how the requested information is relevant and necessary to Mr. McKay's defense at hearing.

Without waiving these objections, the City will provide responsive documents in its possession upon receipt of Mr. McKay's signed authorization.

- (4) Request Number Four: Copies of any COVID-19 accommodation requests made by the Appellant in 2020 to management and/or Human Resources.

Response: The City objects on the grounds of relevance. The City does not understand the relevancy of this request to the discipline, particularly as the discipline was imposed before Mr. McKay raised any issues related to COVID-19 to management and/or Human Resources. The City requests the Union explain how the requested information is relevant and necessary to Mr. McKay's defense.

The City further objects on the grounds that the Union has equal access to the requested information which is or should be in Mr. McKay's possession.

- (5) Request Number Five: Copies (redacted of personal information) of any disciplinary actions, records of counseling, written reprimands, for similar infractions as those provided to the Appellant.

Response: The City objects on the grounds that disclosure would violate the constitutional privacy rights of employees. Even with redaction, a description of the surrounding facts and circumstances contained in the documentation will likely reveal the identities of employee(s) disciplined.

The City further objects on the grounds that the phrase "similar" is vague and ambiguous. As the request is unlimited in time and scope, the City further objects on the grounds that it is unduly burdensome.

Without waiving these objections, the City has conducted a diligent and reasonable search. The City is not in possession of copies of any disciplinary actions, counseling records, or written reprimands pertaining to employees of the Water Department who committed "similar" infractions (i.e., who reported to work, failed to notify their supervisor of taking medications which could interfere with job duties, who premeditated sleeping during work hours, and who slept during work hours).

However, to accommodate the Union, the City will provide the Union with a redacted copy of a written reprimand issued to another Water Treatment Plant Operator on June 13, 2016 by a former director, subject to the Union's agreement limiting the use and dissemination of the written reprimand at the requested open hearing and to not disclose any confidential personnel information during the open hearing.

- (6) Request Number Six: Copies of any notes or documentation by any management individual that relates to any "reasonable suspicion" concerns or action taken against the Appellant related to a determination of impairment.

Response: The City has conducted a diligent and reasonable search and is not in possession of the requested documentation.

- (7) Request Number Seven: Any historical documentation (redacted of personal information) where the City has disregarded the recommendations of a Skelly Officer who recommends a reduction in disciplinary action, inclusive [of] any final decisions rendered either by the Civil Service Commission or a third party neutral (arbitrator).

Response: The City objects on the grounds of relevance. The City does not understand the relevancy of this request. Each disciplinary action is based upon its own unique facts and circumstances. The City requests that the Union explain how the requested information is relevant and necessary to Mr. McKay's defense.

The City further objects on the grounds that the request requires disclosure of confidential information and invades employees' constitutional privacy rights. Even with personal information redacted, disclosure of the facts and circumstances underlying disciplinary actions will likely reveal employees' identities.

The City further objects on the grounds that this request is unduly burdensome as it is unlimited in time and scope. Additionally, the City objects on the grounds that the phrase "disregarded" is vague and ambiguous and improperly assumes a fact for which there is no evidence (i.e., that the City "disregards" Skelly Officers' recommendations and the related connotation of this).

- (8) Request Number Eight: Any pertinent City policy or procedure that provides for addressing hazardous condition, inclusive [of] employee responsibilities when encountering a hazardous condition.

Response: The City objects on the grounds that this request is vague and ambiguous as to the phrase "hazardous condition." The City requests the Union clarify this phrase.

Without waiving these objections, the City will produce documents it deems responsive in its possession.

Given that hearing preparation is still underway, the City reserves the right to modify, add to, or supplement any of the above responses.

Should you have any questions or concerns or any legal authority you believe supports your right to the requested information, I invite you to contact me to discuss. The City is willing to consider your position and to offer any possible accommodations, if appropriate. Upon your review of this letter, please contact me to discuss exhibit exchange, scheduling of the hearing, and other pre-hearing procedural matters.

Thank you,



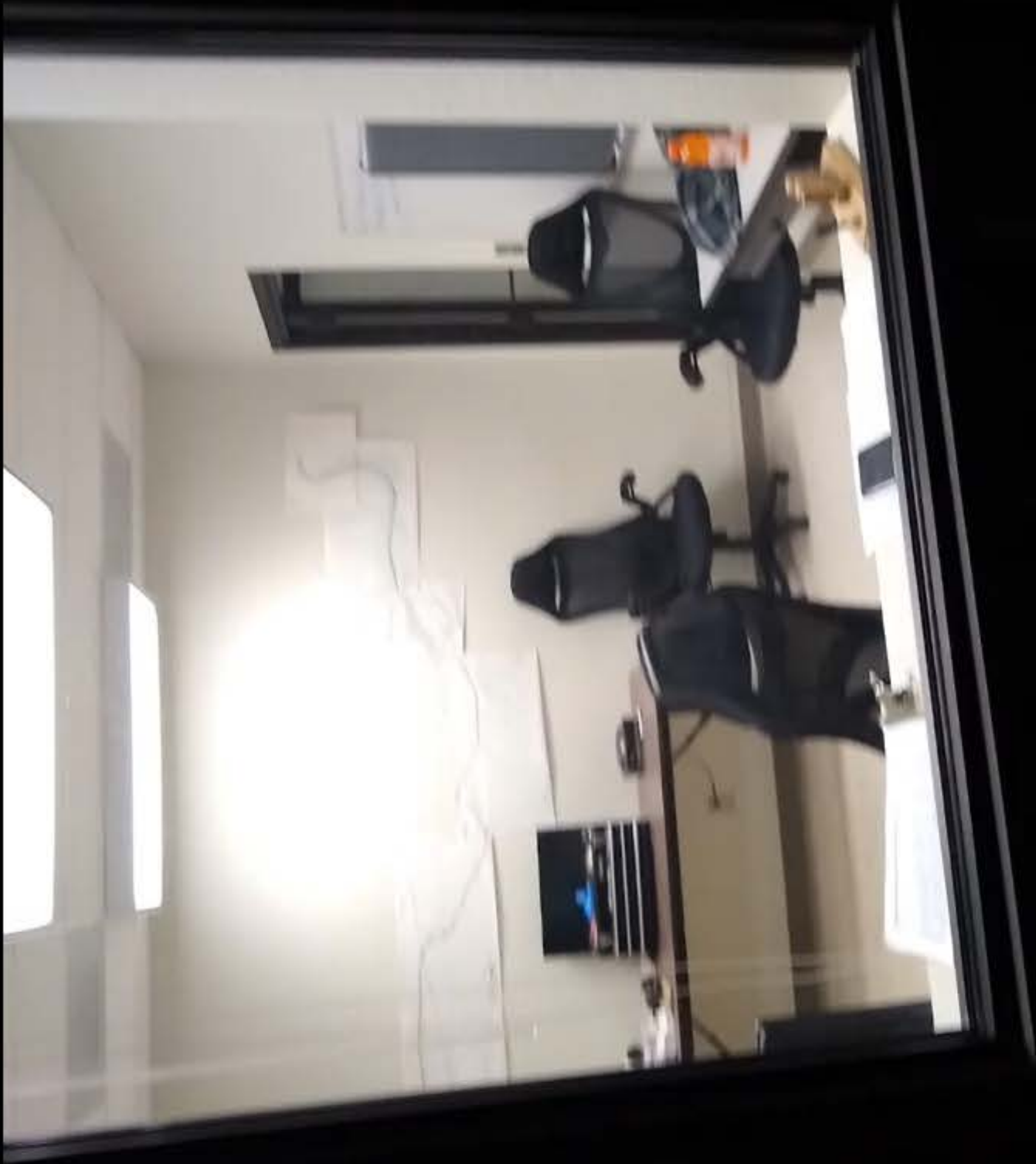
Meera Bhatt
Attorney for City of Vallejo

LOCAL 1245 EXHIBIT 2



Control Room 12'x14'...small

Room 12x14



Looking in from outside.

LOCAL 1245 EXHIBIT 3

SUBJECT: INJURY AND ILLNESS PREVENTION PROGRAM
(IIPP)

DATE EFFECTIVE: 10-01-99
DATE REVISED: 7-9-03

I. PURPOSE

In compliance with Cal-OSHA's Injury and Illness Prevention Program (IIPP) requirements, the City of Vallejo presents this program in order to provide a safe working environment for the employees.

Under Title 8 of the California Code of Regulations, Section 3202, IIPP includes the following elements:

- A. Responsibility
- B. Compliance
- C. Communication
- D. Hazard Assessment
- E. Accident/Exposure Investigation
- F. Hazard Correction
- G. Training and Instruction
- H. Record keeping
- I. Specific Safety Guidelines

II. AUTHORITY (Scope)

This Administrative Rule is promulgated to comply with Title 8 of the California Code of Regulations, Section 3202; and applies to all employees.

III. POLICY

The Injury and Illness Prevention Program (IIPP) administrator, David Martinez, City Manager, has the authority and the responsibility for implementing and maintaining this safety program for the City of Vallejo.

2. Examining the workplace for factors associated with the accident/exposure
3. Determining the cause of the accident/exposure
4. Taking corrective action to prevent the accident/exposure from reoccurring Recording the findings and actions taken

F. **Hazard Correction**

Unsafe or unhealthy work conditions; practices or procedures shall be corrected in a timely manner based on the severity of the hazards. Hazards shall be corrected according to the following procedures:

1. **When observed or discovered**
2. When an imminent hazard exists which cannot be immediately abated without endangering employee(s) and/or property, we will remove all exposed workers from the area except those necessary to correct the existing condition. Workers who are required to correct the hazardous condition shall be provided with the necessary protection

G. **Training and Instruction**

All workers, including managers and supervisors, shall have training and instruction on general and job-specific safety and health practices. Training and instruction is provided:

1. When the IIPP Program is first established
2. To all new workers, except for construction workers who are provided training through a construction industry occupational safety and health training program approved by Cal/OSHA
3. To all workers given new job assignments for which training has not previously provided
4. Whenever new substances, processes, procedures or equipment are introduced to the workplace and represent a new hazard
5. Whenever the employer is made aware of a new or previously unrecognized hazard

Fleming Hill Water Treatment Plant

Emergency Action Plan

City of Vallejo Water Department

Section I: Purpose of this Plan

An emergency action plan (EAP) is a written document required by particular OSHA standards. [[29 CFR 1910.38\(a\)](#)] The purpose of an EAP is to facilitate and organize employer and employee actions during workplace emergencies. Well-developed emergency plans and proper employee training (such that employees understand their roles and responsibilities within the plan) will result in fewer and less severe employee injuries and less structural damage to the facility during emergencies. A poorly prepared plan, likely will lead to a disorganized evacuation or emergency response, resulting in confusion, injury, and property damage.

- This Emergency Action Plan has been constructed to address various hazards that may unexpectedly arise during our work day, such as personal injury or illness, fire, chemical releases, earthquake, bomb threat, power outage, biological threat, hostage incident, gas leak, flooding, suspicious package or letter and civil disturbance.
- Study of this plan in advance will alert the individual to actions that should be taken to protect themselves and their co-workers in the event of these scenarios. It should also serve to highlight any omission either in assessing an unrecognized hazard or adequately planning recommend action. Active individual participation is indispensable to the success of this plan.

Section V: Emergency Specific Procedures

This Plan has been established, in part, to facilitate coordination and emergency planning with off-site response officials in the event of an emergency. Should an emergency occur which requires off-site assistance given its magnitude and limitations of on-site capability as determined by the Evacuation Coordinator; the Evacuation Coordinator without delay will immediately notify the appropriate agencies for the assistance required as listed below. The Evacuation Coordinator or designee shall meet the responding agencies and direct them to the incident and stand by to assist with information and other resources.

- 1) Priority [REDACTED]
Fire/Police [REDACTED]
Non-Emergency [REDACTED]
Non-Emergency [REDACTED]
Cellular [REDACTED]
- 2) State Office of Emergency Services
1-800-852-7550 [REDACTED]
- 3) Other Agencies
City-wide water emergency [REDACTED]
PG&E (Electric & Gas): [REDACTED]
Solano County Environmental [REDACTED]
[REDACTED]
National Response Center [REDACTED]

Medical Emergencies

When a medical emergency occurs, conduct a primary assessment of the injured employee(s) to discover the main problems (i.e. burns, respiratory, laceration, chest pain, psychologic or physiologic shock, etc.). Next, call 9-9-1-1 if EMS assistance is available and instruct another employee to inform a Supervisor or Evacuation Coordinator of the medical problem.

Medical Treatment:

Response to medical emergencies are initiated by dialing 9-9-1-1 and providing first aid until the fire department or paramedics arrive. Under certain circumstances such as large earthquakes, assistance from the fire department or paramedics may be delayed.

- Evacuate the area if employees and other personnel display or complain of any uncommon signs and/or symptoms.
- After evacuation, do not reenter the area until it has been cleared by the Evacuation Coordinator.

Emergency Utilities Shutdowns

Certain emergencies may require the shutdown of utilities such as Gas, Water, Electricity, Compressed Air and Air Circulation. The Evacuation Coordinator will make the determination whether or not to shutdown certain utilities on a case by case basis. Employees that are required to shutdown utilities will receive training on the proper procedures.

Section VI: Employee Training & Drills

All employees will be trained on:

1) Evacuations: How to initiate an evacuation, and proper evacuation procedure.

2) Emergency specific procedures

- Medical Emergencies
- Fires.
- Chemical Release (spill) Procedures
- Earthquake Procedures
- Power Outage Procedures
- Bomb Threat Procedures
- Civil Disturbance Procedures
- Suspicious letter, card, or package
- Odor Procedures

3) Fire prevention

- The potential fire hazards present at Fleming Hill Water Treatment Facility.
- Procedures to follow to prevent fires.
- Fire extinguisher training. (VFD Prevention or DuAll Safety)

LOCAL 1245 EXHIBIT 4



Employee Interactive Process Notes

Employee	Ken McKay
Title	Water Treatment Plant Operator
EE# / Hire Date	
Supervisor	Stewart Cole
Work Location	Water
Contact Number	

In attendance: Ken McKay, JV Macor (IBEW)
Janet Thiessen (HR Prg. Mgr), and Maili Madsen (notetaker)

Date	Notes
8/29/17	Physician rent
	Janet asked Ken to let ask doctor what his restrictions are with norco. Ken said he does not take it work. She asked him to doublecheck what is the latest time he can take it before work.

DATE 8/29/17

UN UM RM

PURPOSE: HM i.p. meeting
2

CUE COLUMN

NOTES

City IT

Force -



ASK physician if there are restrictions as far as work is concerned

Key - Don't fake a work.

UT - How much fine before
snirt can it be taken.

On it
in work
(baw)

SUMMARY

LOCAL 1245 EXHIBIT 5



**CITY OF VALLEJO HUMAN RESOURCES
REASONABLE ACCOMMODATION REQUEST FORM**

I. General Information

Name of Employee: Kenneth McKay
Employee #: _____ Position: Water Treatment Plant operator
Supervisor: Cole ABITONG Department: Water

II. Type of Accommodation Requested

- ☐ Time off from regular work schedule
- ☐ Modification of job schedule
- ☒ Modification of job duties
- ☒ Modification of policy
- ☐ Alteration to job site

☒ Other: Use of Yoga Mat and ball and foam roller

III. Description of Accommodation and Job Function Relationship

Describe as completely as possible the type of accommodation you are seeking. If appropriate, please list specifications for products indicated. Please also describe the job function you will be able to perform by use of this accommodation.

Modification of policy: please make exception
to the water department's 100% healed requirement
to operate plants.
Please allow me to get up and stretch as needed
Please NO shoveling, or pulling weeds

IV. Certification of Request

I voluntarily request I be provided with the above indicated work accommodations in compliance with the California Fair Employment & Housing Act (FEHA)/Americans with Disabilities Act (ADA). I understand that City of Vallejo requires I provide medical documentation supporting this request and the determination of whether or not I am eligible for accommodation is contingent upon such documentation. Moreover, I understand under FEHA/ADA, only reasonable accommodations that do not pose an undue hardship to the employer are required.

Employee Signature: Kenneth McKay
Date: 06/04/2017

Human Resources
555 Santa Clara Street, Vallejo, CA 94590



Risk Management Division • 555 Santa Clara Street • Vallejo • CA • 94590 • 707.648.8608

December 3, 2018

Ken McKay
[REDACTED]

Dear Mr. McKay,

DOI: 2/12/15
Claim#: CVCI-546840

Our office was informed of your recent request for accommodation as it relates to your 2015 workers compensation claim. We are contacting you to inform you of the various options that may be available to you to ensure that you continue to work in a safe manner.

Please note that when medical restrictions prohibit an employee from performing the "essential functions" of their job, the Americans with Disabilities Act requires that we communicate with the employee concerning an accommodation. An accommodation may involve changing the manner in which you perform your duties, making modifications to your work area, providing assistive devices, altering workflow, changing work hours, or other changes that will allow you to work safely and productively. This accommodation is known as the "Interactive Process".

To continue our discussion regarding your work-related injury, we have scheduled an interactive process meeting at the time listed below:

Date: December 13, 2018
Time: 1:30 p.m.
Location: Human Resources Conference Room, City Hall

You are welcome to bring representation with you to this meeting.

Lastly, please keep in mind that job modifications or reassignment must comply with state and federal laws, as well as any applicable union collective bargaining agreements. Please feel free to contact Risk Management should you have further questions in this regard.

Sincerely,
[REDACTED]

Cc: Employee file
Employee supervisor
Union representation



Interactive Process Meeting

Employee: Ken McKay

Location: Finance Conference Room

Date: 12/13/18

The following items were discussed during this interactive meeting.

- Purpose of the Interactive Meeting
- QME Report/ Permanent & Stationary
- Classification – Water Treatment Plant Supervisor
- Request for Exercise Equipment
- Next Steps

Meeting Participants

Ken McKay, Employee

Signature: Ken McKay

JV Macor, Union Rep

Signature: JV Macor

Mike Malone, Water

Signature: Mike Malone

Sarah Brannick, Human Resources

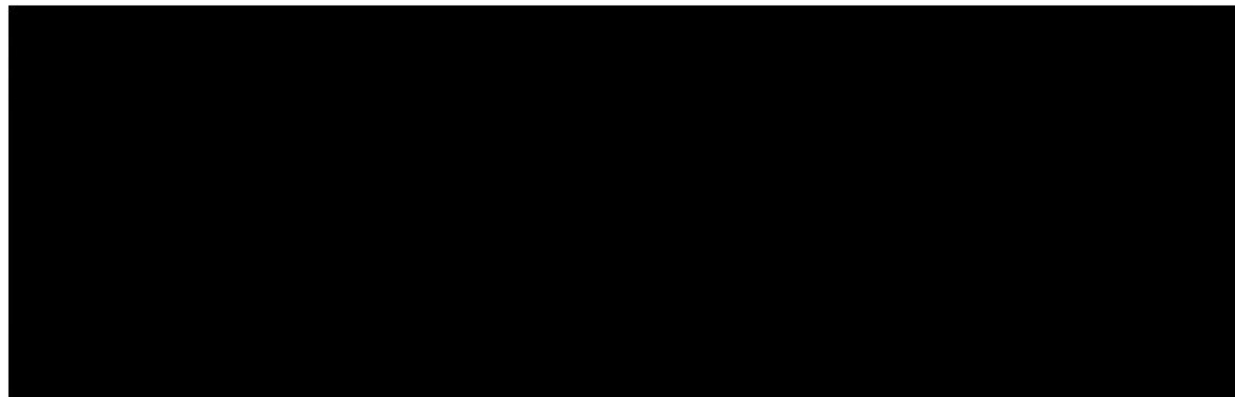
Signature: Sarah Brannick

Malli Madsen, Risk Management

Signature: Malli Madsen

Purpose of Interactive Meeting

This reasonable accommodations meeting was scheduled at the request of Mr. McKay. He is requesting a sit/stand station at Flemming Hill, and the ability to use his own personal exercise/stretching equipment during break time.



Request for Exercise Equipment

Mr. McKay is allowed to use exercise equipment during his breaks, as is any other employee, with the understanding that it will not impede with the water plant's operations.

- The equipment can be used in the filter gallery.
- The equipment may be stored in either Mr. McKay's personal vehicle or in the filter gallery.
- Because break times are flexible, Mr. McKay will be respectful of other employees who may be working during Mr. McKay's break time.

Next Steps

- Mr. McKay will provide Risk the riser he has in mind and Ms. Madsen will work with the department to make sure it will fit in the space provided.
- Ms. Madsen will follow up with the department on making sure the current sit/stand at Travis is fixed with the appropriate bolts.
- Ms. Madsen will send a follow up email to all parties when these two issues are resolved.
- If/when Mr. McKay is assigned to another plant, the interactive process will be reinitiated to ensure that Mr. McKay is accommodated at the next location.

LOCAL 1245 EXHIBIT 6

From: Kenneth McKay
Sent: Saturday, April 18, 2020 11:45 AM
To: Joe Abitong; Beth Schoenberger
Subject: Social Distancing

Hello,

To me it seems like the city's Covid 19 social distancing goals are not being taken seriously or even followed.

In operations we have separated the inside operator and the outside operator, where the inside operator stays in the control room and the outside operator has their own workstation in a cordoned off section of the conference room, this separation should help to keep all safe from viral transmission.

I understand that particularly at work, with close proximity to one another, and 12 hour shifts we need more than the generic 6' of separation, please note the 6 feet of separation is only adequate if no one coughs and is the bare minimum of distancing ones self during passing, it is remiss to think that as long as you're six feet apart you're safe. (<https://jamanetwork.com/journals/jama/fullarticle/2763852?resultClick=1>), it also seems prudent, and should be mandatory, that we all have our own computer/workstation to use while on shift.

Science says I should be taking this very seriously, and I do take it seriously, deadly serious. As a kid, I was afflicted with pneumonia on multiple occasions which puts me at higher risk for becoming seriously ill if I were to contract the Covid 19 virus (<https://pediatrics.aappublications.org/content/135/4/607>).

[REDACTED]

While working at the belt press on Thursday belt press # 2 developed a mud/water leak through eroded gasket in the corner of the water box, since there isn't a computer with internet at the dewatering facility I texted Advanced Operator [REDACTED] at the control desk and asked him to write up a Work Request for maintenance.

I also texted Maint Sup. [REDACTED] and [REDACTED] regarding leak. Within the hour [REDACTED] and mechanic [REDACTED] were on site to fix the leaky gasket.

On inspecting the water box gasket Mr [REDACTED] exclaimed "there's nothing wrong with it, it's the same as the other one" I explained to Mr [REDACTED] that there is a leak and that it leaks when the press is running, where it didn't leak just an hour prior.

Mr [REDACTED] didn't bother to fix the eroded gasket he just hosed it off and called it good.

Mr [REDACTED] had mentioned that he had heard a noise from belt press #1 that was concerning to him, and he wanted me to place press out of service which I did.

Mr [REDACTED] carried himself with airs that he had discovered something that I had missed.

Please note Mr [REDACTED] doesn't try to hide his animus he holds for me/operations.

On Friday while working at the press I noticed the forklift was very low on fuel,so I went to FH to get keys for a truck to drive to the corp yard to get fuel for lift truck.

While in the control room Supervisor [REDACTED] asked me to fill out my time sheet which I did on the only available computer in the Control Room,I was uncomfortable with the close proximity as at times there were 3 people in the control room,me, Advanced Operator [REDACTED],Sup [REDACTED]

Please note I have asked Sup [REDACTED] on multiple if we can get a computer at the press so we can practice safe social distancing.

Later that day, I got a call telling me my lunch was ready,and to come pick it up.

When I got to the hill,Supervisor [REDACTED] asked me to write up a Work Request for the belt press with the leaky gasket.

Apparently Advanced Operator [REDACTED] did not bother to write up the WR that I had asked him to,please note,the only reason I asked him to write it was because I didn't have a computer at the press and didn't want to go against the city's social distancing goals and be in the control room with Morris after the city went through considerable effort to keep everyone separated, mainly by moving the second operator into their own space.

Inexplicably,Supervisor [REDACTED] also wanted me to write up a work request for [REDACTED] and the sound he heard on press #1.

Again, the only computer that was available to me was the one in the control room with Morris,I quipped "so much for social distancing I guess". Mr [REDACTED] responded with "what? We're 6 feet apart" I had mentioned that the city's goals were more than us just being 6 feet apart or they would not have turned the conference room into an office for the outside person.

I am still confused as to why I was tasked with writing up a work request for a mechanic,I believe mechanic [REDACTED] has his own properly social distanced work station,besides I have never heard of an operator being asked to write up a WR for a mechanic,I didn't even here the phantom noise that [REDACTED] heard.

I was reticent in writing this up,especially since I didn't diagnose or even hear the problem, and in the past the mechanics like to tear into work orders with phrases like "operator error" when it wasn't. Or mock operators for giving their troubleshooting opinion on said WR.

As it turned out,on Friday mechanics [REDACTED] and [REDACTED] went to the press and saw that the rubber gasket was indeed leaking mud and water, and they promptly fixed it.

This is something [REDACTED] should have done,instead of proclaiming it to be fine.

They also investigated the noise from press #1.

They found that the noise [REDACTED] heard was nothing to be concerned with,but only happened during the press wash down phase that apparently dozier had never heard.

It was caused by the fabric of the two filters rubbing against each other causing tension then detensioning.

This doesn't happen when press is in dewatering mode and there is a layer of mud between the two fabric filters because the mud acts as a lubricant and keeps the filter fabrics from rubbing against one another and tensioning then detensioning.

Bottom line, can we please get a computer at the press so we don't have to use the one in the control room?

If no computer, can we call in WR and other docs in to have them entered by someone with their own properly social distanced and disinfected computer?

Maybe have truck at the press if it's our reporting plant for more than a day or two?

If the city's social distancing rules are not going to be followed, or if I am made to work in close proximity with those that don't respect other people's health and safety can I work from home?

From: Kenneth McKay [<mailto:Kenneth.McKay@cityofvallejo.net>]

Sent: Thursday, September 17, 2020 7:32 AM

To: Sarah Brannick <Sarah.Brannick@cityofvallejo.net>; Beth Schoenberger <Beth.Schoenberger@cityofvallejo.net>; Joe Abitong <Joe.Abitong@cityofvallejo.net>

Cc: jvm6@ibew1245.com

Subject: Covid 19 Accommodation

Hello it's with great trepidation that I write this.

I'm very concerned about getting covid 19 as I have pre existing conditions that all but guarantee I will die if I get sick.

I report to Fleming Hill where we have shift turnovers in the morning starting from 5:50 to 6:00 the purpose is for the outgoing operator to let the incoming operator know about the condition of the plant etc.

Toward the beginning of the pandemic, April I believe, the inside operator and the outside operator were separated for social distancing and a directive was sent by Joe Abitong telling that we would no longer be trading positions every day and that we would stay as the outside operator or inside operator for two weeks at a time with the intention of minimizing exposure with other operators, this also included turnovers where the outside operator would get the turnover from the outside op and the incoming inside operator from the outgoing inside operator, again this was to minimize exposure to keep us safe. It hasn't worked

that way, when I was working as the inside operator more times than not all operators would come into the control room for turnover and a few just flat refuse to wear a mask I asked

on multiple occasions to wear a mask and he won't.

There are several others that won't wear a mask also. On some mornings there are 5 or 6 people in the control room, this gives me great anxiety and I try and quickly give the turnover so I can leave.

Supervisor has been in the control room when there were way too many people, and Ellicock without a mask but I have never seen him enforce the mask rule or the social distancing of not having 6 people in the control room.

On the morning of the 15th I gave my turnover and was leaving as all the incoming operators were there and ready to start their day, the time was 5:53 called me back and told me I wasn't allowed to leave until 0600. Please note I'm only trying to keep myself from getting sick

and not trying to cheat the city out of a few minutes,in fact when I do leave the control room I usually do spend a few minutes at my car putting my stuff away etc util the 0600 hour. There is more,and I have complained and asked people to wear there mask etc,but the point is I don't feel safe and would like an accommodation where I can work somewhere safer like Travis where there are less people and Supervisor [REDACTED] won't put up with flagrant disregard for others safety.

I hate that it has come to this, but I have a family that count's on me, and we practice all safety precautions at home.

Being around those who refuse to wear a mask and having to stand up for myself has given me anxiety,it makes it hard to get to sleep when I get home.

Attached is my doctors letter for accommodation.

From: Kenneth McKay

Sent: Wednesday, October 7, 2020 6:56 AM

To: [REDACTED]

Cc: Joe Abitong; Mike Malone; Beth Schoenberger; jvm6@ibew1245.com

Subject: [REDACTED] not wearing a mask

Hello [REDACTED] I was stunned when I stepped through the double doors from the filter gallery and you and [REDACTED] were on the other side, yet again [REDACTED] wasn't wearing a mask.

In fact he didn't wear one in the elevator, and only put one on in the control room.

On numerous occasions at turnover [REDACTED] wasn't wearing mask and you didn't tell him to put one on.

I have asked him numerous times to wear a mask, will you please tell him to wear a mask?

As I and my doctor have told you, through doctors note, I am at extreme risk of having a bad outcome if I get sick.

It seems like you're either ok with [REDACTED] not wearing a mask or [REDACTED] thinks your ok with him not wearing a mask since you refuse to call him out on it.

Kind Regards,

LOCAL 1245 EXHIBIT 7

CITY OF VALLEJO ANNUAL PERFORMANCE ASSESSMENT



This form to be used for employees who have NOT completed the Results Based Performance Management (RBPM) Process

Employee Name Ken McKay
Dept/Division Water Operations
Reviewing Manager Stuart Cole

Position/Title Plant Operator
Date of Review 7/28/2015
Review Period 12/24/2014 to 7/28/15

SECTION 1: PERFORMANCE RATINGS ON JOB COMPETENCY FACTORS

For each competency listed, select the rating that indicates the level of performance achieved.

RATINGS:

- **Fully Achieved Results:** ALL results achieved, fully met the performance expectations for the position.
- **Progress Toward Results:** SUBSTANTIAL progress toward achieving the results and the performance expectations for the position.
- **Insufficient Results:** Results produced were INSUFFICIENT or below performance expectations for the position.

Then for each competency evaluated, provide narrative comments that explain the "Rating" option selected. Describe actual performance examples to highlight the results that were or were not achieved.

Competency #1 JOB KNOWLEDGE – Thorough understanding of the essential job duties and performs duties with a minimum of supervision.

Comments Ken generally knows what needs to be done in most operational situations and needs minimal direction from management in his day to day duties. He would benefit from some additional focused training to help him successfully handle unusual situations and operational scenarios that happen infrequently. Practicing shutdowns at Fleming Hill in emergency situations would be a great place to start, as would running jar tests to see how not running a chemical affects the water treatment processes.

Rating Progress Toward Results

Competency #2 QUALITY OF WORK – Demonstrates thoroughness and accuracy and continually looks for opportunities to improve performance.

Comments Ken exhibits good performance skills and fixes some errors on his own without need for coaching. He needs to focus on the details of job, because he sometimes neglects to stay updated on the current conditions of the plant. He has made significant progress on correcting his errors on the midnight reports since his last review. Continued attention to detail will correct these issues in the future.

Rating Progress Toward Results

Competency #3 **PRODUCTIVITY** – Completes job functions in a timely and efficient manner. Consistently meets deadlines.

Comments Ken completes most tasks quickly and efficiently. He does a good job of time management and is rarely late with any of his duties. Ken keeps an eye on the sampling necessary, and allots time prior to the lab showing up to gather his samples without the need to make the lab staff wait. He also adjust plant rates in the appropriate timeframe to minimize operational turmoil.

Rating Fully Achieved Results

Competency #4 **PLANNING AND ORGANIZING** – Prioritizes and plans work or activities. Ability to multi-task and uses time efficiently.

Comments Ken does well operating the plants. He usually does an excellent job of planning out his work, and rarely has issues handling multiple tasks at once. He does a good job of looking beyond his shifts to try and forecast the needs of other shifts in planning water orders, plant rates and the needs of other workgroups like maintenance and laboratory staff.

Rating Fully Achieved Results

Competency #5 **PROBLEM SOLVING AND DECISION MAKING** – Able to analyze and size up a situation and to identify and issue or problem at an early stage. Able to gather information and data to identify alternative solutions to arrive at decisions.

Comments Ken recognizes operational plant issues quickly and does makes corrections in an appropriate timeframe. He usually makes excellent decisions in calling for assistance if he is unable to resolve issues quickly. However, he has alienated other co-workers with aggressive behavior, angry outbursts and threatening tone, words and body language, any problem solving that requires teamwork does not meet expectations. Some of Ken's recent decisions have been clouded by anger, resulting in choices that have negatively impacted co-worker morale and team cohesion. The full functioning of the Treatment operation requires team cohesion to be fully optimized for problem-solving, so Ken has work to do in terms of repairing relationships with co-workers and supervisors.

Rating Progress Toward Results

Competency #6 **WORKING RELATIONS WITH OTHERS** – Cooperative, functions as part of a team. Treats others fairly and in an impartial manner. Communicates clearly in writing and orally.

Comments Ken demonstrates support for other operators in selective situations (for example, he is willing to cover shifts for other operators needing to trade), but also demonstrates combative and inflammatory behavior if he does not get his way. He openly displays a poor attitude with an angry tone, sharp words, and even, at times, physically threatening demeanor when someone expects him to work with a situation that he disagrees with. He needs to work harder at maintaining open lines of communication with his coworkers. The angry outbursts tend to make his co-workers feel threatened. This consistent behavior has a negative impact on team morale. He needs to work on receiving constructive feedback of his work, and to

engage constructively with the feedback as an opportunity to correct issues and improve his professional practices, instead of becoming argumentative, or negative. He communicates clearly in both written and verbal form.

Rating Insufficient Results

Competency #7

Comments

Rating Select Option

SECTION 2: OVERALL RESULTS & SUPPORTING COMMENTS

Describe the significant accomplishments and areas needing improvement. Make sure your comments support the "Rating" option you select (Fully Achieved Results, Progress Toward Results or Insufficient Results).

Comments Ken demonstrates basic competency in most technical areas. He is often willing to help and looks for places to improve plant efficiencies. Ken is also improving his understanding of the regulatory processes we deal with. He attended OCT training in pursuit of his T5. He needs to support his coworkers in sharing his knowledge of the treatment plants and processes. Ken demonstrates a strong work ethic overall.

Rating Progress Toward Results

SECTION 3: GROWTH & DEVELOPMENT

Identify potential topics and activities to enhance the employee's professional growth and development for the next review period.

Opportunities

Ken should work on improving his skills in dealing working constructively and cooperatively with his coworkers. He needs to stay focused on the details of the job and continue to show improved results like he has the last several months with regard to correcting his errors on the midnight reports. Ken also needs to work on receiving criticism appropriately and avoid being argumentative and discontinue any behavior patterns of aggressive tone, words, and body language, displaying a negative attitude.

SIGNATURES

Employee	_____	Date	_____
Supervisor	_____	Date	_____
Department Head	_____	Date	_____

Allegation of Retaliation- Ken Mckay

Wednesday, October 21, 2015

Joe Abitong/Roger Kasper

1. Are you currently Ken McKay's immediate supervisor? How long have you supervised him?
2. Have you issued discipline for Ken Mckay? Did you write the verbal reprimands on Ken McKay?
3. Did you write Ken McKay's evaluation for 2015? Have you ever written Ken McKay's evaluation?
4. Did you have input on Ken McKay's 2015 evaluation? Do you recall what you were asked?
5. Do you have the responsibility of scheduling Treatment Plant Operators? What does that entail? How long have you had this responsibility? Do you recall an event at Travis when the Plant had to be shut down because Ken Mckay needed to leave the plant to act in a shop steward capacity on Fleming Hill? Please describe what happened.
6. Were you informed of an injury sustained by Ken Mckay? When were you informed?
7. Did Ken McKay approach either of you regarding an ADA accommodation as a result of his injury? Are you aware of a request to accommodate a disability made by Ken McKay.
8. Have you ever been told by Stuart Cole to refer Ken Mckay to him directly?
9. Does Stuart Cole have oversight over any other operators you supervise? Does Stuart Cole write the evaluations of the other operators? How frequently does this occur?

Hello, this is a response to my annual performance assessment on 7/28/2015 I am pleased that some of my objective technical competencies have been noted and I will continue to do my best in those areas, I also plan on practicing and demonstrating my ability when it comes to unusual situations and operational scenarios that happen infrequently.

However I am disappointed and hurt that some areas of extreme subjectivity made it into my assessment particularly ones that paint me as angry, aggressive, and threatening. This is the first I have heard of this. I have never been spoken to about this nor have I been reprimanded in any way, not as a verbal or a written.

This cuts deeper than my performance at work but more of who I am. I am not a bully. This is who I am: I am a practicing Buddhist and I don't condone violence or threats of violence. I am also the IBEW steward who advocates hard for my brothers and sisters, my advocating is not a personal affront even though some may take it that way. I am also one that will stand up for myself and others if being treated unfairly. I expected some push back for helping [REDACTED] file her EEOC charge. I did not expect it to seep into my assessment.

I know Supervisor [REDACTED] became upset with me when I tried to get a cogent reason why I wasn't able to go back to work in operations on modified duty (restriction not to sit more than 3 hours per shift) Supervisor [REDACTED] said Risk Management determined we are required to sit 80% of shift (9.6 hrs) I asked Supervisor Kasper for a standup desk, then I wouldn't need to sit at all, he said I couldn't work a solo shift if I wasn't 100% even with a stand up desk. And that "operations doesn't have light duty."

I pressed on and asked [REDACTED] if I should look for a new job if my back doesn't get better and I stay on modified duty. Supervisor Kasper told me "that would be something the city would have to look at" in other words I could lose my job because of my back injury.

I asked Supervisor Kasper why I could not work in operations when he could with his back injury Kasper got angry with me and started yelling at me, I told Supervisor Kasper I was not a child and asked him to stop yelling at me. I never acted in an aggressive or threatening way.

I am requesting that those extremely subjective references that wrongly and unfairly paint me as being aggressive, physically threatening, and angry be deleted from the assessment. If it is elected not to remove references, I respectfully ask that since this assessment was written at the same time, by the same person, as the two reprimands attached, that this assessment be viewed with the same veracity as reprimands, and that this rebuttal be attached.

I work hard to do a good job and will continue to do so. I will follow through on any suggestions you have made and look forward to demonstrating my progress.

Thank You,
Kenneth McKay
8/8/2015

Hello, this letter is regarding verbal reprimand 2 of 2 given at the conclusion of my Annual Performance Assessment. Both verbal reprimands and Annual Performance Assessment are dated 7/28/2015 and both verbal reprimands and Annual Performance Assessment were given by Assistant Water Superintendent Stuart Cole.

In this 2nd verbal reprimand Mr Cole claims I did not call in sick on 7/17/2015, I did call in sick at 5 : 00 am on 7/17/2015 for my 8:00am modified duty shift, I called in because I had debilitating sciatica pain from work injury. I also filled out a leave slip for 13-1800 7/17/2015 for procedure at my doctors. Mr Cole signed it on 7-15-2015

Attached you will find a log entry dated 7/17/2015 0513am stating I called in sick for 8:00 am modified duty shift due to sciatica pain. I also attached a copy of leave request, requesting 7/17/2015 1300 to 1800 off for doctor visit.

I did not violate the sick leave policy.

Please remove this erroneous verbal reprimand from all records.

Please note both verbal reprimands given on 7/28/2015 at conclusion of Annual Performance Assessment and given by Stuart Cole are erroneous.

Thank You, Ken



555 Santa Clara Street · Vallejo · CA · 94590

VIA HAND-DELIVERY

March 3, 2020

Kenneth McKay
Water Treatment Plant Operator
Water Department

NOTICE OF INTENT TO SUSPEND – FIVE (5) DAYS

Dear Mr. McKay,

Pursuant to Skelly v. State Personnel Board ("Skelly") and the City of Vallejo's ("City") Administrative Rule ("AR") 2.35 – Employee Discipline and Vallejo Civil Service Commission ("CSC") Rule 18 – Suspension, Fine or Removal, I am recommending that the City of Vallejo ("City") suspend you from your position as a Water Treatment Plant Operator for five days.

Based on my review of the information available, good cause exists for your suspension as provided by Civil Service Rule 18 – Suspension, Fine or Removal and Administrative Rule 2.28 – Alcohol and Drug Abuse Policy. This proposed suspension is based on the following grounds:

- Misconduct
- Failure to Perform Duties
- Failure to Observe Rules and Regulations

Factual Basis for Recommended Action:

I concur with the findings in this investigation, which is based on the following conduct, described in detail below. Please note that this intent to suspend is based on any one of the above violations and need not be based upon your commission of more than one violation.

Specifically, on October 9, 2019 during a PG&E Public Safety Power Shutoff (PSPS) event in the City of Vallejo, you brought to work a mat, pillow and blanket with the intention of sleeping while on duty and went to sleep during your shift

At the time you were assigned to the Green Valley facility your task was to operate and physically monitor the plant, as the plant was running on emergency power with a non-functioning remote monitoring due to PG&E's PSPS. By failing to actually monitor the systems, you were unable to:

- Alertly monitor the plant and take effective course of action as needed
- Determine if there was equipment failure that might cause immense repair cost.
- Determine if there was over pressurizing pipes that might cause main line breaks
- Prevent overdosing chemicals that might harm consumers.
- Prevent Under dosing of chemicals that might cause consumer disease outbreaks.
- Effectively perform operating duties.

On October 9, 2019 at or about 10:30 p.m., Instrument Technician Jacob Parson saw your mat rolled up on the floor of the Operations Room at the Green Valley Plant and he asked if you planned on sleeping on the mat and you responded yes and asked if he thought someone would see you.

During the morning of your shift at 3:00 a.m., Instrument Technician Jacob Barlow and Utility Mechanic James Grandrath walked into the Operations Room of the Plant and saw you laying on your mat and pillow, covered with a blanket and sleeping, while the Plant was operating unattended.

Your misconduct was especially egregious because you brought a mat, pillow and blanket to work which is a strong indication that you planned to sleep while on duty.

Your nesting¹ on duty was witnessed by two Water Department employees and it demonstrates a failure to perform the duties as is mentioned in Administrative Rule 18, and in your job description.

When you were questioned about sleeping while on duty, you stated that you did not remember going to sleep, waking up, or that you stated to Instrument Technician Jacob Parson that you planned to sleep on the mat that night. Yet, you made it a point to explain to the investigator that you had not slept that day and had taken your prescription medication that has the side effect of causing drowsiness. It was obvious that you were attempting to establish an alibi for sleeping on duty, while at the same time being dishonest about remembering that you took your shoes off, laid on the mat and covered yourself with a blanket and closed your eyes. Additionally, you claimed not to remember opening your eyes, removing the blanket, standing up, putting on your shoes and rolling the blanket and mat back up.

Mr. McKay, as a Water Treatment Operator, you were responsible for the proper operations and monitoring of the Green Valley Treatment Plant with the expectation of immediately responding to water quality changes and system malfunctions. Because of your action, you disregarded the safety of our consumers and the treatment plant and you put the City in jeopardy of potential violations.

In addition, you did not notify your supervisor before beginning work, that you had consumed a drug that might interfere with the safe and effective performance of your duties. During an interview with the investigator on December 12, 2019, you stated that the day you volunteered for the 6 p.m. shift you had taken a prescription drug that has a known side effect of drowsiness.

On April 17, 2017, you signed an acknowledgement of having received, read and agreed to abide by Administrative Rule 2.28.

¹ According to Brand, Norman and Melissa Biren (2015) *Discipline and Discharge in Arbitration* 3rd Edition Chicago, IL American Bar Association, nesting is defined as making a bed or creating a place conducive to sleeping, often in a secluded area.

Kenneth McKay
NOTICE OF INTENT TO SUSPEND
March 3, 2020
Page 5

Your failure to provide a written response or to request and attend a pre-disciplinary meeting will constitute a waiver of your right to provide a response prior to imposition of discipline, in which case the City's decision to either sustain, modify, or reject this recommendation will be based upon review of this Notice of Intent to suspend and its attachments.

Sincerely,



Mike Malone
Water Department Director

Attachments:

- A. Civil Service Rule 18 – Suspension, Fine or Removal
- B. Administrative Rule 2.28 – Alcohol and Drug Abuse Policy
- C. Job Description – Water Treatment Plant Operator
- D. Notice of Written Reprimand – dated May 31, 2016
- E. Notice of Termination – dated October 12, 2016

cc: Heather Ruiz, Human Resources Director
Mark Love, Assistant Human Resources Director
Personnel File

ATTACHMENT A

RULE 18

SUSPENSION, FINE OR REMOVAL

18.1 Employees Subject To

Every person holding a position in the classified service shall be subject to suspension, fine, demotion or removal from office or employment by the person, board, or commission appointing such persons, for misconduct, incompetency, inefficiency, failure to perform the duties or to observe the rules and regulations of such department, office, board or commission, or for failure to cooperate reasonably with the department head or with his/her fellow employees; subject to the right of the employee to appeal to the Civil Service Commission in the manner set forth in the Charter and these Rules.

18.2 Statement of Reason

Every employee shall be given a written statement of the reason for such suspension, fine, demotion or removal from office or employment at the time of such suspension, fine, demotion or removal. Such statement shall include in itemized form the specific instances in support of such suspension, fine, demotion or removal from office or employment. A copy of such statement shall be delivered to such person or shall be left at his/her last known address.

18.3 Filing of Appeal

Any employee who has been so disciplined shall have five (5) days after service of such written statement within which to file an appeal to the same. A copy of such appeal shall be filed during office hours at the office of the person, board or commission imposing such discipline and the original shall be filed by such employee in the office of the Executive Secretary of the Commission. Should the last day on which an appeal may be filed fall upon a Sunday or holiday the time for filing such appeal shall be extended to include the next following business day.

18.4 Investigation and Hearing Required

The Commission may make, or cause to be made, such investigation as it shall deem necessary and thereafter shall hold a hearing at which time it shall hear evidence for and against such employee. Hearings may be conducted informally and the conclusions shall be made by the Commission within ten (10) days after the matter has been submitted and thereupon the same shall be certified to the official, board or commission from whose order the appeal has been taken. The findings and conclusions of the Commission also may contain such recommendations as said Commission shall deem proper, and shall include the amount of compensation such employee is entitled to receive, if any. Said findings and conclusions of the Commission shall be final.

ATTACHMENT B

CITY OF VALLEJO

ADMINISTRATIVE RULE

SUBJECT: ALCOHOL AND DRUG ABUSE POLICY

AR Number: 2.28

Date Issued: 6/28/95

Date Effective: 7/1/95

Date Revised: 1/2/96

I. PURPOSE

It is the intention of this policy to eliminate substance abuse and its effects in the workplace. While the City of Vallejo has no intention of intruding into the private lives of its employees, involvement with drugs and alcohol on and off the job can take its toll on job performance and employee safety. Our concern is that employees are in a condition to perform their duties safely and efficiently, in the interests of their fellow workers and the public, as well as themselves. The presence of drugs and alcohol on the job, and the influence of these substances on employees during working hours, are inconsistent with this objective of having employees perform their duties safely and efficiently.

Employees who think they may have an alcohol or drug usage problem are urged to voluntarily seek confidential assistance from the Employee Assistance Program. While the City of Vallejo will be supportive of those who seek help voluntarily, the City will be equally firm in identifying and disciplining those who continue to be substance abusers and do not seek help or continue substance abuse even while enrolled in counseling or rehabilitation programs.

Supervisors will be trained to recognize abusers and become involved in this control process. Alcohol or drug abuse will not be tolerated, and disciplinary action, up to and including termination, will be used as necessary to achieve this goal.

This policy provides guidelines for the detection and deterrence of alcohol and drug abuse. It also outlines the responsibilities of City of Vallejo managers and employees. To that end, the City will act to eliminate any substance abuse (alcohol, illegal drugs, prescription drugs or any other substance which could impair an employee's ability to safely and effectively perform the functions of their job) which increases the potential for accidents, absenteeism, substandard performance, poor employee morale or damage to the Agency's reputation. All persons covered by this policy should be aware that violations of the policy may result in discipline, up to and including termination, or in not being hired.

In recognition of the public service responsibilities entrusted to the employees of the City of Vallejo and that drug and alcohol usage can hinder a person's ability to perform duties safely and effectively, the following policy against drug and alcohol abuse is hereby adopted by the City of

Vallejo.

II. APPLICATION

This policy applies to all employees of and to all applicants for positions with City of Vallejo whose use of alcohol could effect workplace safety or performance of requisite job standards, duties or responsibilities. This policy does not apply to employees covered by a collective bargaining agreement containing an alcohol or drug abuse policy where the collective bargaining provision conflicts with this policy. This policy does not apply to employees in or applicants for positions for which the City cannot legally apply this policy. This policy applies to alcohol and drugs, including all substances, drugs, or medications, whether legal or illegal, which could impair an employee's ability to effectively and safely perform the functions of the job.

III. POLICY

It is City of Vallejo policy that employees shall not be under the influence, or in possession, of alcohol or drugs while on City of Vallejo property, at work locations, or while on duty or subject to being called to duty, and that employees shall not sell or provide drugs or alcohol to any other employee or person while on duty or subject to being called to duty as a result of formally being placed on an "on call" or "standby" status by an appropriate management representative.

While use of validly prescribed medications and drugs does not violate this policy per se, failure by an employee to notify his/her supervisor, before beginning work, when taking medications or drugs which could foreseeably interfere with the safe and effective performance of duties, or the operation of City of Vallejo equipment, can result in discipline up to and including termination. In the event there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medications or drugs, clearance from a qualified physician may be required.

City of Vallejo reserves the right to search for alcohol or impairing drugs, without employee consent, in all areas and property in which the City of Vallejo maintains control or joint control with the employee when there is reasonable suspicion of work-related employee misconduct or when the search is necessary for a non-investigatory work-related purpose. Otherwise, the City may notify appropriate law enforcement agencies that an employee may have illegal drugs in his or her possession or in an area not jointly or fully controlled by City of Vallejo.

Refusal to immediately submit to an alcohol and/or drug analysis when requested by City of Vallejo management or law enforcement personnel, or refusal to submit to a search of personal properties if requested by law enforcement personnel, may constitute insubordination and be grounds for discipline up to and including termination.

Employees reasonably believed to be under the influence of alcohol or drugs shall be prevented from engaging in further work and shall be detained for a reasonable period of time until he or she can be safely transported from the work site. Supervisors or managers must arrange for safe transportation of the employee from the work site. Refusal to refrain from engaging in further work or refusal to be detained until safe transportation can be arranged may constitute insubordination and be grounds for discipline up to and including termination. Under no circumstances shall a supervisor or manager allow an employee to transport himself/herself from a work site.

The City of Vallejo is committed to providing reasonable accommodation to those employees whose drug or alcohol problem classifies them as disabled under federal and/or state law.

The City of Vallejo has established a voluntary Employee Assistance Program (EAP) to assist those employees who voluntarily seek help for alcohol or drug problems. Employees should contact their supervisors, the Department of Human Resources, Risk Management or the EAP for additional information. Supervisors are encouraged to refer employees to the EAP at the earliest sign of any problems.

IV. EMPLOYEE RESPONSIBILITIES

An employee must:

- not report to work or be subject to duty while his/her ability to perform job duties is impaired due to on or off duty alcohol or drug use;
- not possess or use alcohol or impairing drugs, including illegal drugs and prescription drugs without a prescription, during working hours or while subject to duty, on breaks, during meal periods or at anytime while on City of Vallejo property;
- not directly or through a third party sell or provide drugs or alcohol to any person, including any employee, while either or both employees are on duty or subject to being called to duty;
- submit immediately to an alcohol and drug test when requested by City of Vallejo management, supervisory or any law enforcement personnel;
- notify his/her supervisor, before beginning work, when taking any medications or drugs, prescription or non-prescription, which may interfere with the safe and effective performance of duties or operation of City of Vallejo equipment; and
- provide, within 24 hours of request, bona fide verification of a current valid prescription for any potentially impairing drug or medication identified when a drug screen/test is positive, The prescription must be in the employee's name.

V. MANAGEMENT RESPONSIBILITIES AND GUIDELINES

- Managers and supervisors are responsible for reasonable enforcement of this policy.
- Managers and supervisors may request that an employee submit to a drug and/or alcohol test when a manager or supervisor has a reasonable suspicion that an employee is intoxicated or under the influence of drugs or alcohol while on the job or subject to being called. If possible, a second supervisor should be present. When requesting a drug or alcohol test, supervisors or managers should notify their Department Head or designee and the Department of Human Resources as soon as is practicable.

'Reasonable suspicion' is a belief based on objective facts sufficient to lead a reasonably prudent supervisor to suspect that an employee is under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is impaired or so that the employee's ability to perform his/her job safely is reduced. The number of reasonable suspicion indicators and the compelling nature of the evidence attached to each indicator needs to be assessed in determining whether there is sufficient reasonable suspicion to require a test.

For example, any of the following, alone or in combination, may constitute reasonable suspicion:

- o Slurred speech;
 - o Alcohol odor on breath;
 - o Unsteady walking and movement;
 - o An accident involving City of Vallejo property, where it appears the employee's conduct is at fault;
 - o Physical altercation;
 - o Verbal altercation;
 - o Unusual behavior;
 - o Possession of alcohol or drugs;
 - o Information obtained from a reliable person with personal knowledge.
- Any manager or supervisor requesting an employee to submit to a drug and/or alcohol analysis should document in writing the facts constituting reasonable suspicion that the employee in question is intoxicated or under the influence of drugs.
 - Any manager or supervisor encountering an employee who refuses an order to submit to a drug and/or alcohol analysis upon request shall remind the employee of the requirements and disciplinary consequences of this policy.
 - Where there is reasonable suspicion that the employee is under the influence of alcohol or drugs, the manager or supervisor should arrange for the employee to be safely transported to the drug and alcohol testing site and from the drug and alcohol testing site to home.

Under no circumstances shall an employee or manager allow an employee who is reasonably believed to be under the influence of alcohol or drugs to transport himself/herself from a work site or from the drug and alcohol testing site.

- Managers and supervisors shall not physically search the person of employees, nor shall they search the personal possessions of employees without the freely given written consent of, and in the presence of, the employee.
- Managers and supervisors shall notify their Department Head or designee and the Department of Human Resources when they have reasonable suspicion to believe that an employee may have illegal drugs in his or her possession or in an area not jointly or fully controlled by City of Vallejo. If the Department Head or designee concurs that there is reasonable suspicion of illegal drug possession, the Department Head shall notify the appropriate law enforcement personnel.

VI. PHYSICAL EXAMINATION AND PROCEDURE

The drug and/or alcohol test may test for any substance which could impair an employee's ability to effectively and safely perform the functions of his/her job, including, but not limited to, prescription medications, alcohol, heroin, cocaine, morphine and its derivatives, P.C.P., methadone, barbiturates, amphetamines, marijuana and other cannabinoids. Attachment "A" describes the method in which the initial test will be conducted, how the sample will be processed after the drug and/or alcohol test is completed, and how a confirmatory test after an initial positive result will be performed.

VII. RESULTS OF DRUG AND/OR ALCOHOL ANALYSIS

A. Pre-Employment Physical

Applicants for positions with the City of Vallejo whose use of drugs and/or alcohol could effect workplace safety or other requisite job standards, duties or responsibilities will be subject to drug and/or alcohol testing as a part of the pre-employment physical examination process. A positive result from a drug and/or alcohol analysis may result in the applicant not being hired.

If a drug screen is positive at the pre-employment physical, the applicant must provide within 24 hours of request bona fide verification of a valid current prescription for the drug identified in the drug screen. If the prescription is not in the applicant's name or the applicant does not provide acceptable verification, or if the drug is one that is likely to impair the applicant's ability to perform the job duties, the applicant may not be hired.

B. During Employment Physical or Alcohol/Drug Tests

A positive result from a drug and/or alcohol analysis may result in disciplinary action, up to and including discharge.

If the drug screen is positive, the employee must provide within 24 hours of request bona fide verification of a valid current prescription for the drug identified in the drug screen. The prescription must be in the employee's name. If the employee does not provide acceptable verification of a valid prescription, or if the prescription is not in the employee's name, or if the employee has not previously notified his or her supervisor, the employee will be subject to disciplinary action up to and including discharge.

If an alcohol or drug test is positive, the City of Vallejo shall conduct an investigation to gather all facts. The decision to discipline or discharge will be carried out in conformance with City of Vallejo disciplinary procedures and Civil Service Rules and Regulations.

VIII. CONFIDENTIALITY

Laboratory reports and test results shall not appear in an employee's general personnel file. Information of this nature will be contained in a separate confidential medical folder that will be securely kept under the control of the Department of Human Resources. The reports or test results may be disclosed to City of Vallejo management on a strictly need-to-know basis and to the tested employee upon request. Disclosures, without patient consent, may also occur when: (1) the information is compelled by law or by judicial or administrative process; (2) the information has been placed at issue in a formal dispute between the employer and employee; (3) the information is to be used in administering an employee benefit plan; and/or (4) the information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure.

Attached: Appendix A


WALTER V. GRAHAM
CITY MANAGER

APPENDIX A
ALCOHOL AND DRUG TESTING PROCEDURES

I. CONTACT

A. Regular Business Hours

When requesting a reasonable suspicion alcohol and/or drug test Monday through Friday during the hours of 8:30 a.m. - 5:15 p.m., supervisors and managers should first contact the Department of Human Resources or Risk Management and their Department Head or designee.

Upon notification of Human Resources and the Department Head, supervisors and managers may contact the number listed below directly to notify the testing site of the need for drug and/or alcohol testing. Supervisors and managers must arrange transportation of the employee to the testing site.

Alcohol and/or drug testing on Monday through Friday during the hours of 8:00 a.m. - 5:00 p.m. will be conducted at **Northbay Health at Work, 1200 B. Gale Wilson Drive #107, Fairfield, CA 94533, (707) 429-7701.**

B. After Hours

When requesting a reasonable suspicion drug test after regular business hours, the supervisor or manager must call Northbay at (707) 429-7701 and leave a message on the recorder. The message should indicate that you are a City of Vallejo supervisor and are requesting a reasonable suspicion drug test as soon as is possible. You should also include your name, job title, and a number where you can be reached immediately. A Northbay technician is on call 24 hours a day and will return your call within thirty minutes. The technician will arrange to meet the supervisor and employee at **Northbay Health at Work, 1200 B. Gale Wilson Drive #107, Fairfield, CA 94533.**

When requesting a reasonable suspicion alcohol test after regular business hours, the supervisor or manager must go immediately to the Northbay Medical Center Emergency

Room at 1200 B. Gale Wilson Drive, Fairfield, CA 94533, (707) 429-7833. The Emergency Room staff will contact the Northbay technician.

On the next regular business day, you must notify Human Resources or Risk Management and your Department Head that you have ordered a reasonable suspicion alcohol and/or drug test.

II. CONTROLLED SUBSTANCES TESTING PROCEDURES

Pre-employment and reasonable suspicion testing shall include, but may not be limited to the following controlled substances: marijuana; cocaine; opiates; amphetamines; and phencyclidine (PCP). Although the specimen will not be analyzed specifically for adulterants, the lab may conduct adulteration checks (PH, specific gravity or creatinine). The test may be canceled if adulterants are detected.

A. Specimen Collection Process

1. The collection shall take place in a secure location to prevent unauthorized access during the collection process.
2. The specimen shall be kept in sight of the employee and the collection site person until it is sealed and ready for shipment.
3. Employees and applicants shall have individual privacy when providing a specimen except when:
 - a) The employee or applicant presents a specimen that is outside the accepted temperature range and he/she refuses to have an oral body temperature measurement, or the body temperature measurement varies more than 10 C OR 1.80 F from the specimen temperature.
 - b) The collector observes the employee or applicant attempting to adulterate or substitute the specimen.
 - c) The employee's last provided specimen was determined to be diluted.
 - d) The employee has previously had a verified positive test.

In a. and b. above, the employee or applicant must provide a specimen under direct observation. In c. and d. above, the employer may require a direct observation collection.

4. The following specific procedures will be followed during the collection process:
 - a) The donor must submit identification to the collector. The collection shall not proceed until a positive identification is made.
 - b) The donor will not be required to undress, or to change into an examination gown. Only outer garments should be removed, i.e., jackets.
 - c) The donor shall be asked to wash his/her hands prior to urination, and shall not have access to any water sources until the specimen has been collected.
 - d) A bluing agent shall be added to the toilet bowl and the donor may flush the toilet only after releasing the specimen to the collector. Chemical toilets and toilets where the water supply has been turned off do not apply.
 - e) The specimen must be at least 45 ml to be acceptable.
 - f) The collector must measure the specimen temperature within four minutes of urination to determine sample acceptability.
5. The specimen shall be divided into two parts. The collector shall pour 30 ml of urine from the specimen bottle into a second specimen bottle, to be used as the primary specimen. The remainder of the urine, at least 15 ml, shall be poured into another container to be used as the "split sample".
6. Both samples shall be shipped in a single shipping container with the appropriate chain of custody forms.
7. The collector and donor must be present together to complete the following process:
 - ◇ Seal and label the specimen bottles.
 - ◇ Donor initials the bottle labels or seals.
 - ◇ The chain of custody forms must be signed and dated.
8. If an employee or applicant refuses to cooperate with the collection process the collector shall notify the employer representative and note the non-cooperation on the custody and control form.

B. Inability to provide an adequate urine sample

If the donor cannot provide a sufficient volume of urine, he/she shall remain at the collection site and be provided not more than twenty-four ounces of fluids to drink. The donor shall have a

period of up to two hours to produce an acceptable sample, using a fresh collection container.

The original insufficient specimen shall be discarded. If the employee is still unable to provide an adequate specimen, the insufficient specimen shall be discarded, testing discontinued, and the employer so notified.

The MRO shall refer the individual for a medical evaluation to develop pertinent information concerning whether the individual's inability to provide a specimen is genuine or constitutes a refusal to test (In pre-employment testing, if the employer does not wish to hire the individual, the MRO is not required to make such a referral.). Upon completion of the examination, the MRO shall report his or her conclusions to the employer in writing.

If the donor is unable to produce a sample without a valid medical reason the employer shall consider the circumstance to be a refusal to test.

C. Split Sample

1. If the test result of the primary specimen is positive, an employee may request that the MRO direct that the split specimen be analyzed.
2. The split sample analysis will be conducted by a laboratory who will analyze the sample for presence of the drug(s) for which a positive result was obtained in the primary sample.
3. If the result of the test of the split sample fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, the MRO shall cancel the test and report the cancellation to The Employer.
4. With all positive drug tests, the MRO will first contact the employee to determine if there is an alternative medical explanation for the positive result. If documentation is provided and the MRO determines that there was a legitimate medical use for the prohibited drug, the test result may be reported to the City as "negative." After the MRO notifies the employee of a positive result for the presence of a drug(s) in the primary sample, the employee has up to seventy-two hours to request analysis of the split sample.

III. ALCOHOL TESTING

A. Testing Procedures

Alcohol testing will be conducted only on a reasonable suspicion basis. Applicants for employment will normally not be required to undergo alcohol testing.

1. The test shall take place in a secure location that affords visual and aural privacy to prevent unauthorized persons from seeing or hearing test results.
2. When an employee enters the testing location, the BAT will require him/her to provide positive identification. The test shall not proceed until positive identification of the employee is made.
3. An individually-sealed mouthpiece shall be opened in view of the employee and then attached to the testing unit.
4. The employee shall be required to blow forcefully into the mouthpiece for at least six seconds or until an adequate amount of breath has been obtained.
5. The employee shall be shown the result both on the testing unit and the recording form. The employee shall verify both results are the same. If a result printed by the testing unit does not match the displayed result, the BAT shall declare the test invalid.
6. If the result of the screening test is less than 0.02 breath alcohol concentration no other testing will be conducted.
7. If the result of the screening test reflects an alcohol concentration of 0.02 or greater, a confirmation test shall be performed.
8. Prior to conducting the confirmation test the employee may not eat, drink, or place anything in his/her mouth. If possible, the employee should not belch during the waiting period. The confirmation test shall be conducted no less than fifteen minutes and no more than twenty minutes from the screening test.
9. The fifteen minutes waiting period is provided for the employee's benefit. This time period allows for the dissipation of any mouth alcohol, thereby helping to prevent an artificially high reading.
10. In the event the screening and the confirmation test results do not match, the confirmation results will be considered the final results.
11. If the employee refuses to sign the breath alcohol testing form or fails to provide an adequate amount of breath without a valid medical reason, the employer may determine the circumstance to be a refusal to test.

B. Inability to Provide Adequate Breath

1. If the employee fails to provide an adequate amount of breath he/she shall provide the employer with an evaluation from a licensed physician, who is acceptable to the employer, concerning the employee's medical ability to provide adequate breath.
2. If the physician determines there is a valid medical reason precluding the employee from providing adequate breath then the employee's failure shall not be deemed a refusal to test.
3. If the physician is unable to determine a valid medical reason, the employee's failure to provide adequate breath shall be considered a refusal to test.

ATTACHMENT C



Water Treatment Plant Operator

Class Code:
02330

CITY OF VALLEJO
Established Date: Jun 8, 2015
Revision Date: Jun 23, 2015

SALARY RANGE

\$39.89 - \$48.49 Hourly
\$3,191.50 - \$3,879.29 Biweekly
\$6,914.91 - \$8,405.13 Monthly
\$82,978.96 - \$100,861.50 Annually

DEFINITION:

To perform a variety of skilled technical duties and semi-skilled labor as shift operator, as regulated by Federal and State potable water treatment guidelines, in the operation and maintenance of the City's drinking water treatment plants, transmission, distribution systems, and appurtenances.

DISTINGUISHING CHARACTERISTICS

This is the full journey level classification in the treatment plant operator series, meeting requirements set by the U.S. Environmental protection Agency under the Safe Drinking Water Act, as well as by the State Water Resources Control Board (SWRCB), under the California Safe Drinking Water Act. The regulations ensure that water treatment facilities are operated and maintained by operators who are certified at the appropriate level, ensuring the protection of public health and safety. Performance expectations at this level include performance of the full range of responsibilities within the function. Individuals in this classification have satisfactorily demonstrated they are capable of operating and maintaining serviceable water supply, according to the City's treatment facility classification consistent with Environmental Protection Agency regulations, through the City's transmission, distribution facilities, water treatment plants and sludge de--watering project on an assigned shift, often without immediate supervision. Incumbents apply board job knowledge to resolve issues/problems of diverse scope where analysis of data requires evaluation of identifiable factors. Work requires independent judgment, initiative, and action within established operational parameters. This classification is distinguished from the Advanced Water Treatment Plant Operator class, as the latter is the challenging responsibilities for which problem-solving frequently requires analysis of unique issue/problems without precedent and/or structure.

AS a condition of continued employment with the City of Vallejo, incumbents are required to adhere to the process for maintaining the Grade T3 Water Treatment Plan Operator certification outlined by the State Water Resources Control Board (SWRCB). If the certification is not maintained, employment will be terminated. Advancement beyond the classification of Water Treatment Plant Operator is not required as a condition of continued employment.

SUPERVISION RECEIVED AND EXERCISED

Receives general supervision from supervisory and management staff such as the Water Treatment Plant Supervisors and the Water Operations Superintendent. May receive lead direction from Advanced Water Treatment Plant Operators.

Exercises functional and technical supervision over, and provides training to Water Treatment Plant Operator Trainee staff.

EXAMPLES OF DUTIES:

EXAMPLES OF IMPORTANT RESPONSIBILITIES AND DUTIES - *Important responsibilities and duties may include, but are not limited to, the following:*

Monitors, adjusts and controls functions at water treatment plants, transmission/distribution system and sludge de-watering facility, using local controls and the Supervisory Control and Data Acquisition System (SCADA).

Operates and adjusts treatment plant pumps, motors, feeders and other equipment to maintain appropriate plant operations; regulate the flow of water through the water treatment plant and distribution system. Correctly regulates waste side-streams and return flows.

Calculates dosages and adjusts chemical feed machines for proper operation and application of chemicals in order to assure finished water quality standards. Arranges, safely receives and records deliveries of process chemicals to ensure adequate supplies.

Performs water quality tests using standardized testing methods in the plant laboratory; mixes and applies process chemicals at various stages in the treatment process.

Assembles updates and maintains plant operations logs and reports; performs and records mathematical calculations related to plant operational activities, process testing and control.

Works with hazardous chemicals related to water treatment and branch laboratory operations; receives training in and assists in spill prevention and response at City facilities.

Schedules, safely receives and records deliveries of process chemicals and monitors inventories to ensure adequate supplies.

Maintains plant, operating equipment and facilities in a clean and orderly condition; performs routine housekeeping inside and outside the plant and conducts regular site safety inspections

Dispatch call-out personnel as required at all hours. May act in a central communications function as follows: taking, relaying, transmitting, and providing information to and from City personnel or outside emergency services as required.

Operate city-owned motor vehicle to a number city facilities; operates licensed, City communication equipment.

Receives, safely unloads and stores materials by hand and by use of motorized and mechanical equipment.

Receives business contact with other city employees, customer inquiries and makes every effort to enhance public relations. Conducts general tours of the facilities.

Provides for safe plant conditions and working environment at all times by exercising a routine of attentiveness and proactive responses to plant safety and security matters.

Provides for safe plant conditions and working environment at all times by exercising a routine of attentiveness and proactive responses to plant safety and security matters.

Participates in accurate and complete shift change turn-overs to discuss vital plant information.

Participates in emergency preparedness training and exercises.

Perform related duties and responsibilities as required.

KNOWLEDGE AND ABILITIES:

QUALIFICATIONS

Knowledge of:

Standard principles of mathematics, biology, chemistry, and hydraulics as applied in the operation of a water treatment facility.

Standard principles, practices of drinking water treatment plant operations, laboratory analysis techniques and current drinking water standards and regulations.

Operating principles of plant equipment such as valves, pumps motors, controls, instrumentation and telemetry.

Operational and safety regulations pertaining to water treatment plant operations and vehicle and equipment usage.

Safety regulations pertaining work practices and use of related equipment.

Regulations, techniques and equipment used in managing mitigation, recovery and reporting of hazardous materials release.

Basic computer (PC) skills in Microsoft Suite software.

Safe vehicle and equipment use.

Ability to:

Logically solve problems and identify hazardous work conditions.

Understand and carry out written and oral instructions.

Operate and maintain water treatment plant equipment.

Diagnose operating problems and take effective courses of action.

Make independent technical decisions within established parameters to maintain proper treatment operations.

Establish and maintain effective working relationships with those contacted in the course of work.

Apply the practices, procedures, techniques, and treatment rules pertaining to the operation of water treatment plants and distribution system into daily practice.

Read and interpret gauges and other recording devices, plant piping and distribution diagrams and other technical documents.

Perform simple repair or maintenance to plant equipment such as pumps, valves, and electronic monitoring devices.

Perform simple to moderately complex tasks while wear Level A personal protective equipment.

Demonstrate the capability to independently operate all of the Water Division's facilities.

Exercise capable operations in all phases of plant operations: start-up, shutdown, reduction or bypass of unit processes, adverse or emergency conditions.

Accurately observe and record operating conditions and furnish verbal reports.

Travel to alternate duty/work locations and offsite meetings.

Work any shift, weekends, and holidays, at any Water Division facility.

Lift 55 pounds and move heavy chemical containers

Wear respiratory protection equipment as required.

Maintain the ability to perform required duties while wearing a Self-Contained Breathing Apparatus (SCBA).

Travel to alternate duty/work locations and offsite meetings.

Work independently without supervision.

MINIMUM QUALIFICATIONS:

Experience:

A minimum of twenty-four (24) months experience in the City of Vallejo classification of Water Treatment Plant Operator II.

OR

A minimum of three (3) years of water treatment operating experience, which includes at least one (1) year functioning as a journey-level operator, while holding Grade T3 Water Treatment Plant Operator certification at a T3 or higher surface water treatment facility. As a condition of continued employment, employees shall successfully complete the Water Treatment Plant Operator Promotional Review Process within twelve (12) months of the date of hire into this classification

Training:

A high school diploma or G.E.D with three (3) years of high school mathematics, including at least two (2) years of algebra.

Completion of the following four (4) California State University, Sacramento "Ken Kerri" Series of Courses: Water Treatment Plant Operation (Vols. 1 & 2); Small Water System Operation and Maintenance; and Water Distribution Operation and Maintenance.

Certification:

Possess and maintain a valid Class C California Driver License.

Possess and maintain a Water Treatment Operator Grad T3 Certification issued by the State Water Resources Control Board (SWRCB). Failure to maintain appropriate certification for classification will result in termination of employment.

Possess and maintain recertification for Hazardous Materials Technician, Confined Space Entry, CPR/First Aid, and Fork Lift Safety as often as set forth by the authority establishing the requirement.

OTHER REQUIREMENTS

Prior to appointment to this classification, the incumbent must have attained Grade T3 Water Treatment Plant Operator certification. Internal candidates must have demonstrated receipt of satisfactory performance reviews within the preceding twenty-four (24) month period, and successful completion of the Water Treatment Plant Operator Promotional Review Process.

Pursuant to California Government Code, Title 1 Division 4, Chapter 8, Section 3100 "all public employees have been declared to be disaster service workers subject to such disaster service activities as may be assigned to them by their superiors or by law."

Must be medically approved for wearing a Self-contained Breathing Apparatus (SCBA), and remain shaven of facial hair at all times as required to wear respiratory protection equipment.

Must maintain the ability to perform required duties while wearing SCBA.

Must be able to work safely while wearing Personal Protective Equipment (PPE).

Work on an unscheduled basis for emergency situations; must be willing to work any day and any shift within a 24-hour period as assigned, including holidays, week

WORKING CONDITIONS:**WORKING CONDITIONS**

Risk of exposure to chemicals; some lifting; machinery noise.

Work in and around confined spaces and elevated structures.

Work in proximity of high voltage and electronic equipment.

Work outdoors in a variety of weather conditions.

Work around complex, moving machinery in a biohazard environment.

ATTACHMENT D



Department of Public Works • 555 Santa Clara Street • Vallejo • CA • 94590

Via Hand-Delivery, First Class Mail and Certified Mail/Return Receipt Requested Mail

May 31, 2016

**Kenneth W. McKay
816 2nd Street
Fairfield, CA 94533**

NOTICE OF WRITTEN REPRIMAND

Dear Mr. McKay:

Pursuant to the City of Vallejo's ("City") Administrative Rule ("AR") 2.35—*Employee Discipline* [Attachment A] you are receiving a Written Reprimand. Your discipline is based upon you violating Fleming Hill Water Treatment Plant ("FHWTP") Standard Operating Procedure ("SOP") 2.38—*Belt Press Start-up & Shutdown*, in relevant part:

- "37. Clean lower half of belt presses, particularly the rollers, wash trays, and wash boxes." [Attachment B]
- "38. Clean until water from Wash Boxes runs clear." [Attachment B]

The aforementioned violations are based on your commission of the following acts or omissions. Please note this Notice of Written Reprimand ("Notice") is based on any one of the above violations and need not be based upon your commission of more than one violation. Facts:

- A. On March 29, 2016, you were the Water Treatment Plan Operator ("WTPO") assigned to the Belt Press at the FHWTP.
- B. Your March 29, 2016¹ logbook entry does not note the Belt Press you inherited at the beginning of your shift was dirty. [Attachment C]
- C. Between your March 29, 2016 shift and Rodney Jeffries', WTPO, April 5, 2016 shift, no other WTPO was responsible for the Belt Press being clean.
- D. On April 5, 2016, at the beginning of his shift, Mr. Jeffries noticed the Belt Press was not properly cleaned. Mr. Jeffries immediately notified Joe Abitong, Plant Operations Supervisor and Stuart Cole, Water Superintendent. Mr. Abitong and Mr. Cole took

¹ Please note, you incorrectly listed the date of your logbook entry as "11-29-16."

photographs of the dirty Belt Press. [Attachment D] Mr. Jeffries also noted in the logbook the Belt Press was dirty at the start of his shift. [Attachment E]

Based upon the facts, it is concluded:

Your failure to properly clean the Belt Press on March 29, 2016 is a violation of the FHWTP's SOP 2.38—*Belt Press Start-up & Shutdown*, in relevant part:

- "37. Clean lower half of belt presses, particularly the rollers, wash trays, and wash boxes." [Attachment B]
- "38. Clean until water from Wash Boxes runs clear." [Attachment B]

Furthermore, to exacerbate your negligence, in your role as a WTPO, you are trusted to "maintain operating equipment and facilities in a clean and orderly condition." [Attachment F] By your neglect, you violated this trust.

The adverse impact of your failure to properly clean the Belt Press is that it can cause a variety of problems, including but not limited to: clogging of the Plant's drains, corrosion of the Plant's equipment, binding of the Plant's belts and producing foul odors.

Kenneth, this Written Reprimand is intended to emphasize to you the seriousness of your negligence in the performance of your duties. You have been a WTPO since December 24, 2013 and are expected to know that you must properly clean the Belt Press. You must make immediate improvements, further incidents of this nature will result in more severe disciplinary action up to and including termination. Please govern yourself accordingly.

It is illegal and inappropriate to retaliate against any person who has participated in complaining or providing information regarding your discipline. You may not contact or in any other manner retaliate against any individual who has provided information to the City regarding your conduct.

Sincerely,



Fiona Gault Strykers
Assistant Public Works Director—Water

cc: Jasmin Loi, Human Resources Director
Janet Thiessen, Human Resources Program Manager
David Kleinschmidt, Public Works Director
Stuart Cole, Assistant Water Superintendent—Treatment
Employee personnel file

Attachments:

- A. AR 2.35—*Employee Discipline*
- B. FHWTP SOP 2.38—*Belt Press Start-up & Shutdown*
- C. Mr. McKay's March 29, 2016 logbook entry
- D. Photographs of dirty Belt Press
- E. Mr. Jeffries' April 5, 2016 logbook entry
- F. WTPO Classification Specification

• Attachment A •

CITY OF VALLEJO
ADMINISTRATIVE RULE

SUBJECT: EMPLOYEE DISCIPLINE

A.R. Number: 2.35
Date Issued: 09/01/99
Date Effective: 09/01/99
Revised: 03/27/07

1. PURPOSE

- 1.1 To establish and maintain appropriate administrative procedures to ensure that prompt action is taken with employees whose performance is unsatisfactory or whose conduct or failure to observe City of Vallejo rules and regulations necessitates action.

2. SCOPE

- 2.1 This policy applies to all locations and all entities of the City of Vallejo and to all employees.

3. POLICY

- 3.1 It is the policy of the City of Vallejo to endeavor to treat all employees equitably and to administer all policies, procedures, rules and regulations consistently. When an employee's performance is unsatisfactory, or when an employee violates the rules and regulations of the City of Vallejo, however, the City may take appropriate disciplinary action.

4. DELEGATION OF AUTHORITY

- 4.1 The City Manager or designee is granted the authority to impose discipline, pursuant to Vallejo Charter Section 500 (a). The City Manager delegates this authority to the department directors and their designees.

5. RESPONSIBILITY

- 5.1 Human Resources Department: The Human Resources Department may be consulted for advice and assistance at all levels of a proposed disciplinary action. The Human Resources Director or designee shall review all proposed disciplinary action involving a suspension, reduction in pay, demotion, or discharge for procedural (due process and just cause) compliance prior to the proposed action being issued. The Human Resources Director or designee shall meet with a representative of the City Attorney's Office and the department director or designee to discuss a proposed disciplinary action prior to the issuance of a notice of proposed

disciplinary action involving a suspension, reduction in pay, demotion, or discharge. The Human Resources Director shall maintain a record of all disciplinary actions by department and type. The Department of Human Resources is authorized to issue procedures regarding implementation and administration of this policy.

5.2 City Attorney's Office: The City Attorney's Office shall be consulted for advice and assistance prior to the issuance of a notice of proposed disciplinary action involving a suspension, reduction in pay, demotion, or discharge. Such consultation shall continue through the due process procedures, and if the employee chooses to appeal the disciplinary decision, through the Civil Service appellant process. A representative of the City Attorney's office, the Director of Human Resources or designee, and the department director or designee shall discuss a proposed disciplinary action prior to the issuance of a notice of proposed disciplinary action involving a suspension, reduction in pay, demotion, or discharge.

5.3 Department Directors: Make certain that all employees of the department understand the rules and regulations which govern their behavior and point out and discuss rule infractions. Document all pertinent facts relating to the misconduct and employee responses to the misconduct. Issue the approved disciplinary action for repeated infractions or a serious offense. Provide copies of disciplinary notices to the Department of Human Resources. Consult with Human Resources and the City Attorney's Office prior to issuing a notice of proposed disciplinary action involving a suspension, reduction in pay, demotion, or discharge prior to the proposed action being issued and follow Pre-Disciplinary Action "Skelly Rights" Procedure (see Attachment A).

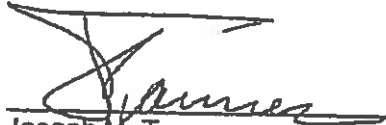
6. DISCIPLINARY POLICY:

6.1 The City of Vallejo may, in its sole discretion, employ a progressive discipline sequence involving some or all of the following steps: counseling, oral reprimand, written reprimand, suspension, reduction in pay, demotion, and discharge. The City may, however, decide to skip one or more of these steps, depending on the circumstances. In addition, the City reserves the right not to employ progressive discipline, and proceed directly to termination where the City deems it appropriate to do so.

6.2 Section 6.1 of this policy applies only to "for cause" employees, and does not apply to "at will" employees, probationary employees, temporary employees, seasonal employees, or any other employees exempt from the Civil Service.

6.3 This policy reaffirms the City of Vallejo's previous disciplinary practice of complying with all requirements regarding administration of discipline for

Fair Labor Standards Act (FLSA) exempt employees. Specifically, it is the policy of the City of Vallejo to suspend FLSA exempt employees without pay only in full day increments and not in partial day increments.



Joseph M. Tanner
City Manager

3-30-07
Date

• Attachment B •

**City of Vallejo Water Division
Fleming Hill Water Treatment Plant**

Section FH #2.38	Standard Operating Procedure #2.38 Belt Press Start-up & Shutdown	Revision No.: 3 Date: 10/15 Page 1 of 5

OVERVIEW

This procedure is necessary to understand how to operate the Belt Press facility downhill from the Fleming Hill Water Treatment Plant. Sludge water in Reclaim Basins or sludge directly from sed basins is sent down to the Belt Press facility by way of gravity feeding to the Gravity Thickener. The Belt press separates as much water from the solids. The dewatered sludge is picked up by Vallejo Recology and sent to the landfill. Decant water is sent back to a Fleming Hill Reclaim basin for further settling, before return to the headworks. This procedure must be performed by a fully trained operator of this facility and hold a minimum of a T2 license.

MAJOR EQUIPMENTS/COMPONENTS

- (2) drying lagoons for overflow
- Gravity Thickener with motorized sludge collector
- (2) Equalization chambers with a mixer each
- (3) sludge pumps
- (2) Ashbrook Belt Presses
- (2) each: poly totes, poly blender units (PBU) , and Poly Mixers (PM) aka aging tanks (holds up to ~4.0 feet of aging poly before overflow)
- (3) poly feed pumps (PFP)
- Screw conveyor with 3 openings (always leave door #3 open, last door)
- (3) sludge bins/ garbage dumpsters
- (3) decant pumps
- (2) drying lagoons for overflow

START-UP PROCEDURE

(In the Control Room)

1. Report to the control room to check for notes left by previous operator. Read last couple of log book entries and check white board for new equipment in or out of service and other misc. notes.
2. Call Vallejo Recology to let them know that the facility is being operated today and ask for bin pick-ups. Ask for bin liners if needed. Also ask for bin swaps following morning to ensure there are empty bins for the next shift (even if shift not scheduled the following day).
3. Check SCADA system and Main Control Panel for any faults. (If computer is locked up, re-boot the system)
4. Check white board for previous equipment configuration and select equipment accordingly.
5. On SCADA: Select and set desired Poly Feed Pumps to Auto
6. On SCADA: Select and set desired Poly Blender unit(s) to Auto
 - a. See note "Step#6"

7. On SCADA: Select and set desired Sludge Pumps to Auto
 - a. see note "Step #7"
8. On MAIN CONTROL PANELS: Set "Mode Select" Switch to Auto
 - a. See note "Step #8"
9. Select desired Garbage bin and Screw Conveyor gate. Make sure bin is lined. Make sure bins are in proper position. You can later align bins with forklift if necessary.
10. On Belt Press Local Control Panel: Select Dewater Switches to ON
11. Press Auto Start button on Main Control Panel.
12. Check Belt speed (some operators speed up during cleaning process)

In the Poly Room

13. Walk through facility checking for any apparent problems.
14. Check for any leaks or overflows in Poly Room.
15. Turn on poly tote mixer for 15 to 30 minutes.
16. Open discharge valves on PBUs (visually check all water valves are open in that corner)
17. Open Poly Tote valves.
18. Turn Poly Blender Units into the AUTO position
 - a. See note "step #6"
19. Turn on Aging Tank Mixers.
20. Open poly influent valves to desired Poly Feed Pumps
21. Check and note the Poly Tote weight

In Control Room

22. Log in start time and Poly Tote weight
 23. Check Sludge Level at Thickener. Log the level
- *Keep track of the number of poly totes you have available; place order in advance.**

Belt Press/ Top Floor

24. Turn on Exhaust Fans (if it is cold the gas heaters will automatically start).
25. Check Belt Presses for any obvious problems (obstructions, etc.)
26. Make sure that Hydraulic valves are in closed position on both presses.
27. Make sure that Chicanes and Scraper Blades are in down position.
28. Adjust Sludge Pumps, Poly Pumps, and Belt speeds to achieve proper process.
 - a. See note "Step #26" for additional information

SHUT-DOWN PROCEDURE

29. Press Auto Stop button on Local Control Panel OR turn "dewater off" for longer cleaning time.
30. Allow cake to clear from top of presses.
31. Lift Chicanes or not, it's your choice; lower them when finished.
32. Hose off sludge from the chicanes, loader box, inlet chute, and all exposed surfaces.
33. Hose off top of pressure wedges.
34. Hose off lower Gravity Grids and rollers.
35. Wait until all sludge has cleared the presses.
36. Open Wash water Box valves, and then close again.
37. Clean lower half of belt presses, particularly the rollers, wash trays, and wash boxes.
38. Clean until water from Wash Boxes runs clear.
39. Hose down decks, walls, stairs, and rails.
40. Allow presses to complete at least 45 minute wash down cycle.

In Poly Room

41. Turn off Aging Tank/Poly Mixers.
42. Close Poly Tote Valves.
43. Close Effluent valve on Poly Blender Units
44. Turn Poly Blender Units to the OFF position
45. Close influent valves to Poly Feed pumps

In the Control Room

46. Log shutdown time and Poly Tote final weight.
47. Calculate and log poly usage (in gallons) and number of bins filled.
48. Update white board on any equipment status changes or equipment configurations.
49. On SCADA: Turn Poly Feed Pumps, Sludge Pumps, and Poly Blender Units to OFF.
50. On MAIN CONTROL PANELS: set "Mode Select Switch" to OFF
51. Turn off Exhaust Fans (Gas heaters should turn off automatically).
52. During summer, leave Air Conditioner ON, set at 75 degrees.
53. Log out.
54. Turn off lights and check/lock all doors.

NOTES FOR PROCEDURE STEPS:

Step #6

Poly Blender Units – Often, it can be helpful to keep in SCADA OFF and go directly to units in Poly Room. *Only continue with this "test" if Aging tank level is less than 4'.

After opening poly tote valves and PBU discharge valves, turn PBU in the manual ON position to ensure and verify proper poly and water flow. Do this for each unit. Turn off immediately upon verification as Aging tanks/Poly Mixers will overflow around 4'. Put units in the "AUTO" position.

Step# 7

Sludge Pumps #3 can be used in place of Sludge pump 1 or 2.

- Open Sludge pump 3 discharge valve to appropriate BFP
- In MCC room: Turn VFD controller for Sludge pump 1 or pump 2 (whichever is being replaced) to off and #3 to Auto

Step #8 (normal operation)

Control Settings

Main Control Panels:

Control Power: ON

Wash water Valve: PLC

Hydraulic Pump: PLC

Belt Drive: PLC

Polymer Type: AGED

Control Select: LOCAL

Mode Select: AUTO

Step# 26 Sludge cake guidelines

Adjust Sludge Pumps, Poly Pumps, and Belt speeds to achieve proper process.

- Check the sludge cake process often, particularly at the beginning of the shift.
- Fewer polymers will be needed for the first 15 to 30 minutes until the poly already in the Aging Tanks is used.
- The sludge at the bottom of the equalization Chambers will be processed after 30 to 60 minutes, and another poly adjustment will be required.
- The process should then remain stable unless the Water Plant begins de-sludging, or the sludge in the thickener is depleted.

a) Too Much Poly:

- Sludge sticks to the belts past the scraper blades.
- Cake accumulates at chicanes or belt press loading box and gets stuck.
- Filtrate water is milky.
- Foam develops on top of cake.
- Water does not drop out (due to belt blinding).
- **Decrease poly flow until proper cake is achieved.

b) Not Enough Poly:

- Sludge does not cake.
- Sludge escapes past seals and into filtrate.
- Sludge oozes out between belts
- Cake is wet and heavy going into bins.
- **Increase poly flow until proper cake is achieved.

c) Low Sludge Solids Content:

- Water does not drop out (excessive water).
- Sludge is thin and almost clear.
- Very low Poly requirement.
- **Lower the sludge flow, poly flow, and belt speed until cake is achieved, or shut down.
- **Equalization Chamber inlets plugged. Clear inlets. Closed the two EQ valves and allow it to lower to 4 feet and reopen valve to clear the channel from any clogging.

GENERAL NOTES:

a) Weekly Facility Maintenance Operations:

Clean The Clarifier:

- Hose down stairs, decks, walkways, and platforms.
- Hose off mud and algae from filtrate spillway and sides of weirs.
- Hose off algae from sides of thickener.

Clear the Equalization Chamber Inlet Pipes:

- Plugged inlet pipes will cause low solids content in chambers.
- With presses running, close the (2) Equalization Chamber Inlet Valves.
- Watch levels of the Chambers.
- Mixers will shut off at 3 feet.
- Re-open inlet valves. Head pressure should clear the pipes.
- If still plugged, repeat this procedure.

Clean the Filtrate Well (weekly) Total Time 2 Hours:

- Contact the Water Plant and have them stop de-sludging a few hours before shutting down the Belt Presses.
- Shut down and clean Belt Presses.
- The Clarifier level should be no higher than one foot from the top of the weirs.
- Turn off the Filtrate Wet Well Low Level Controls at the control panel (Downstairs MCC Room).
- Manually turn on the Filtrate Pump(s) using the SCADA Controls.
- Filtrate Pump(s) will turn off at approximately 2 feet.
- Plug in Filtrate Well Sump Pump (Orange power cord inside Sludge Pump Building).
- Using Fire Hose mix mud inside Filtrate Well into a slurry. Repeat as necessary.
- Pump mud out of Filtrate Well, Hose, and repeat until clean.
- Unplug the Sump Pump.
- Set Belt Press Wash water Pumps to Bypass on Main Control Panel to refill filtrate well.
- When Filtrate Well level reaches 4 feet turn Low Level Controls back on.
- Turn Filtrate pumps to Off and then back to Remote at control panel (Downstairs MCC Room).
- Watch Filtrate Well Level on SCADA. (approx. 40 minutes)
- Filtrate Pumps should turn on when level reaches 6.5 feet.
- If pumps do not turn on, reset pumps again at control panel.
- Set Wash water Pumps back to PLC on Main Control Panel.

General Facility Cleaning:

- Sweep and/or hose down the Bin Loading Area
- Open valves to clean out Conveyor Gates.
- Sweep and/or hose down walls, floors, decks, and stairs on all three levels of Belt press Building.
- Hose out mud in Belt press filtrate drain stalls.
- Sweep out Sludge Pump Building.
- Sweep and clean the Polymer Feed Room
- Sweep out the Electrical Room.
- Knock down spider webs and spray for insects as necessary.
- Sweep sidewalks and pull weeds around buildings as necessary.

b) Troubleshooting:

No Poly/low poly:

Valve closed at Poly Tote or feed line incorrectly valved.

- Check valves to ensure poly flow to blenders.
- Open correct Poly Tote Valve.

Poly feed pumps shut down due to low flow or high Pressure.

- Reset Poly Pump at control in MCC Room
- Adjust Poly Pump speed at Local Control panel
- Speed should be between 20% and 85%

Air in Poly Feed line

- Bleed air out of system

Poly feed line or injector plugged.

- Increase poly pump speed until clog is forced out (90% or more)
- In the poly feed room, open water line to flush out the poly pipes (do this while the belt press is running)

Poly Mixer plugged (No poly in clear blending chamber)

- Bleed air from poly blender with bleed valve on back of blender pump.

REFERENCES:

1. Previous operation and maintenance documents.

• Attachment C •

0-18.000 Seifines

OK

in bling

re-mel

rel 16.1

#1 Bin MT

in 1/3 Full

Filling #

3 Bins &
tched to

manure

all process

Filling
in 1/3 Full
ched whole

whos
operated 1
1st Floor,

along

Floor,

ing paper-

of water

1149

a/l doors

to be pake 4P

3/25/16 1055 Friday

Facility check - all OK

3 Full sludge bins.

Classifier - lots of room for sludge

No alarm

SEA

3/26/16 1215 Saturday

Facility check - all OK

3/27/16 1350

Makey, Facility check OK

3/28/16 1000 hrs

Costa doing Facility check, All OK

Checked Forklift Battery, it started OK

1178

11.29.2016

1100

Makey in, Tote start 1148, 3 MT's

END 809

Filled 4 Bins

$33\frac{3}{4} \times 2 = 37\frac{1}{2} = 9 + 31 \text{ hrs}$

Valley of Garbage only come once, asked
for liner, did not bring.

Switched poly tote.

Process ok, not ideal due to it being
mostly Alum

emptied super sacks of old GAC into
recology bins.

Consolidated all waste poly into 2 Totes

1130

Makey to Hill, 12 of mud

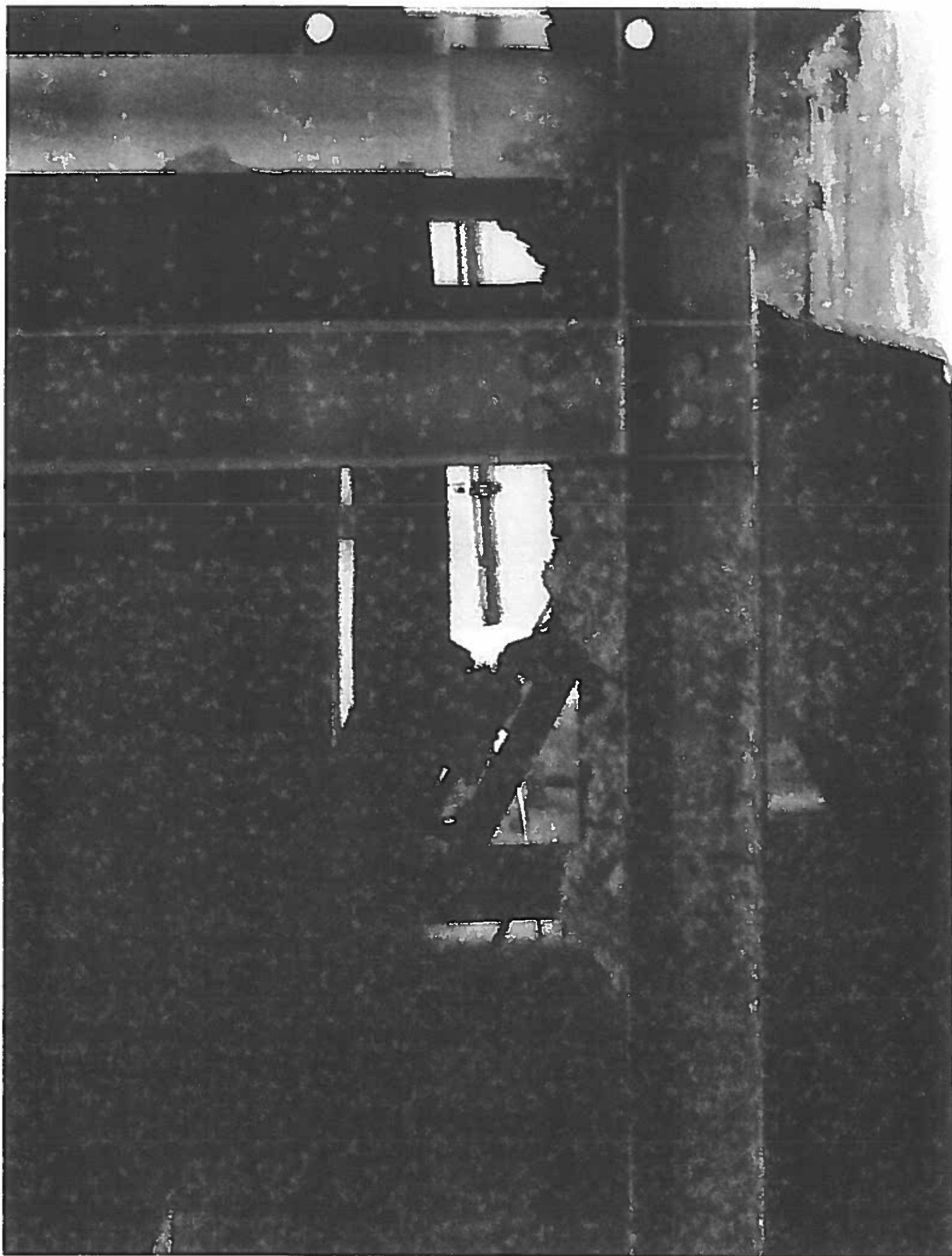
March 31, 2016 Thursday

1155

Costa doing Facility check, all OK

April 1, 2016 Friday

• Attachment D •





• Attachment E •

Two ¹¹ ¹⁴ for check all ok
Saturday 4-2-16

1700 Bernie on-site, checking Building
8' Fireward

1715 Bernie leaving site

4/3/16

0400 Security check OK - HAFF

4/4/16

1205 Security check

April 5, 2016

0745 Jeffries on site / Press check OK

except that lower part of press #12
are dirty large clumps of sludge below
/ Thickening 20' sludge

0815 started press #12 / contacted
Vallejo Garbage has only enough
liner material for 2 Bin left message
to Mike (VG) to get some brought
in.

1030 switch Bins to #2 left second
message to VG again / press #12
doing with an process contacted
F.H.I. to see what can be done
possible Belt Binding of poly

1120 Mike H. Here check Press
say Belt speed to fast and
adjust Poly / called Mike VG again
left message

Process extra
involves C
was shutt
extremely wet
more C VG
no liner
cleaned
cleaned / m
hosed Alg
Press Aut.
going to 1
at 1600

4/6/16

1555 Haff in

• Attachment F •

**Water Treatment Plant Operator****Bargaining Unit: International Brotherhood
of Electrical Workers****Class Code:
000****CITY OF VALLEJO****Established Date: Jun 8, 2015****Revision Date: Jun 23, 2015****SALARY RANGE**

\$38.34 - \$46.61 Hourly
\$3,067.57 - \$3,728.65 Biweekly
\$6,646.40 - \$8,078.74 Monthly
\$79,756.77 - \$96,944.85 Annually

DEFINITION:

To perform a variety of skilled technical duties and semi-skilled labor as shift operator, as regulated by Federal and State potable water treatment guidelines, in the operation and maintenance of the City's drinking water treatment plants, transmission, distribution systems, and appurtenances.

DISTINGUISHING CHARACTERISTICS

This is the full journey level classification in the treatment plant operator series, meeting requirements set by the U.S. Environmental protection Agency under the Safe Drinking Water Act, as well as by the State Water Resources Control Board (SWRCB), under the California Safe Drinking Water Act. The regulations ensure that water treatment facilities are operated and maintained by operators who are certified at the appropriate level, ensuring the protection of public health and safety. Performance expectations at this level include performance of the full range of responsibilities within the function. Individuals in this classification have satisfactorily demonstrated they are capable of operating and maintaining serviceable water supply, according to the City's treatment facility classification consistent with Environmental Protection Agency regulations, through the City's transmission, distribution facilities, water treatment plants and sludge de-watering project on an assigned shift, often without immediate supervision. Incumbents apply board job knowledge to resolve issues/problems of diverse scope where analysis of data requires evaluation of identifiable factors. Work requires independent judgment, initiative, and action within established operational parameters. This classification is distinguished from the Advanced Water Treatment Plant Operator class, as the latter is the challenging responsibilities for which problem-solving frequently requires analysis of unique issue/problems without precedent and/or structure.

AS a condition of continued employment with the City of Vallejo, incumbents are required to adhere to the process for maintaining the Grade T3 Water Treatment Plan Operator certification outlined by the State Water Resources Control Board (SWRCB). If the certification is not maintained, employment will be terminated. Advancement beyond the classification of Water Treatment Plant Operator is not required as a condition of continued employment.

SUPERVISION RECEIVED AND EXERCISED

Receives general supervision from supervisory and management staff such as the Water

Treatment Plant Supervisors and the Water Operations Superintendent. May receive lead direction from Advanced Water Treatment Plant Operators.

Exercises functional and technical supervision over, and provides training to Water Treatment Plant Operator Trainee staff.

EXAMPLES OF DUTIES:

EXAMPLES OF IMPORTANT RESPONSIBILITIES AND DUTIES - *Important responsibilities and duties may include, but are not limited to, the following:*

Monitors, adjusts and controls functions at water treatment plants, transmission/distribution system and sludge de-watering facility, using local controls and the Supervisory Control and Data Acquisition System (SCADA).

Operates and adjusts treatment plant pumps, motors, feeders and other equipment to maintain appropriate plant operations; regulate the flow of water through the water treatment plant and distribution system. Correctly regulates waste side-streams and return flows.

Calculates dosages and adjusts chemical feed machines for proper operation and application of chemicals in order to assure finished water quality standards. Arranges, safely receives and records deliveries of process chemicals to ensure adequate supplies.

Performs water quality tests using standardized testing methods in the plant laboratory; mixes and applies process chemicals at various stages in the treatment process.

Assembles updates and maintains plant operations logs and reports; performs and records mathematical calculations related to plant operational activities, process testing and control.

Works with hazardous chemicals related to water treatment and branch laboratory operations; receives training in and assists in spill prevention and response at City facilities.

Schedules, safely receives and records deliveries of process chemicals and monitors inventories to ensure adequate supplies.

Maintains plant, operating equipment and facilities in a clean and orderly condition; performs routine housekeeping inside and outside the plant and conducts regular site safety inspections

Dispatch call-out personnel as required at all hours. May act in a central communications function as follows: taking, relaying, transmitting, and providing information to and from City personnel or outside emergency services as required.

Operate city-owned motor vehicle to a number city facilities; operates licensed, City communication equipment.

Receives, safely unloads and stores materials by hand and by use of motorized and mechanical equipment.

Receives business contact with other city employees, customer inquiries and makes every effort to enhance public relations. Conducts general tours of the facilities.

Provides for safe plant conditions and working environment at all times by exercising a routine of attentiveness and proactive responses to plant safety and security matters.

Provides for safe plant conditions and working environment at all times by exercising a routine of attentiveness and proactive responses to plant safety and security matters.

Participates in accurate and complete shift change turn-overs to discuss vital plant information.

Participates in emergency preparedness training and exercises.

Perform related duties and responsibilities as required.

KNOWLEDGE AND ABILITIES:
QUALIFICATIONS

Knowledge of:

Standard principles of mathematics, biology, chemistry, and hydraulics as applied in the operation of a water treatment facility.

Standard principles, practices of drinking water treatment plant operations, laboratory analysis techniques and current drinking water standards and regulations.

Operating principles of plant equipment such as valves, pumps motors, controls, instrumentation and telemetry.

Operational and safety regulations pertaining to water treatment plant operations and vehicle and equipment usage.

Safety regulations pertaining work practices and use of related equipment.

Regulations, techniques and equipment used in managing mitigation, recovery and reporting of hazardous materials release.

Basic computer (PC) skills in Microsoft Suite software.

Safe vehicle and equipment use.

Ability to:

Logically solve problems and identify hazardous work conditions.

Understand and carry out written and oral instructions.

Operate and maintain water treatment plant equipment.

Diagnose operating problems and take effective courses of action.

Make independent technical decisions within established parameters to maintain proper treatment operations.

Establish and maintain effective working relationships with those contacted in the course of work.

Apply the practices, procedures, techniques, and treatment rules pertaining to the operation of water treatment plants and distribution system into daily practice.

Read and interpret gauges and other recording devices, plant piping and distribution diagrams and other technical documents.

Perform simple repair or maintenance to plant equipment such as pumps, valves, and electronic monitoring devices.

Perform simple to moderately complex tasks while wear Level A personal protective equipment.

Demonstrate the capability to independently operate all of the Water Division's facilities.

Exercise capable operations in all phases of plant operations: start-up, shutdown, reduction or bypass of unit processes, adverse or emergency conditions.

Accurately observe and record operating conditions and furnish verbal reports.

Travel to alternate duty/work locations and offsite meetings.

Work any shift, weekends, and holidays, at any Water Division facility.

Lift 55 pounds and move heavy chemical containers

Wear respiratory protection equipment as required.

Maintain the ability to perform required duties while wearing a Self-Contained Breathing Apparatus (SCBA).

Travel to alternate duty/work locations and offsite meetings.

Work independently without supervision.

MINIMUM QUALIFICATIONS:

Experience and Training Guidelines

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

A minimum of twenty-four (24) months experience in the City of Vallejo classification of Water Treatment Plant Operator II.

OR

A minimum of three (3) years of water treatment operating experience, which includes at least one (1) year functioning as a journey-level operator, while holding Grade T3 Water Treatment Plant Operator certification at a T3 or higher surface water treatment facility. As a condition of continued employment, employees shall successfully complete the Water Treatment Plant Operator Promotional Review Process within twelve (12) months of the date of hire into this classification

Training:

Equivalent to completion of the twelfth (12th) grade with three (3) years of high school mathematics, including at least two (2) years of algebra.

Completion of the following four (4) California State University, Sacramento "Ken Kerri" Series of Courses: Water Treatment Plant Operation (Vols. 1 & 2); Small Water System Operation and Maintenance; and Water Distribution Operation and Maintenance.

Certification:

Possess and maintain a valid Class C California Driver License.

Possess and maintain a Water Treatment Operator Grad T3 Certification issued by the State Water Resources Control Board (SWRCB). Failure to maintain appropriate certification for classification will result in termination of employment.

Possess and maintain recertification for Hazardous Materials Technician, Confined Space Entry, CPR/First Aid, and Fork Lift Safety as often as set forth by the authority establishing the requirement.

OTHER REQUIREMENTS

Prior to appointment to this classification, the incumbent must have attained Grade T3 Water Treatment Plant Operator certification. Internal candidates must have demonstrated receipt of satisfactory performance reviews within the preceding twenty-four (24) month period, and successful completion of the Water Treatment Plant Operator Promotional Review Process.

Pursuant to California Government Code, Title 1 Division 4, Chapter 8, Section 3100 "all public employees have been declared to be disaster service workers subject to such disaster service activities as may be assigned to them by their superiors or by law."

Must be medically approved for wearing a Self-contained Breathing Apparatus (SCBA), and remain shaven of facial hair at all times as required to wear respiratory protection equipment.

Must maintain the ability to perform required duties while wearing SCBA.

Must be able to work safely while wearing Personal Protective Equipment (PPE).

Work on an unscheduled basis for emergency situations; must be willing to work any day and any shift within a 24-hour period as assigned, including holidays, week

WORKING CONDITIONS:
WORKING CONDITIONS

Risk of exposure to chemicals; some lifting; machinery noise.
Work in and around confined spaces and elevated structures.
Work in proximity of high voltage and electronic equipment.
Work outdoors in a variety of weather conditions.
Work around complex, moving machinery in a biohazard environment.

ATTACHMENT E



Department of Public Works · 555 Santa Clara Street · Vallejo · CA · 94590

Via First Class Mail and Certified/Return Receipt Requested Mail

October 12, 2016

Kenneth W. McKay
2006 Goodman Court
Fairfield, CA 94533

NOTICE OF TERMINATION

Dear Mr. McKay:

You were presented with a *Notice of Intent to Terminate and Investigation Closure* ("Notice"), dated September 15, 2016,¹ based upon your threats of violence against coworkers, intimidating behavior directed towards your coworkers, and failure to professionally and reasonably work with others in the workplace. (Attachment 1)

As you are aware, the City conducted a confidential administrative investigation regarding the complaint William Stockman ("Stockman"), Water Treatment Plant Operator ("WTPO"), brought against you regarding your threatening and inappropriate behavior in the workplace. (Attachment 1, Sub-Attachment D) As you are further aware, based on the information provided from the investigation, the City made the following administrative determinations with regard to the underlying allegations of the complaint against you:

- The allegation that you made threatening comments against supervisor Stuart Cole ("Cole"), Assistant Water Superintendent—Treatment, was sustained, as you stated words to the effect, "Stuart fucked me and I'm going to get him...He promised me and I'm going to get him back," in reference to Mr. Cole declining to give you preferential treatment for a vacant position in the Green Valley Water Treatment Plant's caretaker house.

¹ All dates are 2016 unless otherwise noted.

- The allegation that you made threatening comments against coworker Rodney Jeffries, WTPO, was sustained, as you stated words to the effect that Mr. Jeffries "ratted" you out to management regarding a dirty Belt Press, that Mr. Jeffries should have talked to you directly about the issue, and that you wanted to "beat the fuck out of him."
- In addition, you were found to have engaged in combative and inflammatory acts towards your coworkers on multiple occasions, as you have used profanity or offensive language in response to work-related conversations, slammed papers on the counter, snapped at your coworkers with a raised voice, angry expressions, or aggressive body language despite any provocation, among other contentious acts.

Your *Skelly* meeting was held on October 7. Your *Skelly* officer was Police Captain Lee Horton ("Horton"). In addition to Captain Horton and yourself, also present were your union representatives, Jennifer Gray, IBEW Local 1245 Business Representative and Ray Thomas, IBEW Local 1245 Assistant Business Manager. At your *Skelly* meeting, you denied making threats against your coworkers. In addition, you and your representatives alleged the following:

- Motivation for the *Notice* by the City of Vallejo ("City") was in retaliation for you helping Erin Waid, WTPO, file her Equal Employment Opportunity Commission ("EEOC") charge against the City and for you filing your own EEOC charge against the City.
- Your supervisors failed to act expeditiously over your alleged threats against Mr. Cole and Mr. Jeffries or for your alleged combative and inflammatory acts.
- The City did not interview six additional employees regarding your alleged acts.
- The interviews and investigation by James Peavey, Personnel Analyst II, were biased.

Captain Horton considered the *Notice*, your *Skelly* meeting response, your prior disciplinary record² and your current Annual Performance Assessment.³ Captain Horton is sustaining the recommendation you be terminated from your WTPO position with the City.

² Specifically, on May 31, you were issued a *Written Reprimand for Negligence*, which is found at Attachment 1, Sub-Attachment D.

³ Your most recent Annual Performance Assessment regarding your performance between December 24, 2014 and July 28, 2015 also reveals your ongoing challenges with working constructively with others and treating others in a professional manner, which is found at Attachment 1, Sub-Attachment E. Specifically, you were noted for "demonstrat[ing] combative and inflammatory behavior if he [did] not get his way." You openly displayed "a poor attitude with an angry tone, sharp words, and even, at times, physically threatening demeanor when someone expects him to work with a situation that he disagrees with... The angry outbursts tend to make his co-workers feel threatened." In addition, you "...alienated other coworkers with aggressive behavior, angry outbursts and threatening tone, words, and body language, and problem solving that requires teamwork does not meet expectations..."

Therefore, pursuant to the City's *Administrative Rule ("AR") 2.35—Employee Discipline* (Attachment 1, Sub-Attachment A) and *Civil Service Commission Rule 18—Suspension, Fine or Removal*, (Attachment 1, Sub-Attachment B) I am terminating you from employment as a WTPO with the City, effective 5:15 p.m. on October 12.

Per *Civil Service Commission Rule 19.1—Appeals and Hearings* (Attachment 2), you have the right to appeal your discipline to the Civil Service Commission ("Commission") within five calendar days. Specifically, your written appeal must be received by Jasmin Loi, Executive Secretary of the Commission, by 5:15 p.m. on October 17. Your written appeal must be submitted to one of the following:

- Email: jasmin.loi@cityofvallejo.net
- Facsimile: (707) 648-5292
- Mail or in person: 555 Santa Clara Street, Room 102, Vallejo, CA 94590

It is illegal and inappropriate to retaliate against any person who has participated in complaining or providing information regarding your termination. You may not contact or in any other manner retaliate against any individual who has provided information to the City regarding your misconduct.

Sincerely,



Fiona Gault Strykers
Interim Assistant Public Works Director—Water Division

cc: David Kleinschmidt, Public Works Director
Jasmin Loi, Human Resources Director
Crystal Tobin, Personnel Analyst II
Employee Personnel File

Attachments:

1. *Notice of Intent to Terminate and Investigation Closure*, dated September 15⁴
2. *Civil Service Commission Rule 19.1—Appeals and Hearings*

⁴ On September 15, the City mailed the *Notice* to your mailing address at 816 2nd Street, Fairfield, CA 94533. Since the City had a second mailing address on file for you, in order to ensure proper notice, on September 23, the City sent you an additional copy of the *Notice* to your mailing address at 2008 Goodman Court, Fairfield, CA 94533.



Department of Public Works - 555 Santa Clara Street - Vallejo - CA - 94590

Via First Class Mail and Certified/Return Receipt Requested Mail

September 23, 2016

Kenneth W. McKay
2006 Goodman Court
Fairfield, CA 94533

Re: Additional Copy of Notice of Intent to Terminate and Investigation Closure

Dear Mr. McKay:

On September 15, 2016, the City of Vallejo mailed a Notice of Intent to Terminate and Investigation Closure ("Notice of Intent") to your mailing address at 816 2nd Street, Fairfield, CA 94533.

However, since the City of Vallejo ("City") has located a second mailing address on file for you, in order to ensure proper notice, the City is sending the enclosed Notice of Intent to your mailing address at 2006 Goodman Court, Fairfield, CA 94533.

In order to ensure you are provided with your full due process rights, the City is providing you an extended timeline within which to respond to the enclosed Notice of Intent.

If you wish to submit a written response, it must be received by the City's Department of Human Resources, located at 555 Santa Clara Street, Room 102, Vallejo, CA 94590, by 5:15 p.m., September 30, 2016.

If you wish to have a pre-disciplinary *Skelly* meeting, you must advise the City's Department of Human Resources of that fact by contacting Tanya Starks, Senior Administrative Clerk, at (707) 648-4398 or tanya.starks@cityofvallejo.net, by 5:15 p.m., September 30, 2016.

Sincerely,



Fiona Gault Strykers
Interim Assistant Public Works Director—Water Division

cc: David Kleinschmidt, Public Works Director
Jasmin Loi, Human Resources Director
Employee Personnel File

Enclosure: Notice of Intent to Terminate and Closure of Investigation, dated September 15, 2016



Department of Public Works · 555 Santa Clara Street · Vallejo · CA · 94590

Via First Class Mail and Certified/Return Receipt

September 15, 2016

Kenneth W. McKay
816 2nd Street
Fairfield, CA 94533

NOTICE OF INTENT TO TERMINATE AND INVESTIGATION CLOSURE

Dear Mr. McKay:

Pursuant to *Skelly v. State Personnel Board* (1975) 15 Cal.3d 194 ("Skelly"), the City of Vallejo's ("City") Administrative Rule 2.35, Civil Service Commission Rule 18, and the Collective Bargaining Agreement ("CBA") between the City of Vallejo and International Brotherhood of Electrical Workers Local 2376, AFL-CIO ("IBEW"), I am advising you of my preliminary decision to terminate you from your position as a Water Treatment Plant Operator. If my recommendation remains unchanged following completion of any pre-disciplinary review in this matter, then you will be provided with written notice of your discipline. Your recommended discipline is based upon your threats of violence against coworkers, intimidating behavior directed towards your co-workers, and failure to professionally and reasonably work with others in the workplace.

A. GROUND FOR DISCIPLINE

A classified employee may be suspended, fined, or dismissed, as provided by City Administrative Rule 2.35—Employee Discipline (See Attachment A), and Civil Service Commission Rule 18—Suspension, Fine or Removal (See Attachment B). The recommended discipline is based upon findings that you have committed the following violations of the CBA, Section 7—Safety (See Attachment C):

"It is the policy of the City to comply with all federal, state and local health and safety regulations to provide a work environment as free as practicalbe

from recognized hazards. Employees are expected to comply with all safety and health requirements whether established by the City or by federal, state, or local law....No employee shall be expected to work in the presence of any valid safety or health hazard. Should any employee believe that such conditions exist, the employee should so notify a supervisor to determine the degree of the existing hazard..."

This recommended discipline is also based upon findings that your conduct violated Civil Service Commission Rule 18—Suspension, Fine or Removal (See Attachment B):

"Every person holding a position in the classified service shall be subject to suspension, fine, demotion or removal....for misconduct... or for failure to cooperate reasonably with the department head or with his his/her fellow employees..."

B. FACTUAL BASIS FOR RECOMMENDATION ACTION

1. Investigation

As you are aware, the City conducted a confidential administrative investigation regarding the complaint William Stockman, Water Treatment Plant Operator, brought against you regarding your threatening and inappropriate behavior in the workplace. The City takes allegations of workplace safety seriously and is committed to furnishing a safe and healthful work environment for its employees. The City enlisted James Peavey, Personnel Analyst II with the City's Human Resources Department, to conduct the investigation. Mr. Peavey had full freedom to conduct the investigation as he saw fit and without the City's interference or influence. Mr. Peavey conducted an extensive investigation, including interviews of nine witnesses, including you and several other Treatment Operation team members, and an extensive review of relevant documents. The investigation has concluded.

Based on the information provided from the investigation, the City made the following administrative determinations with regard to the underlying allegations of the complaint against you:

- The allegation that you made threatening comments against supervisor Stuart Cole is SUSTAINED, as you stated words to the effect, "Stuart fucked me and I'm going to get him...He promised me and I'm going to get him back," and in reference to Mr. Cole declining to give you preferential treatment for a vacant position in the Green Valley Water Treatment Plant's caretaker house.
- The allegation that you made threatening comments against coworker Rodney Jeffries is SUSTAINED, as you stated words to the effect that Mr. Jeffries "ratted"

you out to management regarding a dirty Belt Press, that Mr. Jeffries should have talked to you directly about the issue, and that you wanted to "beat the fuck out of him."

2. Proposed Remedial Action

Based on the City's administrative findings and determination set forth above, the City intends to implement remedial policy measures to further assure a safe and healthful work environment for its employees so as to prevent similar instances from occurring in the future.

Based on the City's administrative findings and determination as set forth above, the City makes the recommendation that the discharge of your employment as the appropriate level of disciplinary action based upon your misconduct as detailed below.

Please note, this Notice of Intent to Terminate ("Notice") is based on any one of your acts and need not be based upon your commission of more than one act. The City finds that you made threatening comments about fellow City employees, Stuart Cole, Assistant Water Superintendent—Treatment, and Rodney Jeffries, Water Treatment Plant Operator (See Attachment D):

- In December 2015, during a conversation with William Stockman, Water Treatment Plant Operator, you expressed your displeasure with Stuart Cole, Assistant Water Superintendent—Treatment, for failing to allow you to move into the Green Valley Water Treatment Plant's caretaker house, specifically stating "Stuart [Mr. Cole] fucked me and I'm going to get him [Mr. Cole]" and "He [Mr. Cole] promised me and I'm going to get him [Mr. Cole] back."
- On April 23, 2016, during a conversation with William Stockman, Water Treatment Plant Operator, you expressed your displeasure with Rodney Jeffries, Water Treatment Plant Operator, for reporting to management your failure to properly clean the Fleming Hill Water Treatment Plant's Belt Press, and that Mr. Jeffries should have directly talked to you about it, specifically stating "He [Mr. Jeffries] ratted me out to management" and that you wanted to "Beat the fuck out of him [Mr. Jeffries]."

In addition, you have engaged in combative and inflammatory acts towards your coworkers on multiple occasions, as you have used profanity or offensive language in response to work-related conversations, slammed papers on the counter, snapped at your co-workers with a raised voice, angry expressions, or aggressive body language despite any provocation, among other contentious acts. (See Attachment D).

Your explicit comments about hurting and retaliating against team members as well as your intimidating demeanor towards others have had a disruptive impact on the workplace.

C. LEVEL OF DISCIPLINE

The City has a legal duty pursuant to the California Occupational Safety and Health Act of 1973 ("Cal OSHA") to ensure its workplace is free from violence and threats of violence and to furnish employment and a place of employment that is safe and healthful for the employees therein. (See, Labor Code section 9400). Workplace violence is any act or threat of physical violence, harassment, intimidation, or other threatening disruptive behavior that occurs at the work site.

You have threatened the safety of others in the workplace by making statements of violence against Mr. Cole and Mr. Jeffries, exhibited an aggressive attitude and directed angry outbursts towards fellow Treatment Operations team members on numerous occasions. What is especially concerning is that your escalated reactions were in response to work-related circumstances that were not provoking, demeaning, or antagonizing in any way. Your behavior has caused your coworkers to feel intimidated or reluctant to work with you.

I have also reviewed and considered your entire personnel file in making the aforementioned recommendation. Your most recent Annual Performance Assessment regarding your performance between December 24, 2014 and July 28, 2015 also reveals your ongoing challenges with working constructively with others and treating others in a professional manner. Specifically, you were noted for "demonstrat[ing] combative and inflammatory behavior if he [did] not get his way." You openly displayed "a poor attitude with an angry tone, sharp words, and even, at times, physically threatening demeanor when someone expects him to work with a situation that he disagrees with...The angry outbursts tend to make his co-workers feel threatened." In addition, you "...alienated other coworkers with aggressive behavior, angry outbursts and threatening tone, words, and body language, and problem solving that requires teamwork does not meet expectations..." (See Attachment E) You may review your personnel file upon reasonable request by contacting Tanya Starks, Senior Administrative Clerk, at (707) 648-4398 or tanya.starks@cityofvallejo.net.

The City cannot tolerate your explicit threats of violence or your intimidating demeanor towards City employees. Further, your pattern of belligerent behavior is inappropriate and reflective of your inability to work constructively with your fellow employees in a professional and reasonable way. In addition, I have concluded that lesser discipline will not likely be effective because you were counseled on the very same issues during your last formal evaluation, dated July 28, 2015. Despite having an opportunity to improve, you not only continued to display similar deficient behavior, but more

egregiously, expressed your desire to harm two team members. Therefore, based upon the facts, I have concluded that the highest level of discipline is appropriate and recommend termination from your position as a Water Treatment Plant Operator.

D. RIGHT TO RESPOND

Pursuant to *Skelly*, you may provide a written and/or verbal response to this Notice. Your written response must be received by the Department of Human Resources by 5:15 p.m., September 22, 2016. If you wish to have a pre-disciplinary *Skelly* meeting, you must advise the City of that fact by contacting Ms. Starks at (707) 648-4398 or tanya.starks@cityofvallejo.net, by 5:15 p.m., September 22, 2016. Although the pre-disciplinary meeting is not designed to be a formal evidentiary hearing, legal counsel or another individual of your choice may represent you. Your failure to provide a written response or to attend a pre-disciplinary *Skelly* meeting will constitute a waiver of your right to provide a response. Accordingly, the decision to either sustain, modify or reject this recommendation will be based exclusively upon a review of this Notice and its attachments.

E. NON-RETALIATION

The City prohibits retaliation against those, including you, for participating in the complaint and investigation process. Please immediately report actions, comments, or conduct, if any, that you believe to be retaliation for your participation in this complaint and investigation process.

Sincerely,



Fiona Gault Strykers
Interim Assistant Public Works Director—Water Division

cc: David Kleinschmidt, Public Works Director
Jasmin Loi, Human Resources Director
Employee Personnel File

Attachments:

- A. City of Vallejo's Administrative Rule 2.35
- B. Civil Service Commission Rule 18
- C. CBA between the City of Vallejo and IBEW Local 2376, Section 7
- D. Confidential Administrative Investigation Report, dated September 13, 2016
- E. Annual Performance Assessment, dated July 28, 2016

Attachment A

NOTICE OF INTENT TO TERMINATE AND INVESTIGATION CLOSURE • KENNETH MCKAY

ATTACHMENT A

**CITY OF VALLEJO
ADMINISTRATIVE RULE**

SUBJECT: EMPLOYEE DISCIPLINE

**A.R. Number: 2.35
Date Issued: 09/01/99
Date Effective: 09/01/99
Revised: 03/27/07**

1. PURPOSE

- 1.1 To establish and maintain appropriate administrative procedures to ensure that prompt action is taken with employees whose performance is unsatisfactory or whose conduct or failure to observe City of Vallejo rules and regulations necessitates action.

2. SCOPE

- 2.1 This policy applies to all locations and all entities of the City of Vallejo and to all employees.

3. POLICY

- 3.1 It is the policy of the City of Vallejo to endeavor to treat all employees equitably and to administer all policies, procedures, rules and regulations consistently. When an employee's performance is unsatisfactory, or when an employee violates the rules and regulations of the City of Vallejo, however, the City may take appropriate disciplinary action.

4. DELEGATION OF AUTHORITY

- 4.1 The City Manager or designee is granted the authority to impose discipline, pursuant to Vallejo Charter Section 500 (a). The City Manager delegates this authority to the department directors and their designees.

5. RESPONSIBILITY

- 5.1 Human Resources Department: The Human Resources Department may be consulted for advice and assistance at all levels of a proposed disciplinary action. The Human Resources Director or designee shall review all proposed disciplinary action involving a suspension, reduction in pay, demotion, or discharge for procedural (due process and just cause) compliance prior to the proposed action being issued. The Human Resources Director or designee shall meet with a representative of the City Attorney's Office and the department director or designee to discuss a proposed disciplinary action prior to the issuance of a notice of proposed

disciplinary action involving a suspension, reduction in pay, demotion, or discharge. The Human Resources Director shall maintain a record of all disciplinary actions by department and type. The Department of Human Resources is authorized to issue procedures regarding implementation and administration of this policy.

5.2 City Attorney's Office: The City Attorney's Office shall be consulted for advice and assistance prior to the issuance of a notice of proposed disciplinary action involving a suspension, reduction in pay, demotion, or discharge. Such consultation shall continue through the due process procedures, and if the employee chooses to appeal the disciplinary decision, through the Civil Service appellant process. A representative of the City Attorney's office, the Director of Human Resources or designee, and the department director or designee shall discuss a proposed disciplinary action prior to the issuance of a notice of proposed disciplinary action involving a suspension, reduction in pay, demotion, or discharge.

5.3 Department Directors: Make certain that all employees of the department understand the rules and regulations which govern their behavior and point out and discuss rule infractions. Document all pertinent facts relating to the misconduct and employee responses to the misconduct. Issue the approved disciplinary action for repeated infractions or a serious offense. Provide copies of disciplinary notices to the Department of Human Resources. Consult with Human Resources and the City Attorney's Office prior to issuing a notice of proposed disciplinary action involving a suspension, reduction in pay, demotion, or discharge prior to the proposed action being issued and follow Pre-Disciplinary Action "Skelly Rights" Procedure (see Attachment A).

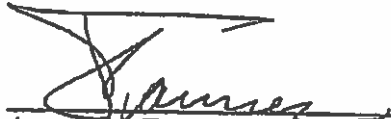
6. DISCIPLINARY POLICY:

6.1 The City of Vallejo may, in its sole discretion, employ a progressive discipline sequence involving some or all of the following steps: counseling, oral reprimand, written reprimand, suspension, reduction in pay, demotion, and discharge. The City may, however, decide to skip one or more of these steps, depending on the circumstances. In addition, the City reserves the right not to employ progressive discipline, and proceed directly to termination where the City deems it appropriate to do so.

6.2 Section 6.1 of this policy applies only to "for cause" employees, and does not apply to "at will" employees, probationary employees, temporary employees, seasonal employees, or any other employees exempt from the Civil Service.

6.3 This policy reaffirms the City of Vallejo's previous disciplinary practice of complying with all requirements regarding administration of discipline for

Fair Labor Standards Act (FLSA) exempt employees. Specifically, it is the policy of the City of Vallejo to suspend FLSA exempt employees without pay only in full day increments and not in partial day increments.



Joseph M. Tanner
City Manager

3-30-07
Date

NOTICE OF INTENT TO TERMINATE AND INVESTIGATION CLOSURE • KENNETH MCKAY

ATTACHMENT B

RULE 18

SUSPENSION, FINE OR REMOVAL

18.1 Employees Subject To

Every person holding a position in the classified service shall be subject to suspension, fine, demotion or removal from office or employment by the person, board, or commission appointing such persons, for misconduct, incompetency, inefficiency, failure to perform the duties or to observe the rules and regulations of such department, office, board or commission, or for failure to cooperate reasonably with the department head or with his/her fellow employees; subject to the right of the employee to appeal to the Civil Service Commission in the manner set forth in the Charter and these Rules.

18.2 Statement of Reason

Every employee shall be given a written statement of the reason for such suspension, fine, demotion or removal from office or employment at the time of such suspension, fine, demotion or removal. Such statement shall include in itemized form the specific instances in support of such suspension, fine, demotion or removal from office or employment. A copy of such statement shall be delivered to such person or shall be left at his/her last known address.

18.3 Filing of Appeal

Any employee who has been so disciplined shall have five (5) days after service of such written statement within which to file an appeal to the same. A copy of such appeal shall be filed during office hours at the office of the person, board or commission imposing such discipline and the original shall be filed by such employee in the office of the Executive Secretary of the Commission. Should the last day on which an appeal may be filed fall upon a Sunday or holiday the time for filing such appeal shall be extended to include the next following business day.

18.4 Investigation and Hearing Required

The Commission may make, or cause to be made, such investigation as it shall deem necessary and thereafter shall hold a hearing at which time it shall hear evidence for and against such employee. Hearings may be conducted informally and the conclusions shall be made by the Commission within ten (10) days after the matter has been submitted and thereupon the same shall be certified to the official, board or commission from whose order the appeal has been taken. The findings and conclusions of the Commission also may contain such recommendations as said Commission shall deem proper, and shall include the amount of compensation such employee is entitled to receive, if any. Said findings and conclusions of the Commission shall be final.

NOTICE OF INTENT TO TERMINATE AND INVESTIGATION CLOSURE • KENNETH MCKAY

ATTACHMENT C

SECTION 7 MISCELLANEOUS

7.1 FILLING OF VACANT POSITIONS

- A. Effective July 23, 2002 the City retains the sole and exclusive right to determine when and if a vacant position will be filled. Such decision shall not be subject to grievance or arbitration.

7.2 SAFETY

- A. It is the policy of the City to comply with all federal, state and local health and safety regulations to provide a work environment as free as practicable from recognized hazards. Employees are expected to comply with all safety and health requirements whether established by the City or by federal, state or local law.
 - 1. No employee shall be expected to work in the presence of any valid safety or health hazard. Should any employee believe that such conditions exist, the employee should so notify a supervisor to determine the degree of the existing hazard.
 - 2. It is the responsibility of management and supervisory personnel to provide suitable safety equipment, training and supervision to each employee and to address known safety hazards.
 - 3. Should an employee or the Union believe that any of the above provisions have been violated, the employee or the Union may enforce such provisions through the California Department of Industrial Relations.
- B. Appropriate safety equipment will be furnished and maintained by the City in a condition suitable for its purpose. Employees are to appropriately maintain City-provided personal protective safety equipment. The City will be responsible for the reasonable replacement cost of such equipment only when the need for such replacement does not arise out of the employee's negligence or carelessness.
- C. The City agrees to allow one (1) employee designated by the Union to accompany an OSHA Inspector and any other persons who may be designated by the City on any appropriate inspection tour of a City facility at which employees in this bargaining unit normally work. Time necessarily lost by the employee from his/her regularly scheduled work shall be compensated at said employee's regular straight-time rate of pay.
- D. The City and the Union shall establish a Joint Safety Committee consisting of three (3) employee representatives appointed by the Union and three (3) City representatives.

1. It shall be the right of the committee members to (a) report and discuss unsafe conditions they may observe or which may be called to their attention, including accidents; (b) assist in the development and dissemination of safety information to the employees; and (c) make recommendations with respect to the adequacy of the safety devices, safety equipment and safety practices within the City's operation.
2. The Joint Safety Committee shall have a regular monthly meeting unless there are no matters to be discussed. A report relative to the discussions at and results of such meeting shall be prepared and sent within five (5) calendar days to the City Manager. Time necessarily lost by the Joint Safety Committee members from their regularly scheduled work shall be compensated at said employees' regular straight-time rate of pay.

The Joint Safety Committee shall not file or handle grievances involving safety.

7.3 TRANSFERS AND ASSIGNMENTS

A. Temporary Transfers/Assignments

1. The City shall have the right to temporarily transfer or assign employees irrespective of their seniority status from one job classification to another to cover for employees who are absent, to fill temporary vacancies, or to take care of unusual conditions or situations which may arise.
 - a. In no case shall a temporarily transferred employee suffer a loss in pay as a result of such transfer.
 - b. When an employee is temporarily transferred or assigned to perform substantially the duties of an employee in a higher classification, such transferred employee shall receive the rate of pay applicable as if the employee were promoted to such position, for each day such work is performed. In no case shall such rate of pay be less than five (5) percent above such transferred employee's regular rate of pay, provided that employees serving in such positions shall not receive a rate of pay above the maximum step of the range of the position in which they are serving in an acting capacity.
2. The commencement and termination of each such temporary transfer or assignment shall be immediately reported by the employee's supervisor on a form designated for that purpose by the

Department of Human Resources. The employee involved shall promptly receive a copy of each such completed form.

3. When an employee is transferred or assigned to a position within a higher pay range, such employee shall have the right to remain in such higher-rated position as long as he or she performs satisfactorily and the need for filling such position on a temporary basis continues to exist.
 - a. In no event, however, shall a temporary assignment or transfer exceed twelve (12) months. Employees who work beyond six months will continue to receive "acting pay" when they are on paid leave.
4. Any employee temporarily transferred or assigned pursuant to this Section shall not acquire any permanent title or right to the position to which such employee is so transferred or assigned, but shall retain his or her seniority in the permanent classification from which such transfer or assignment was made.
5. This Section specifically supersedes and renders null and void any and all Civil Service Commission Rules and Regulations in conflict herewith, and the Civil Service Commission shall be foreclosed from dealing with such matters for positions within the bargaining unit.

B. Permanent Transfers/Assignments

1. Employees who wish to transfer permanently from one position in a classification to another position in the same classification shall so inform the Department of Human Resources, which shall maintain a transfer list of such employees.
2. When a vacancy occurs within the City, the Department of Human Resources shall poll the employees whose names are on the transfer list to determine who is interested in being considered for the vacancy. The Department of Human Resources shall convey the transfer list with appropriate documentation to the appropriate department for consideration; the employees may be interviewed at the discretion of the department involved.

7.4 CERTIFICATION/LICENSE FEES

- A. Employees who are required as a condition of employment or continued employment to obtain state certification or licensing in the field in which they are employed by the City shall be reimbursed by the City for the annual cost of such certificate or license

7.5 TRAINING FOR SUPERVISORY EMPLOYEES

- A. Individuals in supervisory classifications or lead worker positions who are responsible for supervising personnel as part of their daily job duties and functions will receive training within the first year of their appointment into their supervisor/lead-worker position and may request or will be provided additional supervisory and/or leadership training on an annual basis to continue their development of supervisory/leadership skills as deemed appropriate by their Department, Human Resources, or the City Manager. This provision will take effect following ratification of this agreement by IBEW and adoption by the City Council in accordance with the Government Code and Meyers-Millias-Brown Act.**

NOTICE OF INTENT TO TERMINATE AND INVESTIGATION CLOSURE • KENNETH MCKAY

ATTACHMENT D

Attachment D

NOTICE OF INTENT TO TERMINATE AND INVESTIGATION CLOSURE • KENNETH MCKAY

ATTACHMENT D

CONFIDENTIAL ADMINISTRATIVE **INVESTIGATION REPORT**

**Report Concerning Complaints Regarding
Kenneth W. McKay, Water Treatment Plant Operator**

CONFIDENTIAL ADMINISTRATIVE INVESTIGATION REPORT • KENNETH W. MCKAY

I. INTRODUCTION

This is a Confidential Administrative Investigation Report ("Report") that contains detailed information, witness accounts, relevant documentation, analyses and findings related to the allegations. It is anticipated this Report will be maintained confidentially by the decision-makers and will not be disseminated except as required or as determined by the decision-makers or applicable law.

On June 9, 2016,¹ William Stockman, Water Treatment Plant Operator, notified Jasmin Loi, Human Resources Director, that he was concerned Kenneth McKay, Water Treatment Plant Operator, made threatening and inappropriate comments about employees at work. Ms. Loi directed the undersigned to investigate.

II. WITNESSES AND DOCUMENTS

A. WITNESSES

Unless otherwise noted, all interviews were held in the Human Resources Office. The undersigned conducted interviews of the following individuals:

<u>Name</u>	<u>Title</u>
William Stockman	Water Treatment Plant Operator
Stuart Cole	Assistant Water Superintendent—Treatment
Roger Kasper	Water Treatment Plant Supervisor
Frank Costa	Advanced Water Treatment Plant Operator
Lynn Schulte	Water Treatment Plant Operator
Rodney Jeffries	Water Treatment Plant Operator
Richard Baker	Water Treatment Plant Operator
Joe Abitong	Water Treatment Plant Supervisor
Erin Wald	Water Treatment Plant Operator
Kenneth McKay	Water Treatment Plant Operator

The undersigned admonished all witnesses that 1) they had a duty to answer every question fully and truthfully, 2) to keep the contents of the interview confidential and 3) not to discuss their interview with others (whether on-duty or off-duty). Furthermore, the undersigned explained to witnesses this Report would be shared with others on a need-to-know basis. In addition, the undersigned informed all witnesses of the City of Vallejo's ("City") policy prohibiting retaliation for either bringing a claim or participation in an investigation and if they were to be retaliated against, they must immediately report this to the undersigned.

Interview summaries in this Report are not verbatim recitation of witnesses' statements. Verbatim statements are cited using quotations.

¹ All dates are 2016 unless otherwise stated.

CONFIDENTIAL ADMINISTRATIVE INVESTIGATION REPORT • KENNETH W. MCKAY

B. DOCUMENTS

The following documents were reviewed and are attached:

Exhibit #	Document
1.	Mr. McKay's Written Reprimand for Negligence, dated May 31.
2.	Mr. McKay's most recent Annual Performance Assessment (for the period of December 24, 2014 to July 28, 2015).
3.	Fleming Hill Water Treatment Plant Operations Work Schedule—April 23.
4.	Mr. McKay's email to Mr. Abitong, dated November 24, 2015.
5.	Mr. Cole's memorandum, memorializing a Verbal Reprimand given to Mr. McKay for 1) not reporting to the correct worksite and 2) failing to inform management that he would not report to work due to illness, dated July 28, 2015.
6.	Mr. McKay's written rebuttal to his Verbal Reprimand for not reporting to the correct worksite, not dated and not signed.
7.	Mr. McKay's written rebuttal to his Verbal Reprimand for failing to report that he would not report to work due to illness (i.e., "call-in sick"), not dated and not signed.
8.	Mr. Stockman's signed written statement memorializing his allegations, dated July 8.
9.	U.S. Department of Labor's definition of "Workplace Violence."
10.	California Labor Code 6400 (a)

III. INTERVIEWS

A. WILLIAM STOCKMAN

Mr. Stockman was interviewed on June 23. He is a Water Treatment Plant Operator. He has worked for the City for 15 years. His direct supervisor is Joe Abitong, who in turn reports to Mr. Cole.

Mr. Stockman said that immediately after a December 2015 union meeting, Mr. McKay approached him and expressed his displeasure with Mr. Cole.² Mr. Stockman said Mr. McKay told him that he was mad at Mr. Cole for reneging on his promise to select Mr. McKay to live at the Green Valley Water Treatment Plant's caretaker house. Mr. Stockman stated Mr. McKay specifically told him "Stuart [Mr. Cole] fucked me and I'm going to get him." Mr. Stockman said he told Mr. McKay that since other employees also requested to live at the Green Valley Water Treatment Plant's caretaker house, the department must have an application process, including interviews. According to Mr. Stockman, Mr. McKay replied "Screw that, he [Mr. Cole] promised me and I'm going to get him back." Mr. Stockman added he did not initially report Mr. McKay's remark because he was very hesitant to

² According to Mr. Stockman, although there were other people milling about, no one was within earshot of his conversation with Mr. McKay.

CONFIDENTIAL ADMINISTRATIVE INVESTIGATION REPORT • KENNETH W. MCKAY

report a fellow union shop steward to management, especially since Mr. McKay made the remark immediately following a union meeting.

Mr. Stockman said that on April 23, during the "turn-over,"³ he was speaking with Mr. McKay in the Fleming Hill Water Treatment Plant's Control Room.⁴ According to Mr. Stockman, Mr. McKay said he was angry with Mr. Jeffries for reporting his failure to clean the Belt Press⁵ to management and Mr. Jeffries should have talked to him about it.⁶ According to Mr. Stockman, Mr. McKay said "He [Mr. Jeffries] ratted me out to management" and he wanted to "Beat the fuck out of him [Mr. Jeffries]." Mr. Stockman explained he "struggled" for several weeks over whether to report Mr. McKay's "threats" to management. Mr. Stockman said he finally chose to alert Mr. Cole, explaining "You hear a lot about workplace violence, and armchair quarterbacking after the fact. When Ken [Mr. McKay] is not upset, he's nice. But he can get mad quickly."⁷ Mr. Stockman added he does not want to see Mr. McKay terminated, but he also wants to ensure a safe work environment.

B. Stuart Cole

Mr. Cole was interviewed on August 5. He is the Assistant Water Superintendent—Treatment. He has worked for the City for nine years. He started as a Water Treatment Plant Operator and was promoted to his current position two years ago. He reports to Fiona Gault Strykers, Interim Assistant Public Works Director—Water Division. Mr. Cole has overall supervision of all Water Treatment Plant Operators.

Regarding the Green Valley Water Treatment Plant's caretaker house, Mr. Cole said at the time when Mr. McKay originally spoke to him about the position, Mr. McKay was the only employee who had expressed interest. Yet, between the time when Mr. McKay originally expressed interest and when the residence was ready for habitation, several other Water Treatment Plant Operators had expressed interest in living there too.⁸ Therefore, in order to ensure fairness, a competitive application process was necessary. Mr. Cole said when he shared this information with Mr. McKay, he became "angry" with him.

Regarding the two Verbal Reprimands issued to Mr. McKay, Mr. Cole said they were given to Mr. McKay for: 1) not reporting to the correct worksite and 2) failing to inform management he would not report to work due to illness (i.e., "call-in sick"). Mr. Cole stated the Verbal Reprimands were not given to

³ Turn-over is the semantical term used to describe the overlapping of the Water Treatment Plant Operators' shifts (i.e., when one Water Treatment Plant Operator "turns-over" the shift to the Water Treatment Plant Operator who is relieving him/her).

⁴ According to Mr. Stockman, he and Mr. McKay were the only two employees in the Control Room.

⁵ During Mr. McKay's shift on March 29.

⁶ Based on information provided by Mr. Jeffries, Mr. McKay received a Written Reprimand for "Negligence", dated May 31, which is found at Exhibit 1.

⁷ On July 8, Mr. Stockman submitted a signed/dated written statement memorializing his allegations.

⁸ Currently, the Green Valley Water Treatment Plant's caretaker house is vacant.

CONFIDENTIAL ADMINISTRATIVE INVESTIGATION REPORT • KENNETH W. MCKAY

Mr. McKay in retaliation for his helping Ms. Waid file an EEOC complaint.⁹ Mr. Cole added he used to be a union shop steward and he is a proponent of employees exercising their union rights.

Mr. Cole denied he had elicited negative comments from coworkers about Mr. McKay. Mr. Cole added if employees made negative comments to him about Mr. McKay, he asked them to submit their negative comments to him in writing.

Mr. Cole added that Mr. McKay's challenges with working constructively with coworkers and treating others in a professional manner was addressed in Mr. McKay's most recent Annual Performance Assessment (for the period of December 24, 2014 to July 28, 2015). Specifically, Mr. McKay was noted for "demonstrat[ing] combative and inflammatory behavior if he [did] not get his way" and he openly displayed "a poor attitude with an angry tone, sharp words, and even, at times, physically threatening demeanor when someone expects him to work with a situation that he disagrees with... The angry outbursts tend to make his co-workers feel threatened." In addition, it was noted that Mr. McKay "...alienated other coworkers with aggressive behavior, angry outbursts and threatening tone, words, and body language, and problem solving that requires teamwork does not meet expectations..." [Exhibit 2]

When asked, Mr. Cole said the following employees had expressed their concerns about Mr. McKay's behavior: Roger Kasper, Water Treatment Plant Supervisor; Frank Costa, Advanced Water Treatment Plant Operator; Lynn Schulte, Water Treatment Plant Operator; Rodney Jeffries, Water Treatment Plant Operator; and Joe Abitong, Water Treatment Plant Supervisor.

During a follow up telephone call on August 15, Mr. Cole said when he was the Acting Assistant Water Superintendent—Treatment, he would volunteer to cover open shifts only when no Water Treatment Plant Operators were able/willing to work the open shift. Mr. Cole approximated that over the course of two years, he only worked four overtime shifts.¹⁰

C. Roger Kasper

Mr. Kasper was interviewed on August 5.¹¹ He is a Water Treatment Plant Supervisor. He normally supervises the Water Treatment Plant Operators at

⁹ On July 14, 2015, Ms. Waid filed a charge of discrimination with the Equal Employment Opportunity Commission (EEOC) against the City alleging she was subjected to wage disparity based on her sex. Information is provided about Ms. Waid's complaint only because Mr. McKay's involvement with it forms the basis for his retaliation claim.

¹⁰ During Ms. Schulte's August 8 interview, she said ever since Mr. Cole's promotion, Mr. McKay has had "it out for Stu [Mr. Cole]." explaining that no matter what Mr. Cole does, Mr. McKay "will spin it to make it look bad for Stu [Mr. Cole]." Ms. Schulte gave as an example when Mr. Cole offered to come into work and get his "hands dirty" when his staff were unwilling or unable to work overtime. Ms. Schulte said she appreciated Mr. Cole's offer since "sometimes I work 18-hour shifts." Ms. Schulte went on to explain that Mr. McKay "turned red in his face" and said Mr. Cole was "stealing overtime."

¹¹ Telephone interview

CONFIDENTIAL ADMINISTRATIVE INVESTIGATION REPORT • KENNETH W. MCKAY

the Travis Air Force Base Water Treatment Plant. He is the back-up supervisor for the Fleming Hill Water Treatment Plant, where he was the supervisor from 1995 through 2005. He reports to Mr. Cole.

Mr. Kasper said Mr. McKay is "intelligent," yet he "angers easily," "holds grudges," "thinks that everyone is out to get him" and is prone to "lose his composure" and provided the following examples of incidents he observed in which he formed this basis:

- In the summer of 2015, when Mr. McKay became aware he would have to compete in a competitive selection process to live in the Green Valley Water Treatment Plant's caretaker house, he blamed Mr. Stuart, telling Mr. Kasper "Stuart [Mr. Cole] turned on me" and "He's [Mr. Cole] out for me."
- In the winter of 2015, Mr. Kasper spoke with Mr. McKay regarding some mistakes in Mr. McKay's monthly report, and Mr. McKay "exploded" at him. Specifically, Mr. McKay raised his voice at Mr. Kasper, and waved his hands at Mr. Kasper in an "aggressive" manner.

During a follow up telephone call on August 16, Mr. Kasper said Mr. Cole did not order him to ask employees if they had ever felt threatened by Mr. McKay. Mr. Kasper denied asking Mr. Baker if he ever felt threatened by Mr. McKay.¹² To the contrary, Mr. Kasper said that it was *Mr. Baker* who broached the topic of hearing rumors about Mr. McKay's angry outbursts. (Emphasis added.) Mr. Kasper said that in response to Mr. Baker's statement, he told Mr. Baker that if in the future, any employee who expressed his/her concern about Mr. McKay's behavior, he should suggest to the employee that he/she speak with Mr. Kasper.

D. Frank Costa

Mr. Costa was interviewed on August 5. He is an Advanced Operator. He normally works at the Fleming Hill Water Treatment Plant and the Green Valley Water Treatment Plant. He began employment with the City in December 2000.

Mr. Costa said Mr. McKay "tends to hold onto things" and "it takes Ken [Mr. McKay] a long time to get over something." Mr. Costa provided the example that even though it had been over half a year since Mr. McKay was told he would not be guaranteed to move into the Green Valley Water Treatment Plant's caretaker house, as of May 2016 he was still ruminating about it.

¹² Mr. Baker was interviewed on August 11. Mr. Baker said that, in October or November 2015, Mr. Kasper asked him if he ever felt threatened by Mr. McKay.

Mr. Costa added "I like Ken as a person, but he's hard to be around because he gets so angry so easily."

E. Lynne Schulte

Ms. Schulte was interviewed on August 8. She is a Water Treatment Plant Operator. She has held this position since June 2010. She directly reports to Joe Abitong.

Ms. Schulte said ever since Mr. Cole was promoted, Mr. McKay has had "it out for Stu [Mr. Cole]," explaining that no matter what Mr. Cole does, Mr. McKay "will spin it to make it look bad for Stu [Mr. Cole]." Ms. Schulte gave as an example when Mr. Cole offered to come into work and get his "hands dirty" when his staff were unwilling or unable to work overtime. Ms. Schulte said she appreciated Mr. Cole's offer since "sometimes I work 18-hour shifts." Ms. Schulte went on to explain that Mr. McKay "turned red in his face" and said Mr. Cole was "stealing overtime."

Ms. Schulte described Mr. McKay's behavior as "erratic," "explosive" and "paranoid" and that he will blow up at people. Ms. Schulte gave an example in the summer of 2015, when—in the presence of Mr. McKay—Mr. Jeffries asked her how a new Water Treatment Plant Operator Trainee (Darryl Potts) was performing. According to Ms. Schulte, she told Mr. Jeffries that Mr. Potts was doing "okay" and in response, Mr. McKay "blew-up" at her—specifically, becoming red in the face, waving his arms and said in a loud, condescending tone, "He's [Mr. Potts] doing better than 'okay'! He's doing 'fine!'" Ms. Schulte said because of Mr. McKay's angry outburst, she no longer felt safe working with him and asked Mr. Abitong to not schedule her to work simultaneously with Mr. McKay.

Ms. Schulte gave another example of an incident at the Fleming Hill Water Treatment Plant that occurred in November or December 2015. Ms. Schulte explained Mr. Jeffries asked Mr. McKay to drain a water basin and in response, Mr. McKay "screamed" at Mr. Jeffries, and in a scolding, loud manner, said "I know what to do!"

Ms. Schulte said "I don't like people losing their jobs, but I sure as hell don't want him [Mr. McKay] at work. Something is wrong with him [Mr. McKay]. He's [Mr. McKay] dangerous."

F. Rodney Jeffries

Mr. Jeffries was interviewed on August 11. He is a Water Treatment Plant Operator. He has worked for the City for 25 years. His direct supervisors are Mr. Abitong and Mr. Kasper, who in turn report to Mr. Cole.¹³

Asked about the dirty Belt Press matter, Mr. Jeffries said the reason he decided to report it directly to Mr. Abitong (and not to Mr. McKay) is twofold: 1) because Mr. Abitong is his direct supervisor and as such he has an obligation to keep Mr. Abitong informed and 2) in the past he had brought an error to Mr. McKay's attention and Mr. McKay raised his voice at him and he "didn't want to go through that again."¹⁴

Mr. Jeffries said about two weeks after he reported the dirty Belt Press (mid to late April 2016), he was conducting a *turn-over*¹⁵ with Mr. McKay. Mr. Jeffries said Mr. McKay appeared "perturbed" and said, regarding the dirty Belt Press, "Next time let me know. You should have told me."

G. Richard Baker

Mr. Baker was interviewed on August 11. He is a Water Treatment Plant Operator. He has worked for the City for eight years. His direct supervisor is Mr. Kasper, who in turn reports to Mr. Cole.

Mr. Baker said that in October or November 2015, Mr. Kasper asked him if he ever felt threatened by Mr. McKay. Mr. Baker indicated he personally does not have any issues with Mr. McKay.

Mr. Baker said he did not believe Mr. Cole nor anyone else had conspired to retaliate against Mr. McKay.

H. Joe Abitong

Mr. Abitong was interviewed on August 11. He is the Fleming Hill Water Treatment Plant Supervisor. He has worked for the City since 1992. At any one time, he supervises approximately 10 Water Treatment Plant Operators who are assigned to work at the Fleming Hill Water Treatment Plant.¹⁶

¹³ When Mr. Jeffries works at the Travis Water Treatment Plant, his supervisor is Mr. Abitong. When he works at the Fleming Hill Water Treatment Plant, his supervisor is Mr. Kasper.

¹⁴ Mr. Jeffries said that in late November 2015, he noticed Mr. McKay did not complete his Quality Control Report and brought this to Mr. McKay's attention. Mr. Jeffries said that in response, Mr. McKay screamed at him "This is chicken shit of you! Go fuck yourself!"

¹⁵ *Turn-over* is the semantical term used to describe the overlapping of the Water Treatment Plant Operators' shifts (i.e., when one Water Treatment Plant Operator "turns-over" the shift to the Water Treatment Plant Operator who is relieving him/her).

¹⁶ Mr. Abitong said that, generally, Water Treatment Plant Operators rotate through the Fleming Hill Water Treatment plant every three-months.

CONFIDENTIAL ADMINISTRATIVE INVESTIGATION REPORT • KENNETH W. MCKAY

Mr. Abitong expressed that not only has he "heard rumors" about Mr. McKay, Mr. Abitong said he has personally witnessed Mr. McKay "lose his temper" twice. Mr. Abitong explained "sometime in 2015," on two separate occasions, he personally witnessed Mr. McKay "slam," in an aggressive manner, a manual/stack of papers onto a counter in the Fleming Hill Water Treatment Plant's Control Room.

Mr. Abitong said he did not retaliate against Mr. McKay for his assisting Ms. Waid with filing her EEOC charge against the City, and he did not know of anyone else who has retaliated against Mr. McKay.

I. Erin Waid

Ms. Waid was interviewed on August 12. She is a Water Treatment Plant Operator. She has worked for the City for almost four years. Her supervisor is Mr. Abitong, who in turn reports to Mr. Cole.

Ms. Waid said she has never observed Mr. McKay get angry, yet she said he could be "passionate."

Ms. Waid said she felt Mr. Cole was targeting Mr. McKay. She gave as an example Mr. McKay being disciplined for the dirty Belt Press. She said that in the past three months, both Mr. Cole and Dan Ellicock, Water Treatment Plant Operator, had left the Belt Press dirty, yet she believed neither Mr. Cole nor Mr. Ellicock had been disciplined.¹⁷

During a follow up telephone call on August 15, Ms. Waid said she did not report the Belt Press left dirty by Mr. Ellicock because Mr. Abitong had also seen it, and since Mr. Abitong is a Water Treatment Plant Supervisor, she assumed he would deal with it. Regarding the Belt Press left dirty by Mr. Cole, Ms. Waid said she was alone when she saw it, and she did not report it because she did not believe any action would be taken against Mr. Cole since he is the Assistant Water Superintendent—Treatment.

When asked if she knew of a motive for Mr. Stockman to make false accusations against Mr. McKay, Ms. Waid said "Bill [Mr. Stockman] gets his feelings hurt easily. Ken [Mr. McKay] has corrected misstatements that Bill [Mr. Stockman] has made." Ms. Waid explained Mr. Stockman has made many misstatements at union meetings and Mr. McKay has corrected him.

¹⁷ Confidentiality and privacy issues preclude discussing whether any other City employees were disciplined.

CONFIDENTIAL ADMINISTRATIVE INVESTIGATION REPORT • KENNETH W. MCKAY

J. KENNETH MCKAY

Mr. McKay was interviewed on July 18.¹⁸ He is a Water Treatment Plant Operator. He has worked for the City for five years. His direct supervisors are Mr. Abitong and Mr. Kasper, who in turn report to Mr. Cole.¹⁹

Mr. McKay recalled having a conversation with Mr. Stockman after a December 2015 union meeting, in which he expressed his frustration at Mr. Stuart for not allowing him to move into the Green Valley Water Treatment Plant's caretaker house. Mr. McKay denied saying words to the effect of "Stuart [Mr. Cole] fucked me and I'm going to get him," stating "Never, never. I don't do retaliation. It's not my thing." When asked why Mr. Stockman would falsely accuse him, Mr. McKay said Mr. Stockman had admitted to being a "management 'shill'"²⁰ who was "planted" in the union to "pit members against each other."

Mr. McKay did not recall working with Mr. Stockman on April 23.²¹ However, when asked if he ever discussed with Mr. Stockman his displeasure with Mr. Jeffries for reporting the dirty Belt Press matter to management,²² Mr. McKay answered he "probably did" on April 23, explaining he was "irritated" with Mr. Jeffries and said "It was Rodney's [Mr. Jeffries'] duty to come to me about it [the dirty Belt Press]." When asked when he became aware Mr. Jeffries had reported his dirty Belt Press to management, Mr. McKay answered "soon afterwards."²³ Mr. McKay added the Belt Press "wasn't really as dirty as Rodney [Mr. Jeffries] made it out to be."

Mr. McKay denied he told Mr. Stockman he wanted to "beat the fuck out of him [Mr. Jeffries]" stating "Never, never. I don't hold grudges. I believe in the Buddhist saying that anger is like a hot piece of coal, the longer you hold onto it the more it hurts you." When asked why Mr. Stockman would falsely accuse him, Mr. McKay answered "Again, because of union issues."

Mr. McKay added "I believe this is a complete retaliation. I believe they are retaliating against me for filing an equal pay act for Erin Waid." Mr. McKay explained he believes he is being retaliated against because he assisted Ms. Waid in filing an EEOC charge in which Ms. Waid alleged pay disparity in violation of the Equal Pay Act and Title VII. When asked to specify who he

¹⁸ Ray Thomas, IBEW Local 1245 Assistant Business Manager, represented Mr. McKay at his investigatory interview.

¹⁹ When Mr. McKay works at the Travis Water Treatment Plant, his supervisor is Mr. Abitong. When Mr. McKay works at the Fleming Hill Water Treatment Plant, his supervisor is Mr. Kasper.

²⁰ Merriam-Webster defines "shill" as "to act as a spokesperson or promoter."

²¹ Records show that Mr. McKay and Mr. Stockman shared a turn-over on April 23, and are found at Exhibit 3.

²² On May 31, Mr. McKay was issued a Written Reprimand for "Negligence," based on his failure to properly clean the Belt Press during his shift on March 29.

²³ On April 5, Mr. Jeffries reported the dirty Belt Press to management.

CONFIDENTIAL ADMINISTRATIVE INVESTIGATION REPORT • KENNETH W. MCKAY

believes are retaliating against him, Mr. McKay identified Mr. Stockman, Mr. Stuart and Mr. Jeffries.²⁴

In support of his claim coworkers conspired against him, Mr. McKay presented the following documentation:

1. An email he sent to Mr. Abitong, in which he asks Mr. Abitong to stop coworkers from retaliating against him, dated November 24, 2015.²⁵ [Exhibit 4]
2. Mr. Cole's memorandum, memorializing a Verbal Reprimand given to Mr. McKay for: 1) not reporting to the correct worksite and 2) failing to inform management he would not report to work due to illness (i.e., "call-in sick"), dated July 28, 2015.²⁶ [Exhibit 5]
3. Mr. McKay's written rebuttal to his Verbal Reprimand for not reporting to the correct worksite, not dated and not signed.²⁷ [Exhibit 6]
4. Mr. McKay's written rebuttal to his Verbal Reprimand for failing to inform management he would not report to work due to illness (i.e., "call-in sick"). [Exhibit 7]²⁸

When asked, Mr. McKay said Mr. Baker and Ms. Wade would be able to provide information to support his claims of retaliation.

IV. CREDIBILITY ASSESSMENT, FINDINGS AND DISCUSSION

The undersigned analyzed the facts to determine whether Mr. Stockman's allegations were with or without merit under a "preponderance of the evidence standard" that for purposes of the Report is defined as the evidence on one side outweighs (i.e., more than) the evidence on the other side.²⁹ The undersigned drew the conclusions in the Report from the totality of the evidence, an exhaustive analysis of the facts and—where needed—made credibility determinations. The undersigned considered and gave appropriate weight to information that might be considered hearsay in legal proceedings. Finally, while much time was spent reviewing documents and interviewing witnesses, the Report does not purport to include every detail as described by the witnesses and found in the documents. Rather, the Report assesses the important facts as they pertain to the alleged conduct.

²⁴ When asked what was Mr. Jeffries' motivation to falsely accuse him of not properly cleaning the Belt Press (which led to Mr. McKay being disciplined) Mr. McKay answered "I don't know. It's conjecture."

²⁵ Mr. McKay explained that during a November 12, 2015 "safety test," Mr. Baker told him Mr. Kasper had asked employees if they had ever felt threatened or intimidated by Mr. McKay. Mr. McKay said Mr. Kasper was doing this at the behest of Mr. Cole in order to elicit statements from co-workers portraying Mr. McKay as aggressive. When asked on what basis he made this connection between Mr. Cole and Mr. Kasper, Mr. McKay answered "It's conjecture."

²⁶ Mr. McKay said the Verbal Reprimands were without merit and were issued by Mr. Cole in retaliation for his assisting Ms. Waid file the EEOC claim against the City.

²⁷ Mr. McKay could not recall when he originally submitted the rebuttal.

²⁸ Mr. McKay could not recall when he originally submitted the rebuttal.

²⁹ This is a qualitative standard (i.e., not a quantitative standard).

CONFIDENTIAL ADMINISTRATIVE INVESTIGATION REPORT • KENNETH W. MCKAY

Mr. Stockman's account was verified or corroborated by other witnesses. For example, based on the statements of Mr. Cole, Mr. Kasper, Mr. Costa, Ms. Schulte and Mr. Stockman, Mr. McKay was angry with Mr. Cole for not allowing him to move into the Green Valley Water Treatment Plant's caretaker house. Clearly, Mr. McKay was upset with Mr. Cole.

In addition, contrary to Mr. McKay's assertions, based on the statements of Mr. Cole, Mr. Kasper, Mr. Costa, Ms. Schulte and Mr. Stockman, Mr. McKay tends to hold grudges against coworkers and has difficulty controlling his temper at work (e.g., Mr. Cole said when he told Mr. McKay he was not guaranteed to live at the Green Valley Water Treatment Plant's caretaker house he became "angry" with him; Mr. Kasper said when he spoke with Mr. McKay regarding some mistakes in Mr. McKay's monthly report, Mr. McKay "exploded" at him—raised his voice and waved his hands in an "aggressive" manner; Mr. Costa said Mr. McKay "tends to hold onto things" and "it takes Ken [Mr. McKay] a long time to get over something." Mr. Costa provided the example that even though it had been over half a year since Mr. McKay was told he would not be guaranteed to move into the Green Valley Water Treatment Plant's caretaker house, as of May 2016 he was still ruminating about it; Ms. Schulte gave an example of an incident at the Fleming Hill Water Treatment Plant that occurred in November or December 2015, in which Mr. Jeffries asked Mr. McKay to drain a water basin, and in response, Mr. McKay "screamed" at Mr. Jeffries, and in a scolding, loud manner, said "I know what to do!"; and Mr. Stockman, said Mr. McKay told him "He [Mr. Jeffries] ratted me out to management" and he wanted to "Beat the fuck out of him [Mr. Jeffries]").

Additionally, Mr. McKay's challenges with working constructively with coworkers and treating others in a professional manner was addressed in Mr. McKay's most recent Annual Performance Assessment (for the period of December 24, 2014 to July 28, 2015) Specifically, Mr. McKay was noted for "demonstrat[ing] combative and inflammatory behavior if he [did] not get his way" and he openly displayed "a poor attitude with an angry tone, sharp words, and even, at times, physically threatening demeanor when someone expects him to work with a situation that he disagrees with...The angry outbursts tend to make his co-workers feel threatened." In addition, it was noted that Mr. McKay "...alienated other coworkers with aggressive behavior, angry outbursts and threatening tone, words, and body language, and problem solving that requires teamwork does not meet expectations..."

Furthermore, there is no evidence to conclude Mr. Cole, Mr. Kasper, Mr. Costa, Ms. Schulte and/or Mr. Stockman conspired to make false

statements about Mr. McKay.³⁰ What is more persuasive is that even a witnesses which Mr. McKay suggested to be interviewed (Mr. Baker) also refuted his conspiracy theory. Additionally, Mr. McKay's credibility regarding his accusation of such a conspiracy is diminished by his failure to provide a motivation for Mr. Jeffries to falsely accuse him of not cleaning the Belt Press, stating his belief was based on "conjecture."

In summary, taking into the totality of the evidence, Mr. Stockman's statements are plausible and his version of events were likely to occur based on other employees observations of Mr. McKay's pattern of aggressive behavior and demeanor.

2. Did Mr. McKay make a threatening comment about Mr. Jeffries?

Sustained. The weight of the evidence supports a finding Mr. McKay made a threatening comment targeting Mr. Jeffries.

Mr. Stockman said that on April 23, he was speaking with Mr. McKay in the Fleming Hill Water Treatment Plant's Control Room—they were the only two people in the room. According to Mr. Stockman, Mr. McKay said he was angry with Mr. Jeffries, for reporting to management his failure to properly clean the Belt Press and Mr. Jeffries should have directly talked to him about it. According to Mr. Stockman, Mr. McKay said "He [Mr. Jeffries] rattled me out to management" and Mr. McKay wanted to "Beat the fuck out of him [Mr. Jeffries]." Because Mr. McKay denied making this statement and there were no third-party witnesses, this finding is based on the credibility determination of who is telling the truth.

Mr. Stockman's account makes the most sense. For example, Mr. McKay had motive to be angry with Mr. Jeffries—specifically, for reporting his failure to properly clean the Belt Press (during his March 29 shift³¹) which led to him receiving a Written Reprimand (on May 31).

In addition, contrary to Mr. McKay's assertions, based on the statements of multiple interviewees, he tends to holds grudges and has difficulty controlling his temper. Furthermore, what is more telling are Mr. McKay's own words that seem to further support Mr. Stockman's allegations. For example, when asked to describe his April 23 conversation with Mr. Stockman, Mr. McKay said, "It was Rodney's [Mr. Jeffries'] duty to come to me about it." This demonstrates Mr. McKay holds grudges because—after nearly three-weeks since he became aware Mr. Jeffries had reported the dirty Belt Press—he was still "irritated" with Mr. Jeffries.

³⁰ In fact, Ms. Schulte and Mr. Stockman both said they did not want Mr. McKay to lose his job. In addition, Mr. Costa said "I like Ken as a person, but he's hard to be around because he gets so angry so easily." Furthermore, Mr. Kasper said Mr. McKay is "intelligent."

³¹ On April 5, Mr. Jeffries reported the dirty Belt Press to management.

CONFIDENTIAL ADMINISTRATIVE INVESTIGATION REPORT • KENNETH W. MCKAY

What is more persuasive is the temporal proximity between the time Mr. McKay became aware of Mr. Jeffries reporting the dirty Belt Press (on or about April 5) and when Mr. McKay made the threatening statements towards Mr. Jeffries (April 23).

In summary, taking into the totality of the evidence, Mr. Stockman's statements are plausible and his version of events were likely to occur based on other employees observations of Mr. McKay's pattern of aggressive behavior and demeanor.³²

V. CONCLUSION:

Workplace violence is defined as any act or threat of physical violence, harassment, intimidation, or other threatening disruptive behavior that occurs at the work site.³³

Clearly, Mr. McKay committed workplace violence by making threats of violence against coworkers by stating "Stuart [Mr. Cole] fucked me and I'm going to get him [Mr. Cole]," "He [Mr. Cole] promised me and I'm going to get him [Mr. Cole] back," and he wanted to "...beat the fuck out of him [Mr. Jeffries]."

RESPECTFULLY SUBMITTED BY:


James E. Peavey, Personnel Analyst II

09-13-16
date

³² The credibility assessment behind this finding is identical to that of the previous finding.

³³ As defined by the U.S. Department of Labor, which is found at Exhibit 9. Furthermore, California Labor Code 6400 (a), mandates the City ensure its workplace is free from violence and threats of violence, stating "Every employer shall furnish employment and a place of employment that is safe and healthful for the employees therein," which is found at Exhibit 10.

ATTACHMENT F

INTRODUCTION

This is a Confidential Administrative Investigation Report ("Report") containing detailed information, witness accounts, relevant documentation, analyses and findings related to the allegations. It is anticipated this Report will be maintained confidentially by the decision-makers and will not be disseminated except as required or as determined by the decision-makers or applicable law.

On October 11, 2019, City of Vallejo ("City") Water Department Director Mike Malone ("Malone") forwarded to me an email string that included statements from two Water Maintenance employees who allegedly observed Water Treatment Plant Operator (WTPO) Kenneth McKay ("Mr. McKay") sleeping in the Green Valley Operators Control Room while he was on duty.

Once the scope of the investigation was determined and agreed upon, the investigator operated with complete independence as to witness identification, interview content, and preparation of findings.

WITNESSES

The undersigned conducted interviews of the following individuals:

Name	Title	Date
Jacob Parsons	Instrument Technician I	11/13/2019
Jacob Barlow	Instrument Technician I	11/13/2019
James Grandrath	Utility Mechanic	11/13/2019
Nick Rolley	Water Treatment Plant Operator	12/11/2019
Ken McKay	Water Treatment Plant Operator	12/12/2019

Unless otherwise noted, all interviews were held in the Human Resources Office. The undersigned admonished all witnesses 1) they had a duty to answer every question fully and truthfully, 2) to keep the contents of the interview confidential and 3) to not discuss their interview with others (whether on-duty or off-duty), apart from their protected activity. Furthermore, the undersigned explained to witnesses this Report would be shared with others on a need-to-know basis. In addition, the undersigned informed all witnesses of the City policy prohibiting retaliation for either bringing a claim or participation in an investigation and if they were to be retaliated against, they must immediately report this to the undersigned.

Interview summaries in this Report are not verbatim recitation of witnesses' statements. Verbatim statements are cited using quotations.

DOCUMENTS

The following documents were reviewed and are attached:

Exhibit #	Documents
1	Administrative Rule – 18 Suspension, Fine or Removal
2	Administrative Rule – 2.28 Alcohol And Drug Abuse Policy
3	Jacob Parson's – Written Statement
4	Jacob Barlow's – Written Statement
5	James Grandrath – Written Statement
6	Ken McKay's email to Joe Abitong
7	Pictures provided by Mr. McKay of exercise mat he brought to work

RELEVANT POLICIES

Administrative Rule 18, **Suspension, Fine or Removal** provides in pertinent part:

Every person holding a position in the classified service shall be subject to suspension, fine, demotion or removal from office or employment by the person, board, or commission appointing such persons, for misconduct, incompetency, inefficiency, failure to perform the duties or to observe the rules and regulations of such department, office, board or commission, or for failure to cooperate reasonably with the department head or with his/her fellow employees; subject to the right of the employee to appeal to the Civil Service Commission in the manner set forth in the Charter and these Rules.

Administrative Rule 2.28, **Alcohol and Drug Abuse Policy** provides in pertinent part:

In recognition of the public service responsibilities entrusted to the employees of the City of Vallejo and that drug and alcohol usage can hinder a person's ability to perform duties safely and effectively, the following policy against drug and alcohol abuse is hereby adopted by the City of Vallejo.

While use of validly prescribed medications and drugs does not violate this policy per se, failure by an employee to notify his/her supervisor, before beginning work, when taking medications or drugs which could foreseeably interfere with the safe and effective performance of duties, or the operation of City of Vallejo equipment, can result in discipline up to and including termination.

In the event there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medications or drugs, clearance from a qualified physician may be required.

IV. Employee Responsibilities:

An employee must:

- Notify his/her supervisor, before beginning work, when taking any medications or drugs, prescription or non-prescription, which may interfere with the safe and effective performance of duties or operation of the City of Vallejo equipment.

FACTUAL BACKGROUND

On October 8, 2019, PG&E informed the City of Vallejo of its intent to implement its Public Safety Power Shutoff (PSPS) program in Vallejo due to forecasted extreme weather conditions. As a result, the Vallejo Water Department took proactive actions that included scheduling 24-hour staffing with 12 hour shifts at the City's water treatment plants.

The City's Green Valley Water Treatment Plant is a public facility located on Green Valley Road in Solano County and is responsible for treating up to one million gallons of sewer wastewater and solid waste to insure clean water for human consumption. Under normal circumstances the Green Valley plant's operation is monitored from the Fleming Hill plant, via a monitoring screen connected by a T1 line. During the PSPS the Green Valley plant was running on emergency power and was in full operating mode with a non-functioning remote monitor. As such, physical on-site monitoring was required.

On October 9, 2019, at or around 3 p.m. Mr. McKay received a phone call from on duty WTPO Winifredo Cruz ("Mr. Cruz") asking if he could work the 6:00 p.m. to 6 a.m. shift at the Green Valley Plant. Mr. McKay informed Mr. Cruz that he could not come at 6:00 p.m. but can make it for 8:00 p.m. It was not mandatory that Mr. McKay agree to work the shift, as all overtime is voluntary. The expectation, however, is that the employee who volunteers is able and willing to take on the responsibilities of working the shift.

According to Water Operations Superintendent Joe Abitong ("Abitong") who is Mr. McKay's manager, Mr. McKay's responsibilities included operating and monitoring the Supervisory Control and Data Acquisition program (SCADA). Mr. McKay was also responsible for reporting any malfunctions, perform operational adjustments for various operational malfunctions and respond to water quality changes and system malfunctions immediately.

On the date in question at 3:00 a.m. Mr. McKay was found sleeping on duty and the water treatment plant was running unattended. Two witnesses, Instrument Technician Jacob Barlow ("Mr. Barlow") and Utility Mechanic James Grandrath ("Mr. Grandrath") provided written statements describing Mr. McKay sleeping on a mat with a pillow and blanket and his shoes were under the desk and the lights were turned off.

INTERVIEW SUMMARIES

Jacob Parsons

Jacob Parsons ("Mr. Parsons") was interviewed on November 13, 2019.

He is an Instrument Technician for the Water Department. He has worked for the City for two years and he reports to Water Facilities Superintendent John Palesi.

Mr. Parsons said that on October 9, 2019 he went to the Green Valley Plant between 10:30 p.m. and 11:00 p.m. to do inspections. Mr. McKay was sitting at the Operators desk and the plant was operating normally. According to Mr. Parsons there was a black mat rolled up on the Operation Room floor. Mr. Parson said he asked Mr. McKay if he was planning to sleep on the mat during the night. Mr. McKay replied that he was and jokingly asked if anyone would see him sleeping if they visited the plant during the night. Mr. Parsons replied yes and he proceeded to check out the generators and fuel tanks and then he left.

Jacob Barlow

Mr. Barlow was interviewed on November 13, 2019. He is an Instrument Technician for the Water Department. He has worked for the City for ten years and he reports to Water Facilities Superintendent John Palesi.

Mr. Barlow stated that at or around 3:00 a.m. on October 10, 2019 he and Mr. Grandrath visited the Green Valley water treatment plant to check on the generator. According to Mr. Barlow, he and Mr. Grandrath first checked the pump station and then headed up to the plant. Mr. Barlow stated that he noticed the plant door was locked and the control room lights were off. He unlocked the door and entered to find Mr. McKay asleep on a black mat, and a white standard pillow with a blanket over him and his shoes were under the table.

Mr. Barlow said he proceeded to bring in Mr. Grandrath to witness Mr. McKay sleeping. According to Mr. Barlow, he and Mr. Grandrath did not attempt to be quiet and in fact spoke and walked as normal and Mr. McKay never woke up. After being at the plant for 30 minutes Mr. Barlow and Mr. Grandrath proceeded to leave and locked the door.

Mr. Barlow expressed concern that the SCADA was not being monitored for alarms and there was no way to remotely monitor the plant for potential problems because the T1 line was down.

Mr. Barlow stated that the Water Department would have had no clue of a main break or other major issues. After Mr. Barlow and Mr. Grandrath's shift was over at 6:00 a.m. they immediately reported the incident.

During a follow up email conversation on December 16, 2019, Mr. Barlow confirmed that the pictures Mr. McKay emailed to the undersigned of his exercise mat is the same as the one he observed Mr. McKay sleeping on (attached). Additionally, Mr. Barlow confirmed that Mr. McKay had a blanket covering him when he was sleeping on the mat.

James Grandrath

Mr. Grandrath was interviewed on November 13, 2019. He is a Utility Mechanic for the Water Department. He has worked for the City for ten years and he reports to Water Facilities Superintendent John Palesi.

According to Mr. Grandrath he and Mr. Barlow arrived at the Green Valley plant at 3:00 a.m. to check on the fuel level and the rest of the plant. While doing so, they pulled up next to the Operations window. When they got out of the truck they noticed the light was off and the front door was locked. Mr. Barlow proceeded to unlock the door, and they walked in and looked into the Operations room and saw Mr. McKay sleeping on a mat with a pillow and blanket and his shoes were under the table next to the door. They proceeded to go into the wet lab to check the readings. They then left the inside of the plant locking the door behind them.

Mr. Grandrath said they got back into the truck, closing the doors and backing up with the backup alarms sounding as they drove away from the plant. They noticed at that point that there was still no movement of any kind as they drove around to the reclaim basins.

During a follow up email conversation on December 16, 2019, Mr. Grandrath confirmed that the pictures Mr. McKay emailed to the undersigned of his exercise mat is the same mat he observed Mr. McKay sleeping on. Additionally, Mr. Grandrath confirmed that Mr. McKay had a blanket covering him when he was sleeping on the mat and pillow. Mr. Grandrath stated that he has worked with Mr. McKay roughly 12 times and never heard of him bringing an exercise mat to work.

Nick Rolley

Mr. Rolley was interviewed on November 13, 2019. He is a Utility Mechanic for the Water Department. He has worked for the City for 10 years and he reports to Water Operations Superintendent Joe Abitong.

Mr. Rolley has worked on the same shift with Mr. McKay for the last 10 years. Mr. Rolley was interviewed to help establish whether or not Mr. McKay usually brings his exercise mat to work as he stated when interviewed by the undersigned. Mr. Rolley stated that he has partnered with Mr. McKay on shifts at the Fleming Hill plant since 2010 and he has never seen Mr. McKay bring a mat to work or do any type of exercise.

Additionally, according to Mr. Rolley, Mr. McKay, unlike other WTPO has a preference for the lights to be on because of his vision problems.

When asked what he knew about a sleeping incident that allegedly occurred during the PSPS, Mr. Rolley responded he had not heard anything about a sleeping incident during the PSPS.

Ken McKay

Mr. McKay was interviewed on December 12, 2019. He is a Water Treatment Plant Operator. He has worked for the City for ten years and he reports to Water Operations Superintendent Joe Abitong.

Mr. McKay stated that he received a call on his day off and was asked if he could come in and work the 6 p.m. to 6 a.m. shift at the Green Valley Plant. Mr. McKay said he replied yes to the request. Mr. McKay explained that the Green Valley plant usually runs by itself but because the T1 line was down there was a need to have operators on duty. When asked what he understood his responsibilities to be for that shift, Mr. McKay responded listening for alarms and watching the screen for different processes.

When asked if he went to sleep during his shift, Mr. McKay responded "I do not remember falling asleep or waking up". When asked if he told Mr. Parsons that he was planning on sleeping on the mat, Mr. McKay responded "I do not recall saying that".

Mr. McKay's explanation for having the mat at work was that he regularly brought a yoga mat to work for stretching and that it was an ADA accommodation granted to him as a result of a workplace accident 3 years ago. Additionally, Mr. McKay stated that he had not slept that day at all and was drowsy from taking his prescription medication.

FINDINGS AND DISCUSSION

On October 9, 2019 as the Water Treatment Plant Operator on duty, Mr. McKay demonstrated negligence and willful misconduct by sleeping on duty which directly interfered with his ability to perform the essential functions of the WTPO position.

Furthermore, Mr. McKay going to sleep and leaving the plant unattended could have led to immense harmful implications to water quality and serious detrimental legal implications to the City, such as:

- Equipment failure that might cause the City to violate California Code of Regulation ("CCR") Title 22 (attached).
- Equipment failure that might cause immense repair costs.
- Over-pressurizing pipes that might cause main-line breaks.

- Over-dosing chemicals that might cause the poisoning of consumers.
- Under-dosing of chemicals: that might cause consumer disease outbreaks such as dysentery and giardia.

Sleeping on duty in and of itself while the waste treatment plant is running demonstrates misconduct and failure to perform duties. More significantly, this was not just a simple matter of Mr. McKay nodding off momentarily. Instead, Mr. McKay's misconduct was especially egregious because it is obvious that the sleeping on duty was intentional and planned as is evident by him bringing the mat, pillow and blanket to work on October 9, 2019.

Other aggravating factors include Mr. McKay turned off the lights and locked the door of the plant this is telling of (nesting). Nesting is making a bed or creating a place conducive to sleeping often in a secluded area. Nesting is a deliberate neglect of job duties.

Additionally, Mr. McKay's personnel file contains a signed acknowledgement of Administrative Rule 2.28, **Alcohol and Drug Abuse Policy** (attached). That states employees must:

- Not report to work or be subject to duty while his/her ability to perform job duties is impaired due to on or off duty alcohol or drug use;
- Notify his/her supervisor, before beginning work, when taking any Medications or drugs, prescription or non-prescription, which may interfere with the safe and effective performance of duties or operation of City of Vallejo equipment.

By his own admission, Mr. McKay violated Administrative Rule 2.28 when he knowingly accepted a shift at the Water Treatment Plant while impaired and neglected to notify his supervisor before beginning work that he had taken prescription medication that has the potential side effect of drowsiness.

Mr. McKay was not obligated to accept the shift because overtime is voluntary. However, Mr. McKay chose to volunteer for a shift at the Green Valley Water Treatment Plant that treats sewage water for the purpose of human consumption when he was impaired.

FINDINGS

1. Did Mr. McKay go to sleep while on duty and as a result left the Green Valley Treatment Plant running unattended?

Sustained. The weight of the evidence supports a finding that Mr. McKay did go to sleep while on duty and the Green Valley Treatment Plant was running unattended.

Mr. McKay stated that he does not recall falling asleep or waking up. Which was an indirect response to a direct question, calling into question the credibility of that response.

Furthermore, what is more telling are Mr. McKay's own words that seem to further support the sleeping on duty allegations. For example, Mr. McKay said "I did not sleep all day and I was drowsy from medication". Which is an indication that he was attempting to establish an alibi for sleeping while on duty.

Additionally, witnesses Mr. Barlow and Mr. Grandrath statements were consistent with each other and corroborated that Mr. McKay was asleep and the plant was running unattended.

Did Mr. McKay violate Administrative Rule 2.28 (Alcohol and Drug Abuse Policy)?

Sustained. The weight of the evidence supports a finding that Mr. McKay did violate Administrative Rule 2.28

Mr. McKay volunteered that he was feeling drowsy while on duty as a result of taking his medication. Furthermore, Mr. McKay signed the acknowledgment of having received, understand and agree to abide by Administrative Rule 2.28 that clearly states employees must not report to work or be subject to duty while his/her ability to perform job duties is impaired due to on or off duty alcohol or drug use.

Additionally, Administrative Rule 2.28 states that employees must notify their supervisor, before beginning work, when taking any medications or drugs.

Mr. McKay, did not inform his supervisor that he was feeling drowsy or that he had taken medications that would make him drowsy and therefore unable to safely and effectively operate the Green Valley water treatment plant.

CONCLUSION

Clearly Mr. McKay demonstrated blatant misconduct when he intentional went to sleep and left the plant running unattended. Additionally, Mr. McKay failed to notify his supervisor before beginning work, that he had taken medications that has a side effect of causing drowsiness.

Finally, Mr. McKay deliberately and with premeditation as proved by his making advance arrangements for sleeping and nesting, exposed the plant and residences of Vallejo to a potentially serious safety hazard when he neglected his duties.

RESPECTFULLY SUBMITTED BY:

Doris Papillon-Allen

Doris Papillon-Allen, MHROD
Personnel Analyst II

February 11, 2020

Date

EXHIBIT # 1

RULE 18

SUSPENSION, FINE OR REMOVAL

18.1 Employees Subject To

Every person holding a position in the classified service shall be subject to suspension, fine, demotion or removal from office or employment by the person, board, or commission appointing such persons, for misconduct, incompetency, inefficiency, failure to perform the duties or to observe the rules and regulations of such department, office, board or commission, or for failure to cooperate reasonably with the department head or with his/her fellow employees; subject to the right of the employee to appeal to the Civil Service Commission in the manner set forth in the Charter and these Rules.

18.2 Statement of Reason

Every employee shall be given a written statement of the reason for such suspension, fine, demotion or removal from office or employment at the time of such suspension, fine, demotion or removal. Such statement shall include in itemized form the specific instances in support of such suspension, fine, demotion or removal from office or employment. A copy of such statement shall be delivered to such person or shall be left at his/her last known address.

18.3 Filing of Appeal

Any employee who has been so disciplined shall have five (5) days after service of such written statement within which to file an appeal to the same. A copy of such appeal shall be filed during office hours at the office of the person, board or commission imposing such discipline and the original shall be filed by such employee in the office of the Executive Secretary of the Commission. Should the last day on which an appeal may be filed fall upon a Sunday or holiday the time for filing such appeal shall be extended to include the next following business day.

18.4 Investigation and Hearing Required

The Commission may make, or cause to be made, such investigation as it shall deem necessary and thereafter shall hold a hearing at which time it shall hear evidence for and against such employee. Hearings may be conducted informally and the conclusions shall be made by the Commission within ten (10) days after the matter has been submitted and thereupon the same shall be certified to the official, board or commission from whose order the appeal has been taken. The findings and conclusions of the Commission also may contain such recommendations as said Commission shall deem proper, and shall include the amount of compensation such employee is entitled to receive, if any. Said findings and conclusions of the Commission shall be final.

EXHIBIT # 2

CITY OF VALLEJO
ADMINISTRATIVE RULE

SUBJECT: ALCOHOL AND DRUG ABUSE POLICY

AR Number: 2.28
Date Issued: 6/28/95
Date Effective: 7/1/95
Date Revised: 1/2/96

I. PURPOSE

It is the intention of this policy to eliminate substance abuse and its effects in the workplace. While the City of Vallejo has no intention of intruding into the private lives of its employees, involvement with drugs and alcohol on and off the job can take its toll on job performance and employee safety. Our concern is that employees are in a condition to perform their duties safely and efficiently, in the interests of their fellow workers and the public, as well as themselves. The presence of drugs and alcohol on the job, and the influence of these substances on employees during working hours, are inconsistent with this objective of having employees perform their duties safely and efficiently.

Employees who think they may have an alcohol or drug usage problem are urged to voluntarily seek confidential assistance from the Employee Assistance Program. While the City of Vallejo will be supportive of those who seek help voluntarily, the City will be equally firm in identifying and disciplining those who continue to be substance abusers and do not seek help or continue substance abuse even while enrolled in counseling or rehabilitation programs.

Supervisors will be trained to recognize abusers and become involved in this control process. Alcohol or drug abuse will not be tolerated, and disciplinary action, up to and including termination, will be used as necessary to achieve this goal.

This policy provides guidelines for the detection and deterrence of alcohol and drug abuse. It also outlines the responsibilities of City of Vallejo managers and employees. To that end, the City will act to eliminate any substance abuse (alcohol, illegal drugs, prescription drugs or any other substance which could impair an employee's ability to safely and effectively perform the functions of their job) which increases the potential for accidents, absenteeism, substandard performance, poor employee morale or damage to the Agency's reputation. All persons covered by this policy should be aware that violations of the policy may result in discipline, up to and including termination, or in not being hired.

In recognition of the public service responsibilities entrusted to the employees of the City of Vallejo and that drug and alcohol usage can hinder a person's ability to perform duties safely and effectively, the following policy against drug and alcohol abuse is hereby adopted by the City of

Vallejo.

II. APPLICATION

This policy applies to all employees of and to all applicants for positions with City of Vallejo whose use of alcohol could effect workplace safety or performance of requisite job standards, duties or responsibilities. This policy does not apply to employees covered by a collective bargaining agreement containing an alcohol or drug abuse policy where the collective bargaining provision conflicts with this policy. This policy does not apply to employees in or applicants for positions for which the City cannot legally apply this policy. This policy applies to alcohol and drugs, including all substances, drugs, or medications, whether legal or illegal, which could impair an employee's ability to effectively and safely perform the functions of the job.

III. POLICY

It is City of Vallejo policy that employees shall not be under the influence, or in possession, of alcohol or drugs while on City of Vallejo property, at work locations, or while on duty or subject to being called to duty, and that employees shall not sell or provide drugs or alcohol to any other employee or person while on duty or subject to being called to duty as a result of formally being placed on an "on call" or "standby" status by an appropriate management representative.

While use of validly prescribed medications and drugs does not violate this policy per se, failure by an employee to notify his/her supervisor, before beginning work, when taking medications or drugs which could foreseeably interfere with the safe and effective performance of duties, or the operation of City of Vallejo equipment, can result in discipline up to and including termination. In the event there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medications or drugs, clearance from a qualified physician may be required.

City of Vallejo reserves the right to search for alcohol or impairing drugs, without employee consent, in all areas and property in which the City of Vallejo maintains control or joint control with the employee when there is reasonable suspicion of work-related employee misconduct or when the search is necessary for a non-investigatory work-related purpose. Otherwise, the City may notify appropriate law enforcement agencies that an employee may have illegal drugs in his or her possession or in an area not jointly or fully controlled by City of Vallejo.

Refusal to immediately submit to an alcohol and/or drug analysis when requested by City of Vallejo management or law enforcement personnel, or refusal to submit to a search of personal properties if requested by law enforcement personnel, may constitute insubordination and be grounds for discipline up to and including termination.

Employees reasonably believed to be under the influence of alcohol or drugs shall be prevented from engaging in further work and shall be detained for a reasonable period of time until he or she can be safely transported from the work site. Supervisors or managers must arrange for safe transportation of the employee from the work site. Refusal to refrain from engaging in further work or refusal to be detained until safe transportation can be arranged may constitute insubordination and be grounds for discipline up to and including termination. Under no circumstances shall a supervisor or manager allow an employee to transport himself/herself from a work site.

The City of Vallejo is committed to providing reasonable accommodation to those employees whose drug or alcohol problem classifies them as disabled under federal and/or state law.

The City of Vallejo has established a voluntary Employee Assistance Program (EAP) to assist those employees who voluntarily seek help for alcohol or drug problems. Employees should contact their supervisors, the Department of Human Resources, Risk Management or the EAP for additional information. Supervisors are encouraged to refer employees to the EAP at the earliest sign of any problems.

IV. EMPLOYEE RESPONSIBILITIES

An employee must:

- not report to work or be subject to duty while his/her ability to perform job duties is impaired due to on or off duty alcohol or drug use;
- not possess or use alcohol or impairing drugs, including illegal drugs and prescription drugs without a prescription, during working hours or while subject to duty, on breaks, during meal periods or at anytime while on City of Vallejo property;
- not directly or through a third party sell or provide drugs or alcohol to any person, including any employee, while either or both employees are on duty or subject to being called to duty;
- submit immediately to an alcohol and drug test when requested by City of Vallejo management, supervisory or any law enforcement personnel;
- notify his/her supervisor, before beginning work, when taking any medications or drugs, prescription or non-prescription, which may interfere with the safe and effective performance of duties or operation of City of Vallejo equipment; and
- provide, within 24 hours of request, bona fide verification of a current valid prescription for any potentially impairing drug or medication identified when a drug screen/test is positive, The prescription must be in the employee's name.

V. MANAGEMENT RESPONSIBILITIES AND GUIDELINES

- Managers and supervisors are responsible for reasonable enforcement of this policy.
- Managers and supervisors may request that an employee submit to a drug and/or alcohol test when a manager or supervisor has a reasonable suspicion that an employee is intoxicated or under the influence of drugs or alcohol while on the job or subject to being called. If possible, a second supervisor should be present. When requesting a drug or alcohol test, supervisors or managers should notify their Department Head or designee and the Department of Human Resources as soon as is practicable.

'Reasonable suspicion' is a belief based on objective facts sufficient to lead a reasonably prudent supervisor to suspect that an employee is under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is impaired or so that the employee's ability to perform his/her job safely is reduced. The number of reasonable suspicion indicators and the compelling nature of the evidence attached to each indicator needs to be assessed in determining whether there is sufficient reasonable suspicion to require a test.

For example, any of the following, alone or in combination, may constitute reasonable suspicion:

- o Slurred speech;
 - o Alcohol odor on breath;
 - o Unsteady walking and movement;
 - o An accident involving City of Vallejo property, where it appears the employee's conduct is at fault;
 - o Physical altercation;
 - o Verbal altercation;
 - o Unusual behavior;
 - o Possession of alcohol or drugs;
 - o Information obtained from a reliable person with personal knowledge.
- Any manager or supervisor requesting an employee to submit to a drug and/or alcohol analysis should document in writing the facts constituting reasonable suspicion that the employee in question is intoxicated or under the influence of drugs.
 - Any manager or supervisor encountering an employee who refuses an order to submit to a drug and/or alcohol analysis upon request shall remind the employee of the requirements and disciplinary consequences of this policy.
 - Where there is reasonable suspicion that the employee is under the influence of alcohol or drugs, the manager or supervisor should arrange for the employee to be safely transported to the drug and alcohol testing site and from the drug and alcohol testing site to home.

Under no circumstances shall an employee or manager allow an employee who is reasonably believed to be under the influence of alcohol or drugs to transport himself/herself from a work site or from the drug and alcohol testing site.

- Managers and supervisors shall not physically search the person of employees, nor shall they search the personal possessions of employees without the freely given written consent of, and in the presence of, the employee.
- Managers and supervisors shall notify their Department Head or designee and the Department of Human Resources when they have reasonable suspicion to believe that an employee may have illegal drugs in his or her possession or in an area not jointly or fully controlled by City of Vallejo. If the Department Head or designee concurs that there is reasonable suspicion of illegal drug possession, the Department Head shall notify the appropriate law enforcement personnel.

VI. PHYSICAL EXAMINATION AND PROCEDURE

The drug and/or alcohol test may test for any substance which could impair an employee's ability to effectively and safely perform the functions of his/her job, including, but not limited to, prescription medications, alcohol, heroin, cocaine, morphine and its derivatives, P.C.P., methadone, barbiturates, amphetamines, marijuana and other cannabinoids. Attachment "A" describes the method in which the initial test will be conducted, how the sample will be processed after the drug and/or alcohol test is completed, and how a confirmatory test after an initial positive result will be performed.

VII. RESULTS OF DRUG AND/OR ALCOHOL ANALYSIS

A. Pre-Employment Physical

Applicants for positions with the City of Vallejo whose use of drugs and/or alcohol could effect workplace safety or other requisite job standards, duties or responsibilities will be subject to drug and/or alcohol testing as a part of the pre-employment physical examination process. A positive result from a drug and/or alcohol analysis may result in the applicant not being hired.

If a drug screen is positive at the pre-employment physical, the applicant must provide within 24 hours of request bona fide verification of a valid current prescription for the drug identified in the drug screen. If the prescription is not in the applicant's name or the applicant does not provide acceptable verification, or if the drug is one that is likely to impair the applicant's ability to perform the job duties, the applicant may not be hired.

B. During Employment Physical or Alcohol/Drug Tests

A positive result from a drug and/or alcohol analysis may result in disciplinary action, up to and including discharge.

If the drug screen is positive, the employee must provide within 24 hours of request bona fide verification of a valid current prescription for the drug identified in the drug screen. The prescription must be in the employee's name. If the employee does not provide acceptable verification of a valid prescription, or if the prescription is not in the employee's name, or if the employee has not previously notified his or her supervisor, the employee will be subject to disciplinary action up to and including discharge.

If an alcohol or drug test is positive, the City of Vallejo shall conduct an investigation to gather all facts. The decision to discipline or discharge will be carried out in conformance with City of Vallejo disciplinary procedures and Civil Service Rules and Regulations.

VIII. CONFIDENTIALITY

Laboratory reports and test results shall not appear in an employee's general personnel file. Information of this nature will be contained in a separate confidential medical folder that will be securely kept under the control of the Department of Human Resources. The reports or test results may be disclosed to City of Vallejo management on a strictly need-to-know basis and to the tested employee upon request. Disclosures, without patient consent, may also occur when: (1) the information is compelled by law or by judicial or administrative process; (2) the information has been placed at issue in a formal dispute between the employer and employee; (3) the information is to be used in administering an employee benefit plan; and/or (4) the information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure.

Attached: Appendix A


WALTER V. GRAHAM
CITY MANAGER

APPENDIX A

ALCOHOL AND DRUG TESTING PROCEDURES

I. CONTACT

A. Regular Business Hours

When requesting a reasonable suspicion alcohol and/or drug test Monday through Friday during the hours of 8:30 a.m. - 5:15 p.m., supervisors and managers should first contact the Department of Human Resources or Risk Management and their Department Head or designee.

Upon notification of Human Resources and the Department Head, supervisors and managers may contact the number listed below directly to notify the testing site of the need for drug and/or alcohol testing. Supervisors and managers must arrange transportation of the employee to the testing site.

Alcohol and/or drug testing on Monday through Friday during the hours of 8:00 a.m. - 5:00 p.m. will be conducted at Northbay Health at Work, 1200 B. Gale Wilson Drive #107, Fairfield, CA 94533, (707) 429-7701.

B. After Hours

When requesting a reasonable suspicion drug test after regular business hours, the supervisor or manager must call Northbay at (707) 429-7701 and leave a message on the recorder. The message should indicate that you are a City of Vallejo supervisor and are requesting a reasonable suspicion drug test as soon as is possible. You should also include your name, job title, and a number where you can be reached immediately. A Northbay technician is on call 24 hours a day and will return your call within thirty minutes. The technician will arrange to meet the supervisor and employee at Northbay Health at Work, 1200 B. Gale Wilson Drive #107, Fairfield, CA 94533.

When requesting a reasonable suspicion alcohol test after regular business hours, the supervisor or manager must go immediately to the Northbay Medical Center Emergency

Room at 1200 B. Gale Wilson Drive, Fairfield, CA 94533, (707) 429-7833. The Emergency Room staff will contact the Northbay technician.

On the next regular business day, you must notify Human Resources or Risk Management and your Department Head that you have ordered a reasonable suspicion alcohol and/or drug test.

II. CONTROLLED SUBSTANCES TESTING PROCEDURES

Pre-employment and reasonable suspicion testing shall include, but may not be limited to the following controlled substances: marijuana; cocaine; opiates; amphetamines; and phencyclidine (PCP). Although the specimen will not be analyzed specifically for adulterants, the lab may conduct adulteration checks (PH, specific gravity or creatinine). The test may be canceled if adulterants are detected.

A. Specimen Collection Process

1. The collection shall take place in a secure location to prevent unauthorized access during the collection process.
2. The specimen shall be kept in sight of the employee and the collection site person until it is sealed and ready for shipment.
3. Employees and applicants shall have individual privacy when providing a specimen except when:
 - a) The employee or applicant presents a specimen that is outside the accepted temperature range and he/she refuses to have an oral body temperature measurement, or the body temperature measurement varies more than 1.0 C OR 1.80 F from the specimen temperature.
 - b) The collector observes the employee or applicant attempting to adulterate or substitute the specimen.
 - c) The employee's last provided specimen was determined to be diluted.
 - d) The employee has previously had a verified positive test.

In a. and b. above, the employee or applicant must provide a specimen under direct observation. In c. and d. above, the employer may require a direct observation collection.

4. The following specific procedures will be followed during the collection process:
 - a) The donor must submit identification to the collector. The collection shall not proceed until a positive identification is made.
 - b) The donor will not be required to undress, or to change into an examination gown. Only outer garments should be removed, i.e., jackets.
 - c) The donor shall be asked to wash his/her hands prior to urination, and shall not have access to any water sources until the specimen has been collected.
 - d) A bluing agent shall be added to the toilet bowl and the donor may flush the toilet only after releasing the specimen to the collector. Chemical toilets and toilets where the water supply has been turned off do not apply.
 - e) The specimen must be at least 45 ml to be acceptable.
 - f) The collector must measure the specimen temperature within four minutes of urination to determine sample acceptability.
5. The specimen shall be divided into two parts. The collector shall pour 30 ml of urine from the specimen bottle into a second specimen bottle, to be used as the primary specimen. The remainder of the urine, at least 15 ml, shall be poured into another container to be used as the "split sample".
6. Both samples shall be shipped in a single shipping container with the appropriate chain of custody forms.
7. The collector and donor must be present together to complete the following process:
 - ◇ Seal and label the specimen bottles.
 - ◇ Donor initials the bottle labels or seals.
 - ◇ The chain of custody forms must be signed and dated.
8. If an employee or applicant refuses to cooperate with the collection process the collector shall notify the employer representative and note the non-cooperation on the custody and control form.

B. Inability to provide an adequate urine sample

If the donor cannot provide a sufficient volume of urine, he/she shall remain at the collection site and be provided not more than twenty-four ounces of fluids to drink. The donor shall have a

period of up to two hours to produce an acceptable sample, using a fresh collection container.

The original insufficient specimen shall be discarded. If the employee is still unable to provide an adequate specimen, the insufficient specimen shall be discarded, testing discontinued, and the employer so notified.

The MRO shall refer the individual for a medical evaluation to develop pertinent information concerning whether the individual's inability to provide a specimen is genuine or constitutes a refusal to test (In pre-employment testing, if the employer does not wish to hire the individual, the MRO is not required to make such a referral.). Upon completion of the examination, the MRO shall report his or her conclusions to the employer in writing.

If the donor is unable to produce a sample without a valid medical reason the employer shall consider the circumstance to be a refusal to test.

C. Split Sample

1. If the test result of the primary specimen is positive, an employee may request that the MRO direct that the split specimen be analyzed.
2. The split sample analysis will be conducted by a laboratory who will analyze the sample for presence of the drug(s) for which a positive result was obtained in the primary sample.
3. If the result of the test of the split sample fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, the MRO shall cancel the test and report the cancellation to The Employer.
4. With all positive drug tests, the MRO will first contact the employee to determine if there is an alternative medical explanation for the positive result. If documentation is provided and the MRO determines that there was a legitimate medical use for the prohibited drug, the test result may be reported to the City as "negative." After the MRO notifies the employee of a positive result for the presence of a drug(s) in the primary sample, the employee has up to seventy-two hours to request analysis of the split sample.

III. ALCOHOL TESTING

A. Testing Procedures

Alcohol testing will be conducted only on a reasonable suspicion basis. Applicants for employment will normally not be required to undergo alcohol testing.

1. The test shall take place in a secure location that affords visual and aural privacy to prevent unauthorized persons from seeing or hearing test results.
2. When an employee enters the testing location, the BAT will require him/her to provide positive identification. The test shall not proceed until positive identification of the employee is made.
3. An individually-sealed mouthpiece shall be opened in view of the employee and then attached to the testing unit.
4. The employee shall be required to blow forcefully into the mouthpiece for at least six seconds or until an adequate amount of breath has been obtained.
5. The employee shall be shown the result both on the testing unit and the recording form. The employee shall verify both results are the same. If a result printed by the testing unit does not match the displayed result, the BAT shall declare the test invalid.
6. If the result of the screening test is less than 0.02 breath alcohol concentration no other testing will be conducted.
7. If the result of the screening test reflects an alcohol concentration of 0.02 or greater, a confirmation test shall be performed.
8. Prior to conducting the confirmation test the employee may not eat, drink, or place anything in his/her mouth. If possible, the employee should not belch during the waiting period. The confirmation test shall be conducted no less than fifteen minutes and no more than twenty minutes from the screening test.
9. The fifteen minutes waiting period is provided for the employee's benefit. This time period allows for the dissipation of any mouth alcohol, thereby helping to prevent an artificially high reading.
10. In the event the screening and the confirmation test results do not match, the confirmation results will be considered the final results.
11. If the employee refuses to sign the breath alcohol testing form or fails to provide an adequate amount of breath without a valid medical reason, the employer may determine the circumstance to be a refusal to test.

B. Inability to Provide Adequate Breath

1. If the employee fails to provide an adequate amount of breath he/she shall provide the employer with an evaluation from a licensed physician, who is acceptable to the employer, concerning the employee's medical ability to provide adequate breath.
2. If the physician determines there is a valid medical reason precluding the employee from providing adequate breath then the employee's failure shall not be deemed a refusal to test.
3. If the physician is unable to determine a valid medical reason, the employee's failure to provide adequate breath shall be considered a refusal to test.

EXHIBIT # 3

Doris Papillon-Allen

From: Mike Malone
Sent: Tuesday, October 15, 2019 4:56 PM
To: Doris Papillon-Allen
Subject: FW: 10/9/19 PSPS Green Valley Plant

From: Joe Abitong
Sent: Tuesday, October 15, 2019 4:55 PM
To: Mike Malone <Mike.Malone@cityofvallejo.net>
Subject: Fwd: 10/9/19 PSPS Green Valley Plant

Sent via the Samsung Galaxy S8, an AT&T 5G Evolution capable smartphone

----- Original message -----

From: Jacob Parsons <Jacob.Parsons@cityofvallejo.net>
Date: 10/15/19 4:24 PM (GMT-08:00)
To: Joe Abitong <Joe.Abitong@cityofvallejo.net>
Cc: John Palesi <John.Palesi@cityofvallejo.net>, Jacob Barlow <Jacob.Barlow@cityofvallejo.net>
Subject: 10/9/19 PSPS Green Valley Plant

Good afternoon Joe.

I am giving you my account of what I saw at the Green Valley Treatment Plant Thursday night during the PSPS.

I went to the Green Valley Plant around 10:30-11PM 10/9. Ken was sitting at the operations desk and the plant was operating normally. He had a sleeping mat and pillow on the floor in the operations room. I asked him if he was planning to sleep on that during the night. He replied that he would, and jokingly asked me if anyone would see him sleeping if someone visited the plant during the night. I said yes, checked out the generator and fuel tank, then left.

If you have any more questions, don't hesitate to ask.

Jacob Parsons
Instrument Technician I
City of Vallejo | Water Department
(707) 315-2512 | Jacob.Parsons@cityofvallejo.net



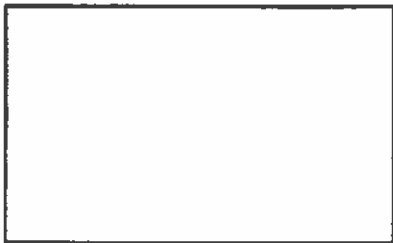
Jacob Parsons 11/13/19

EXHIBIT # 4

On 10/9 while making inspection rounds, Jacob Parsons visited GWWTP at approximately 22:30. He noted that Ken McKay the operator at the plant had a mattress and pillow on the floor of the control room. McKay was awake and operating the plant with no issues.

Later on at approximately 03:00 on 10/10 James Grandrath and myself visited GWWTP. We first checked at the SID pump station and then headed up to the plant. I noticed the door was locked and the control room lights were off. I unlocked the door and entered to find Ken McKay sleeping on the floor while the plant was operating. I proceeded to bring in James to witness it. I wasn't quiet and he never awoke, I didn't enter the control room. I proceeded to go outside and lock the door.

Not only did this bother me because the plant was operating, but the T1 line was down at this point and there was no way to remotely monitor the plant or distribution. We would have had no clue of a main break or other major issue.



Jacob Barlow

Acting Senior Instrument Technician

202 Fleming Hill Rd.

Vallejo, CA 94589

City of Vallejo | Water Department

(707) 648-4307 | (707) 333-0465 jacob.barlow@cityofvallejo.net

EXHIBIT # 5

Doris Papillon-Allen

From: Mike Malone
Sent: Tuesday, October 15, 2019 4:55 PM
To: Doris Papillon-Allen
Subject: FW: GVTP 10/8/19

From: Joe Abitong
Sent: Tuesday, October 15, 2019 4:54 PM
To: Mike Malone <Mike.Malone@cityofvallejo.net>
Subject: Fwd: GVTP 10/8/19

Sent via the Samsung Galaxy S8, an AT&T 5G Evolution capable smartphone

----- Original message -----

From: James Grandrath <James.Grandrath@cityofvallejo.net>
Date: 10/15/19 3:41 PM (GMT-08:00)
To: Joe Abitong <Joe.Abitong@cityofvallejo.net>, "Kevin J. Brown" <Kevin.Brown2@cityofvallejo.net>
Cc: John Palesi <John.Palesi@cityofvallejo.net>
Subject: GVTP 10/8/19

This email is in regards to what was seen as the Green Valley Water Treatment Plant on October 8, 2019.

The first thing that was seen by Jacob Parsons around 10:30 pm was a bed roll and a pillow on the floor in the Operations area. Ken was asked if he was planning on using them overnight and he answered yes and then asked if someone was going to come up later and see him sleeping on it.

Around 3 am Jacob Barlow and myself went to go check on the fuel level and the rest of the plant. While doing so, we pulled up next to the Operations window. Getting out of the truck and closing the doors of the truck we noticed the light was off and the front door was locked. Jacob Barlow proceeded to unlock the door and we walked in and we looked in to the Operations room and saw Ken sleeping on his bed roll and his shoes were sitting under the table next to the door. We proceeded to go into the wet lab and check the readings. We then left the inside of the plant locking the door. We got back into the truck, closing the doors and backing up, with the backup alarms sounding, leaving the plant. We noticed at that point that there was still no movement of any kind as we went around to the reclaim basins.

Sent via the Samsung Galaxy S7, an AT&T 4G LTE smartphone



1 11. 13-19

EXHIBIT # 6

Doris Papillon-Allen

Subject: FW: Green Valley.

From: Kenneth McKay [<mailto:Kenneth.McKay@cityofvallejo.net>]

Sent: Tuesday, November 05, 2019 11:16 PM

To: Joe Abitong <Joe.Abitong@cityofvallejo.net>; Kevin J. Brown <Kevin.Brown2@cityofvallejo.net>

Cc: kennethwmckay@gmail.com

Subject: Green Valley.

I found out today, that while I was at Green Valley on 10/11 ? during the power outage someone came by at 0300

and reported I was sleeping,I dont recall anyone coming by nor do I recall sleeping.

If I dozed off,I dont know why I wasn't woken up, I don't know why it required an administrative investigation .

If I did doze off I do apologize and will not let it happen again I will try and keep our image in operations good.

There are some mitigating circumstances, I was still on the day shift and did not sleep that day, and as I recall I didn't get the call to come in until late afternoon.

I am also taking a medication for my back injury that makes me drowsy.I will talk to my doctor and see if any adjustments in meds need to be made.

As my job that night was only to monitor the plant it is possible that I did get drowsy and doze off next time I will make busy work to keep from getting drowsy, however like I said I dont recall falling a sleep nor was it my intention to sleep.I do find it worrisome that this was forwarded to HR for an investigation,and not to my Supervisors to clear up.

Once again I do apologize if I did doze off and will do better next time.I will also do my best too keep the image of operations high.

Kind Regards,

Ken McKay

Water Treatment Plant Operator 3

202 Fleming Hill Rd

Vallejo CA,94589

707 553 7252

EXHIBIT # 7

Business Rep
Local 1245, IBEW
#D201743
(707)761-1948

CONFIDENTIALITY NOTICE: This e-mail may contain privileged information including confidential information that was shared in the course of seeking contractual advice. If you have received this message by mistake, please notify us immediately by replying to this message or telephoning us at the above number. Do not review, disclose or distribute the message. Thank you (hlvs)

From: Kenneth McKay <Kenneth.McKay@cityofvallejo.net>
Sent: Thursday, December 12, 2019 9:01 PM
To: Doris Papillon-Allen <Doris.Allen@cityofvallejo.net>
Cc: Aaron Cano <Aaron.Cano@cityofvallejo.net>; Macor, Janval <JVM6@IBEW1245.com>
Subject: RE: Photos of yoga mats

Here's my black trifold mat.





Kind Regards,
Ken McKay
Water Treatment Plant Operator 3
202 Fleming Hill Rd
Vallejo CA, 94589
707 553 7252



Human Resources Department .555 Santa Clara Street · Vallejo · CA · 94590

VIA HAND-DELIVERY

November 19, 2020

Kenneth McKay
Water Treatment Plant Operator 3
Water Department

NOTICE TO SUSPEND – FIVE (5) DAYS

Dear Mr. McKay,

On June 10, 2020, a pre-disciplinary Skelly hearing was held in connection with a Notice of Intent to Suspend, that you received on March 3, 2020 for discipline in the form of a suspension for Five (5) Days, based upon you violating:

1. Administrative Rule 18, **Suspension, Fine or Removal**, which provides in pertinent part:

Every person holding a position in the classified service shall be subject to suspension, fine, demotion or removal from office or employment by the person, board, or commission appointing such persons, for misconduct, incompetency, inefficiency, failure to perform the duties or to observe the rules and regulations of such department, office, board or commission, or for failure to cooperate reasonably with the department head or with his/her fellow employees; subject to the right of the employee to appeal to the Civil Service Commission in the manner set forth in the Charter and these Rules.

2. Administrative Rule 2.28, **Alcohol and Drug Abuse Policy**, which provides in pertinent part:

In recognition of the public service responsibilities entrusted to the employees of the City of Vallejo and that drug and alcohol usage can hinder a person's ability to perform duties safely and effectively, the following policy against drug and alcohol abuse is hereby adopted by the City of Vallejo.

IV. Employee Responsibilities:

An employee must:

- Notify his/her supervisor, before beginning work, when taking any medications or drugs, prescription or non-prescription, which may interfere with the safe and effective performance of duties or operation of the City of Vallejo equipment.

I have carefully considered your response to the Notice of Intent to Suspend and the recommendation of Skelly Officer Daryl Arbuthnott, Fire Chief to reduce the discipline. However, based on the preponderance of evidence and the seriousness of your misconduct, I have decided it is appropriate to proceed with the disciplinary action of suspending you from your position of Water Plant Operator for Five (5) Days.

Your suspension is based on the following specific listed grounds and charges, both collectively and individually and need not be based upon your commission of more than one charge.

FACTS SUPPORTING VIOLATION OF ADMINISTRATIVE RULES

On October 8, 2019 PG&E implemented an emergency power outage that impacted the City of Vallejo. As a result, an emergency plan was put in place to monitor the Green Valley Water Treatment Plant. You voluntarily accepted one of the emergency shifts but neglected to notify your supervisor before beginning work that you had consumed a drug that might interfere with the safe and effective performance of your duties.

On November 5, 2019, a month after witnesses observed you sleeping on your shift, you sent Mike Malone an email that included the statement "I am also taking a medication for my back injury that makes me drowsy".

On October 9, 2019, the day of the incident in question, coworker Jacob Parson reported that he noticed a mat rolled up on the Operator Room Floor. Jacob asked if you were planning to sleep on the mat during the night and you responded by asking Jacob if he thought someone would visit the Plant that night and "catch you," or words to that effect. The fact that you inquired if someone might "catch you" in response to a question about whether you planned on sleeping is further evidence that you brought the mat to work in order to sleep while on duty.

On October 9, 2019, 2019 two coworkers witnessed you laying on a mat and pillow covered with a blanket during your shift, on the Operators Room floor with the lights turned off. Your coworkers were in the Operators Room for at least 30 minutes before they left.

During the entire time your coworkers were in the Operators Room, you never got up off the floor or even acknowledged that there were visitors in the Operators Room. This is further evidence that you were indeed asleep while on duty. The Operators Room is a highly secured area where the operating system that monitors dosing of chemicals into the water is located. Both coworkers stated that the operating system was running unattended, on your watch. Given the nature of your duties and the emergency power outage, your violations posed a potential for serious risk to the public.

Therefore, I have decided it is appropriate to proceed with the action of suspending you from your position of Water Plant Operator for Five (5) days.

PREVIOUS DISCIPLINE ISSUED

Your record of employment with the City shows the following discipline:

On May 31, 2016 you received a Written Reprimand for violating the Fleming Hill Water Treatment Plant Standard Operating Procedure 2.38 – Bell Press Start-up & Shutdown.

On October 12, 2016 the City terminated you for making threats of violence against coworkers, intimidating behavior directed towards your coworkers, and failure to professionally and reasonably work with others in the workplace. You were returned to work by the Civil Service Commission.

All materials upon which the recommended disciplinary action is based are attached to this Notice. You may review your personnel file upon reasonable request by contacting Human Resources.

Pursuant to Administrative Rule 2.35-Employee Discipline and Civil Service Commission Rule 18-Suspension, Fine or Removal. I am issuing you a Five (5) days – Suspension for misconduct and failure to observe rules and regulations. You shall serve your Five (5) days suspension on November 28, November 29, November 30, December 3 and December 4.

RIGHT TO APPEAL

Pursuant to Administrative Rule 2.35, you have a right to appeal your suspension. In this case you must file your appeal by close of business November 26, 2020.

Per Civil Service Commission Rule 18.3, if you wish to appeal your suspension, you must do so by 1) submitting a copy of your written statement to the person imposing your discipline during business hours, in this case the person imposing your discipline is myself (Water Director Mike Malone) whose office is located at 202 Fleming Hill Road, Vallejo, CA 94589, with office hours of Monday through Friday, 7:00 a.m. through 4:00 p.m.

Submit your original written statement to the Executive Secretary of the Civil Service Commission during business hours, presently the Executive Secretary of the Civil Service Commission is Stephanie Sifuentes, whose office is located at City Hall Room #102, with office hours of Monday through Friday, 8:30 a.m. through 5:15 p.m.

Alternatively, but not in addition to the Civil Service appeal process mentioned above, you may appeal through the grievance process as defined in Section 6.5 of the Memorandum of Understanding.

WARNING AGAINST RETALIATION

It is illegal and inappropriate to retaliate against any person who has participated in complaining and/or providing information regarding your discipline. You may not contact or in any other manner retaliate against any individual who has provided information to the City regarding your conduct.

Sincerely,

A handwritten signature in blue ink that reads "Mike Malone". The signature is fluid and cursive, with the first name "Mike" and last name "Malone" clearly distinguishable.

Mike Malone
Water Department Director

Attachments:

- A. Notice of Intent to Discipline, March 3, 2020
- B. Civil Service Rule 18 – Suspension, Fine or Removal

Kenneth McKay
NOTICE TO SUSPEND
November 19, 2020
Page 5

cc: Heather Ruiz, Human Resources Director
Mark Love, Assistant Human Resources Director
Personnel File



555 Santa Clara Street · Vallejo · CA · 94590

VIA HAND-DELIVERY

March 3, 2020

Kenneth McKay
Water Treatment Plant Operator
Water Department

NOTICE OF INTENT TO SUSPEND – FIVE (5) DAYS

Dear Mr. McKay,

Pursuant to Skelly v. State Personnel Board ("Skelly") and the City of Vallejo's ("City") Administrative Rule ("AR") 2.35 – Employee Discipline and Vallejo Civil Service Commission ("CSC") Rule 18 – Suspension, Fine or Removal, I am recommending that the City of Vallejo ("City") suspend you from your position as a Water Treatment Plant Operator for five days.

Based on my review of the information available, good cause exists for your suspension as provided by Civil Service Rule 18 – Suspension, Fine or Removal and Administrative Rule 2.28 – Alcohol and Drug Abuse Policy. This proposed suspension is based on the following grounds:

- Misconduct
- Failure to Perform Duties
- Failure to Observe Rules and Regulations

Factual Basis for Recommended Action:

I concur with the findings in this investigation, which is based on the following conduct, described in detail below. Please note that this intent to suspend is based on any one of the above violations and need not be based upon your commission of more than one violation.

Specifically, on October 9, 2019 during a PG&E Public Safety Power Shutoff (PSPS) event in the City of Vallejo, you brought to work a mat, pillow and blanket with the intention of sleeping while on duty and went to sleep during your shift

At the time you were assigned to the Green Valley facility your task was to operate and physically monitor the plant, as the plant was running on emergency power with a non-functioning remote monitoring due to PG&E's PSPS. By failing to actually monitor the systems, you were unable to:

- Alertly monitor the plant and take effective course of action as needed
- Determine if there was equipment failure that might cause immense repair cost.
- Determine if there was over pressurizing pipes that might cause main line breaks
- Prevent overdosing chemicals that might harm consumers.
- Prevent Under dosing of chemicals that might cause consumer disease outbreaks.
- Effectively perform operating duties.

On October 9, 2019 at or about 10:30 p.m., Instrument Technician Jacob Parson saw your mat rolled up on the floor of the Operations Room at the Green Valley Plant and he asked if you planned on sleeping on the mat and you responded yes and asked if he thought someone would see you.

During the morning of your shift at 3:00 a.m., Instrument Technician Jacob Barlow and Utility Mechanic James Grandrath walked into the Operations Room of the Plant and saw you laying on your mat and pillow, covered with a blanket and sleeping, while the Plant was operating unattended.

Your misconduct was especially egregious because you brought a mat, pillow and blanket to work which is a strong indication that you planned to sleep while on duty.

Your nesting¹ on duty was witnessed by two Water Department employees and it demonstrates a failure to perform the duties as is mentioned in Administrative Rule 18, and in your job description.

When you were questioned about sleeping while on duty, you stated that you did not remember going to sleep, waking up, or that you stated to Instrument Technician Jacob Parson that you planned to sleep on the mat that night. Yet, you made it a point to explain to the investigator that you had not slept that day and had taken your prescription medication that has the side effect of causing drowsiness. It was obvious that you were attempting to establish an alibi for sleeping on duty, while at the same time being dishonest about remembering that you took your shoes off, laid on the mat and covered yourself with a blanket and closed your eyes. Additionally, you claimed not to remember opening your eyes, removing the blanket, standing up, putting on your shoes and rolling the blanket and mat back up.

Mr. McKay, as a Water Treatment Operator, you were responsible for the proper operations and monitoring of the Green Valley Treatment Plant with the expectation of immediately responding to water quality changes and system malfunctions. Because of your action, you disregarded the safety of our consumers and the treatment plant and you put the City in jeopardy of potential violations.

In addition, you did not notify your supervisor before beginning work, that you had consumed a drug that might interfere with the safe and effective performance of your duties. During an interview with the investigator on December 12, 2019, you stated that the day you volunteered for the 6 p.m. shift you had taken a prescription drug that has a known side effect of drowsiness.

On April 17, 2017, you signed an acknowledgement of having received, read and agreed to abide by Administrative Rule 2.28.

¹ According to Brand, Norman and Melissa Biren (2015) *Discipline and Discharge in Arbitration* 3rd Edition Chicago, IL American Bar Association, nesting is defined as making a bed or creating a place conducive to sleeping, often in a secluded area.

Kenneth McKay
NOTICE OF INTENT TO SUSPEND
March 3, 2020
Page 5

Your failure to provide a written response or to request and attend a pre-disciplinary meeting will constitute a waiver of your right to provide a response prior to imposition of discipline, in which case the City's decision to either sustain, modify, or reject this recommendation will be based upon review of this Notice of Intent to suspend and its attachments.

Sincerely,



Mike Malone
Water Department Director

Attachments:

- A. Civil Service Rule 18 – Suspension, Fine or Removal
- B. Administrative Rule 2.28 – Alcohol and Drug Abuse Policy
- C. Job Description – Water Treatment Plant Operator
- D. Notice of Written Reprimand – dated May 31, 2016
- E. Notice of Termination – dated October 12, 2016

cc: Heather Ruiz, Human Resources Director
Mark Love, Assistant Human Resources Director
Personnel File

ATTACHMENT A

RULE 18

SUSPENSION, FINE OR REMOVAL

18.1 Employees Subject To

Every person holding a position in the classified service shall be subject to suspension, fine, demotion or removal from office or employment by the person, board, or commission appointing such persons, for misconduct, incompetency, inefficiency, failure to perform the duties or to observe the rules and regulations of such department, office, board or commission, or for failure to cooperate reasonably with the department head or with his/her fellow employees; subject to the right of the employee to appeal to the Civil Service Commission in the manner set forth in the Charter and these Rules.

18.2 Statement of Reason

Every employee shall be given a written statement of the reason for such suspension, fine, demotion or removal from office or employment at the time of such suspension, fine, demotion or removal. Such statement shall include in itemized form the specific instances in support of such suspension, fine, demotion or removal from office or employment. A copy of such statement shall be delivered to such person or shall be left at his/her last known address.

18.3 Filing of Appeal

Any employee who has been so disciplined shall have five (5) days after service of such written statement within which to file an appeal to the same. A copy of such appeal shall be filed during office hours at the office of the person, board or commission imposing such discipline and the original shall be filed by such employee in the office of the Executive Secretary of the Commission. Should the last day on which an appeal may be filed fall upon a Sunday or holiday the time for filing such appeal shall be extended to include the next following business day.

18.4 Investigation and Hearing Required

The Commission may make, or cause to be made, such investigation as it shall deem necessary and thereafter shall hold a hearing at which time it shall hear evidence for and against such employee. Hearings may be conducted informally and the conclusions shall be made by the Commission within ten (10) days after the matter has been submitted and thereupon the same shall be certified to the official, board or commission from whose order the appeal has been taken. The findings and conclusions of the Commission also may contain such recommendations as said Commission shall deem proper, and shall include the amount of compensation such employee is entitled to receive, if any. Said findings and conclusions of the Commission shall be final.

ATTACHMENT B

CITY OF VALLEJO

ADMINISTRATIVE RULE

SUBJECT: ALCOHOL AND DRUG ABUSE POLICY

AR Number: 2.28

Date Issued: 6/28/95

Date Effective: 7/1/95

Date Revised: 1/2/96

I. PURPOSE

It is the intention of this policy to eliminate substance abuse and its effects in the workplace. While the City of Vallejo has no intention of intruding into the private lives of its employees, involvement with drugs and alcohol on and off the job can take its toll on job performance and employee safety. Our concern is that employees are in a condition to perform their duties safely and efficiently, in the interests of their fellow workers and the public, as well as themselves. The presence of drugs and alcohol on the job, and the influence of these substances on employees during working hours, are inconsistent with this objective of having employees perform their duties safely and efficiently.

Employees who think they may have an alcohol or drug usage problem are urged to voluntarily seek confidential assistance from the Employee Assistance Program. While the City of Vallejo will be supportive of those who seek help voluntarily, the City will be equally firm in identifying and disciplining those who continue to be substance abusers and do not seek help or continue substance abuse even while enrolled in counseling or rehabilitation programs.

Supervisors will be trained to recognize abusers and become involved in this control process. Alcohol or drug abuse will not be tolerated, and disciplinary action, up to and including termination, will be used as necessary to achieve this goal.

This policy provides guidelines for the detection and deterrence of alcohol and drug abuse. It also outlines the responsibilities of City of Vallejo managers and employees. To that end, the City will act to eliminate any substance abuse (alcohol, illegal drugs, prescription drugs or any other substance which could impair an employee's ability to safely and effectively perform the functions of their job) which increases the potential for accidents, absenteeism, substandard performance, poor employee morale or damage to the Agency's reputation. All persons covered by this policy should be aware that violations of the policy may result in discipline, up to and including termination, or in not being hired.

In recognition of the public service responsibilities entrusted to the employees of the City of Vallejo and that drug and alcohol usage can hinder a person's ability to perform duties safely and effectively, the following policy against drug and alcohol abuse is hereby adopted by the City of

Vallejo.

II. APPLICATION

This policy applies to all employees of and to all applicants for positions with City of Vallejo whose use of alcohol could effect workplace safety or performance of requisite job standards, duties or responsibilities. This policy does not apply to employees covered by a collective bargaining agreement containing an alcohol or drug abuse policy where the collective bargaining provision conflicts with this policy. This policy does not apply to employees in or applicants for positions for which the City cannot legally apply this policy. This policy applies to alcohol and drugs, including all substances, drugs, or medications, whether legal or illegal, which could impair an employee's ability to effectively and safely perform the functions of the job.

III. POLICY

It is City of Vallejo policy that employees shall not be under the influence, or in possession, of alcohol or drugs while on City of Vallejo property, at work locations, or while on duty or subject to being called to duty, and that employees shall not sell or provide drugs or alcohol to any other employee or person while on duty or subject to being called to duty as a result of formally being placed on an "on call" or "standby" status by an appropriate management representative.

While use of validly prescribed medications and drugs does not violate this policy per se, failure by an employee to notify his/her supervisor, before beginning work, when taking medications or drugs which could foreseeably interfere with the safe and effective performance of duties, or the operation of City of Vallejo equipment, can result in discipline up to and including termination. In the event there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medications or drugs, clearance from a qualified physician may be required.

City of Vallejo reserves the right to search for alcohol or impairing drugs, without employee consent, in all areas and property in which the City of Vallejo maintains control or joint control with the employee when there is reasonable suspicion of work-related employee misconduct or when the search is necessary for a non-investigatory work-related purpose. Otherwise, the City may notify appropriate law enforcement agencies that an employee may have illegal drugs in his or her possession or in an area not jointly or fully controlled by City of Vallejo.

Refusal to immediately submit to an alcohol and/or drug analysis when requested by City of Vallejo management or law enforcement personnel, or refusal to submit to a search of personal properties if requested by law enforcement personnel, may constitute insubordination and be grounds for discipline up to and including termination.

Employees reasonably believed to be under the influence of alcohol or drugs shall be prevented from engaging in further work and shall be detained for a reasonable period of time until he or she can be safely transported from the work site. Supervisors or managers must arrange for safe transportation of the employee from the work site. Refusal to refrain from engaging in further work or refusal to be detained until safe transportation can be arranged may constitute insubordination and be grounds for discipline up to and including termination. Under no circumstances shall a supervisor or manager allow an employee to transport himself/herself from a work site.

The City of Vallejo is committed to providing reasonable accommodation to those employees whose drug or alcohol problem classifies them as disabled under federal and/or state law.

The City of Vallejo has established a voluntary Employee Assistance Program (EAP) to assist those employees who voluntarily seek help for alcohol or drug problems. Employees should contact their supervisors, the Department of Human Resources, Risk Management or the EAP for additional information. Supervisors are encouraged to refer employees to the EAP at the earliest sign of any problems.

IV. EMPLOYEE RESPONSIBILITIES

An employee must:

- not report to work or be subject to duty while his/her ability to perform job duties is impaired due to on or off duty alcohol or drug use;
- not possess or use alcohol or impairing drugs, including illegal drugs and prescription drugs without a prescription, during working hours or while subject to duty, on breaks, during meal periods or at anytime while on City of Vallejo property;
- not directly or through a third party sell or provide drugs or alcohol to any person, including any employee, while either or both employees are on duty or subject to being called to duty;
- submit immediately to an alcohol and drug test when requested by City of Vallejo management, supervisory or any law enforcement personnel;
- notify his/her supervisor, before beginning work, when taking any medications or drugs, prescription or non-prescription, which may interfere with the safe and effective performance of duties or operation of City of Vallejo equipment; and
- provide, within 24 hours of request, bona fide verification of a current valid prescription for any potentially impairing drug or medication identified when a drug screen/test is positive, The prescription must be in the employee's name.

V. MANAGEMENT RESPONSIBILITIES AND GUIDELINES

- Managers and supervisors are responsible for reasonable enforcement of this policy.
- Managers and supervisors may request that an employee submit to a drug and/or alcohol test when a manager or supervisor has a reasonable suspicion that an employee is intoxicated or under the influence of drugs or alcohol while on the job or subject to being called. If possible, a second supervisor should be present. When requesting a drug or alcohol test, supervisors or managers should notify their Department Head or designee and the Department of Human Resources as soon as is practicable.

'Reasonable suspicion' is a belief based on objective facts sufficient to lead a reasonably prudent supervisor to suspect that an employee is under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is impaired or so that the employee's ability to perform his/her job safely is reduced. The number of reasonable suspicion indicators and the compelling nature of the evidence attached to each indicator needs to be assessed in determining whether there is sufficient reasonable suspicion to require a test.

For example, any of the following, alone or in combination, may constitute reasonable suspicion:

- o Slurred speech;
 - o Alcohol odor on breath;
 - o Unsteady walking and movement;
 - o An accident involving City of Vallejo property, where it appears the employee's conduct is at fault;
 - o Physical altercation;
 - o Verbal altercation;
 - o Unusual behavior;
 - o Possession of alcohol or drugs;
 - o Information obtained from a reliable person with personal knowledge.
- Any manager or supervisor requesting an employee to submit to a drug and/or alcohol analysis should document in writing the facts constituting reasonable suspicion that the employee in question is intoxicated or under the influence of drugs.
 - Any manager or supervisor encountering an employee who refuses an order to submit to a drug and/or alcohol analysis upon request shall remind the employee of the requirements and disciplinary consequences of this policy.
 - Where there is reasonable suspicion that the employee is under the influence of alcohol or drugs, the manager or supervisor should arrange for the employee to be safely transported to the drug and alcohol testing site and from the drug and alcohol testing site to home.

Under no circumstances shall an employee or manager allow an employee who is reasonably believed to be under the influence of alcohol or drugs to transport himself/herself from a work site or from the drug and alcohol testing site.

- Managers and supervisors shall not physically search the person of employees, nor shall they search the personal possessions of employees without the freely given written consent of, and in the presence of, the employee.
- Managers and supervisors shall notify their Department Head or designee and the Department of Human Resources when they have reasonable suspicion to believe that an employee may have illegal drugs in his or her possession or in an area not jointly or fully controlled by City of Vallejo. If the Department Head or designee concurs that there is reasonable suspicion of illegal drug possession, the Department Head shall notify the appropriate law enforcement personnel.

VI. PHYSICAL EXAMINATION AND PROCEDURE

The drug and/or alcohol test may test for any substance which could impair an employee's ability to effectively and safely perform the functions of his/her job, including, but not limited to, prescription medications, alcohol, heroin, cocaine, morphine and its derivatives, P.C.P., methadone, barbiturates, amphetamines, marijuana and other cannabinoids. Attachment "A" describes the method in which the initial test will be conducted, how the sample will be processed after the drug and/or alcohol test is completed, and how a confirmatory test after an initial positive result will be performed.

VII. RESULTS OF DRUG AND/OR ALCOHOL ANALYSIS

A. Pre-Employment Physical

Applicants for positions with the City of Vallejo whose use of drugs and/or alcohol could effect workplace safety or other requisite job standards, duties or responsibilities will be subject to drug and/or alcohol testing as a part of the pre-employment physical examination process. A positive result from a drug and/or alcohol analysis may result in the applicant not being hired.

If a drug screen is positive at the pre-employment physical, the applicant must provide within 24 hours of request bona fide verification of a valid current prescription for the drug identified in the drug screen. If the prescription is not in the applicant's name or the applicant does not provide acceptable verification, or if the drug is one that is likely to impair the applicant's ability to perform the job duties, the applicant may not be hired.

B. During Employment Physical or Alcohol/Drug Tests

A positive result from a drug and/or alcohol analysis may result in disciplinary action, up to and including discharge.

If the drug screen is positive, the employee must provide within 24 hours of request bona fide verification of a valid current prescription for the drug identified in the drug screen. The prescription must be in the employee's name. If the employee does not provide acceptable verification of a valid prescription, or if the prescription is not in the employee's name, or if the employee has not previously notified his or her supervisor, the employee will be subject to disciplinary action up to and including discharge.

If an alcohol or drug test is positive, the City of Vallejo shall conduct an investigation to gather all facts. The decision to discipline or discharge will be carried out in conformance with City of Vallejo disciplinary procedures and Civil Service Rules and Regulations.

VIII. CONFIDENTIALITY

Laboratory reports and test results shall not appear in an employee's general personnel file. Information of this nature will be contained in a separate confidential medical folder that will be securely kept under the control of the Department of Human Resources. The reports or test results may be disclosed to City of Vallejo management on a strictly need-to-know basis and to the tested employee upon request. Disclosures, without patient consent, may also occur when: (1) the information is compelled by law or by judicial or administrative process; (2) the information has been placed at issue in a formal dispute between the employer and employee; (3) the information is to be used in administering an employee benefit plan; and/or (4) the information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure.

Attached: Appendix A


WALTER V. GRAHAM
CITY MANAGER

APPENDIX A
ALCOHOL AND DRUG TESTING PROCEDURES

I. CONTACT

A. Regular Business Hours

When requesting a reasonable suspicion alcohol and/or drug test Monday through Friday during the hours of 8:30 a.m. - 5:15 p.m., supervisors and managers should first contact the Department of Human Resources or Risk Management and their Department Head or designee.

Upon notification of Human Resources and the Department Head, supervisors and managers may contact the number listed below directly to notify the testing site of the need for drug and/or alcohol testing. Supervisors and managers must arrange transportation of the employee to the testing site.

Alcohol and/or drug testing on Monday through Friday during the hours of 8:00 a.m. - 5:00 p.m. will be conducted at **Northbay Health at Work, 1200 B. Gale Wilson Drive #107, Fairfield, CA 94533, (707) 429-7701.**

B. After Hours

When requesting a reasonable suspicion drug test after regular business hours, the supervisor or manager must call Northbay at (707) 429-7701 and leave a message on the recorder. The message should indicate that you are a City of Vallejo supervisor and are requesting a reasonable suspicion drug test as soon as is possible. You should also include your name, job title, and a number where you can be reached immediately. A Northbay technician is on call 24 hours a day and will return your call within thirty minutes. The technician will arrange to meet the supervisor and employee at **Northbay Health at Work, 1200 B. Gale Wilson Drive #107, Fairfield, CA 94533.**

When requesting a reasonable suspicion alcohol test after regular business hours, the supervisor or manager must go immediately to the Northbay Medical Center Emergency

Room at 1200 B. Gale Wilson Drive, Fairfield, CA 94533, (707) 429-7833. The Emergency Room staff will contact the Northbay technician.

On the next regular business day, you must notify Human Resources or Risk Management and your Department Head that you have ordered a reasonable suspicion alcohol and/or drug test.

II. CONTROLLED SUBSTANCES TESTING PROCEDURES

Pre-employment and reasonable suspicion testing shall include, but may not be limited to the following controlled substances: marijuana; cocaine; opiates; amphetamines; and phencyclidine (PCP). Although the specimen will not be analyzed specifically for adulterants, the lab may conduct adulteration checks (PH, specific gravity or creatinine). The test may be canceled if adulterants are detected.

A. Specimen Collection Process

1. The collection shall take place in a secure location to prevent unauthorized access during the collection process.
2. The specimen shall be kept in sight of the employee and the collection site person until it is sealed and ready for shipment.
3. Employees and applicants shall have individual privacy when providing a specimen except when:
 - a) The employee or applicant presents a specimen that is outside the accepted temperature range and he/she refuses to have an oral body temperature measurement, or the body temperature measurement varies more than 10 C OR 1.80 F from the specimen temperature.
 - b) The collector observes the employee or applicant attempting to adulterate or substitute the specimen.
 - c) The employee's last provided specimen was determined to be diluted.
 - d) The employee has previously had a verified positive test.

In a. and b. above, the employee or applicant must provide a specimen under direct observation. In c. and d. above, the employer may require a direct observation collection.

4. The following specific procedures will be followed during the collection process:
 - a) The donor must submit identification to the collector. The collection shall not proceed until a positive identification is made.
 - b) The donor will not be required to undress, or to change into an examination gown. Only outer garments should be removed, i.e., jackets.
 - c) The donor shall be asked to wash his/her hands prior to urination, and shall not have access to any water sources until the specimen has been collected.
 - d) A bluing agent shall be added to the toilet bowl and the donor may flush the toilet only after releasing the specimen to the collector. Chemical toilets and toilets where the water supply has been turned off do not apply.
 - e) The specimen must be at least 45 ml to be acceptable.
 - f) The collector must measure the specimen temperature within four minutes of urination to determine sample acceptability.
5. The specimen shall be divided into two parts. The collector shall pour 30 ml of urine from the specimen bottle into a second specimen bottle, to be used as the primary specimen. The remainder of the urine, at least 15 ml, shall be poured into another container to be used as the "split sample".
6. Both samples shall be shipped in a single shipping container with the appropriate chain of custody forms.
7. The collector and donor must be present together to complete the following process:
 - ◇ Seal and label the specimen bottles.
 - ◇ Donor initials the bottle labels or seals.
 - ◇ The chain of custody forms must be signed and dated.
8. If an employee or applicant refuses to cooperate with the collection process the collector shall notify the employer representative and note the non-cooperation on the custody and control form.

B. Inability to provide an adequate urine sample

If the donor cannot provide a sufficient volume of urine, he/she shall remain at the collection site and be provided not more than twenty-four ounces of fluids to drink. The donor shall have a

period of up to two hours to produce an acceptable sample, using a fresh collection container.

The original insufficient specimen shall be discarded. If the employee is still unable to provide an adequate specimen, the insufficient specimen shall be discarded, testing discontinued, and the employer so notified.

The MRO shall refer the individual for a medical evaluation to develop pertinent information concerning whether the individual's inability to provide a specimen is genuine or constitutes a refusal to test (In pre-employment testing, if the employer does not wish to hire the individual, the MRO is not required to make such a referral.). Upon completion of the examination, the MRO shall report his or her conclusions to the employer in writing.

If the donor is unable to produce a sample without a valid medical reason the employer shall consider the circumstance to be a refusal to test.

C. Split Sample

1. If the test result of the primary specimen is positive, an employee may request that the MRO direct that the split specimen be analyzed.
2. The split sample analysis will be conducted by a laboratory who will analyze the sample for presence of the drug(s) for which a positive result was obtained in the primary sample.
3. If the result of the test of the split sample fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, the MRO shall cancel the test and report the cancellation to The Employer.
4. With all positive drug tests, the MRO will first contact the employee to determine if there is an alternative medical explanation for the positive result. If documentation is provided and the MRO determines that there was a legitimate medical use for the prohibited drug, the test result may be reported to the City as "negative." After the MRO notifies the employee of a positive result for the presence of a drug(s) in the primary sample, the employee has up to seventy-two hours to request analysis of the split sample.

III. ALCOHOL TESTING

A. Testing Procedures

Alcohol testing will be conducted only on a reasonable suspicion basis. Applicants for employment will normally not be required to undergo alcohol testing.

1. The test shall take place in a secure location that affords visual and aural privacy to prevent unauthorized persons from seeing or hearing test results.
2. When an employee enters the testing location, the BAT will require him/her to provide positive identification. The test shall not proceed until positive identification of the employee is made.
3. An individually-sealed mouthpiece shall be opened in view of the employee and then attached to the testing unit.
4. The employee shall be required to blow forcefully into the mouthpiece for at least six seconds or until an adequate amount of breath has been obtained.
5. The employee shall be shown the result both on the testing unit and the recording form. The employee shall verify both results are the same. If a result printed by the testing unit does not match the displayed result, the BAT shall declare the test invalid.
6. If the result of the screening test is less than 0.02 breath alcohol concentration no other testing will be conducted.
7. If the result of the screening test reflects an alcohol concentration of 0.02 or greater, a confirmation test shall be performed.
8. Prior to conducting the confirmation test the employee may not eat, drink, or place anything in his/her mouth. If possible, the employee should not belch during the waiting period. The confirmation test shall be conducted no less than fifteen minutes and no more than twenty minutes from the screening test.
9. The fifteen minutes waiting period is provided for the employee's benefit. This time period allows for the dissipation of any mouth alcohol, thereby helping to prevent an artificially high reading.
10. In the event the screening and the confirmation test results do not match, the confirmation results will be considered the final results.
11. If the employee refuses to sign the breath alcohol testing form or fails to provide an adequate amount of breath without a valid medical reason, the employer may determine the circumstance to be a refusal to test.

B. Inability to Provide Adequate Breath

1. If the employee fails to provide an adequate amount of breath he/she shall provide the employer with an evaluation from a licensed physician, who is acceptable to the employer, concerning the employee's medical ability to provide adequate breath.
2. If the physician determines there is a valid medical reason precluding the employee from providing adequate breath then the employee's failure shall not be deemed a refusal to test.
3. If the physician is unable to determine a valid medical reason, the employee's failure to provide adequate breath shall be considered a refusal to test.

ATTACHMENT C



Water Treatment Plant Operator

Class Code:
02330

CITY OF VALLEJO

Established Date: Jun 8, 2015

Revision Date: Jun 23, 2015

SALARY RANGE

\$39.89 - \$48.49 Hourly
\$3,191.50 - \$3,879.29 Biweekly
\$6,914.91 - \$8,405.13 Monthly
\$82,978.96 - \$100,861.50 Annually

DEFINITION:

To perform a variety of skilled technical duties and semi-skilled labor as shift operator, as regulated by Federal and State potable water treatment guidelines, in the operation and maintenance of the City's drinking water treatment plants, transmission, distribution systems, and appurtenances.

DISTINGUISHING CHARACTERISTICS

This is the full journey level classification in the treatment plant operator series, meeting requirements set by the U.S. Environmental protection Agency under the Safe Drinking Water Act, as well as by the State Water Resources Control Board (SWRCB), under the California Safe Drinking Water Act. The regulations ensure that water treatment facilities are operated and maintained by operators who are certified at the appropriate level, ensuring the protection of public health and safety. Performance expectations at this level include performance of the full range of responsibilities within the function. Individuals in this classification have satisfactorily demonstrated they are capable of operating and maintaining serviceable water supply, according to the City's treatment facility classification consistent with Environmental Protection Agency regulations, through the City's transmission, distribution facilities, water treatment plants and sludge de--watering project on an assigned shift, often without immediate supervision. Incumbents apply board job knowledge to resolve issues/problems of diverse scope where analysis of data requires evaluation of identifiable factors. Work requires independent judgment, initiative, and action within established operational parameters. This classification is distinguished from the Advanced Water Treatment Plant Operator class, as the latter is the challenging responsibilities for which problem-solving frequently requires analysis of unique issue/problems without precedent and/or structure.

AS a condition of continued employment with the City of Vallejo, incumbents are required to adhere to the process for maintaining the Grade T3 Water Treatment Plan Operator certification outlined by the State Water Resources Control Board (SWRCB). If the certification is not maintained, employment will be terminated. Advancement beyond the classification of Water Treatment Plant Operator is not required as a condition of continued employment.

SUPERVISION RECEIVED AND EXERCISED

Receives general supervision from supervisory and management staff such as the Water Treatment Plant Supervisors and the Water Operations Superintendent. May receive lead direction from Advanced Water Treatment Plant Operators.

Exercises functional and technical supervision over, and provides training to Water Treatment Plant Operator Trainee staff.

EXAMPLES OF DUTIES:

EXAMPLES OF IMPORTANT RESPONSIBILITIES AND DUTIES - *Important responsibilities and duties may include, but are not limited to, the following:*

Monitors, adjusts and controls functions at water treatment plants, transmission/distribution system and sludge de-watering facility, using local controls and the Supervisory Control and Data Acquisition System (SCADA).

Operates and adjusts treatment plant pumps, motors, feeders and other equipment to maintain appropriate plant operations; regulate the flow of water through the water treatment plant and distribution system. Correctly regulates waste side-streams and return flows.

Calculates dosages and adjusts chemical feed machines for proper operation and application of chemicals in order to assure finished water quality standards. Arranges, safely receives and records deliveries of process chemicals to ensure adequate supplies.

Performs water quality tests using standardized testing methods in the plant laboratory; mixes and applies process chemicals at various stages in the treatment process.

Assembles updates and maintains plant operations logs and reports; performs and records mathematical calculations related to plant operational activities, process testing and control.

Works with hazardous chemicals related to water treatment and branch laboratory operations; receives training in and assists in spill prevention and response at City facilities.

Schedules, safely receives and records deliveries of process chemicals and monitors inventories to ensure adequate supplies.

Maintains plant, operating equipment and facilities in a clean and orderly condition; performs routine housekeeping inside and outside the plant and conducts regular site safety inspections

Dispatch call-out personnel as required at all hours. May act in a central communications function as follows: taking, relaying, transmitting, and providing information to and from City personnel or outside emergency services as required.

Operate city-owned motor vehicle to a number city facilities; operates licensed, City communication equipment.

Receives, safely unloads and stores materials by hand and by use of motorized and mechanical equipment.

Receives business contact with other city employees, customer inquiries and makes every effort to enhance public relations. Conducts general tours of the facilities.

Provides for safe plant conditions and working environment at all times by exercising a routine of attentiveness and proactive responses to plant safety and security matters.

Provides for safe plant conditions and working environment at all times by exercising a routine of attentiveness and proactive responses to plant safety and security matters.

Participates in accurate and complete shift change turn-overs to discuss vital plant information.

Participates in emergency preparedness training and exercises.

Perform related duties and responsibilities as required.

KNOWLEDGE AND ABILITIES:

QUALIFICATIONS

Knowledge of:

Standard principles of mathematics, biology, chemistry, and hydraulics as applied in the operation of a water treatment facility.

Standard principles, practices of drinking water treatment plant operations, laboratory analysis techniques and current drinking water standards and regulations.

Operating principles of plant equipment such as valves, pumps motors, controls, instrumentation and telemetry.

Operational and safety regulations pertaining to water treatment plant operations and vehicle and equipment usage.

Safety regulations pertaining work practices and use of related equipment.

Regulations, techniques and equipment used in managing mitigation, recovery and reporting of hazardous materials release.

Basic computer (PC) skills in Microsoft Suite software.

Safe vehicle and equipment use.

Ability to:

Logically solve problems and identify hazardous work conditions.

Understand and carry out written and oral instructions.

Operate and maintain water treatment plant equipment.

Diagnose operating problems and take effective courses of action.

Make independent technical decisions within established parameters to maintain proper treatment operations.

Establish and maintain effective working relationships with those contacted in the course of work.

Apply the practices, procedures, techniques, and treatment rules pertaining to the operation of water treatment plants and distribution system into daily practice.

Read and interpret gauges and other recording devices, plant piping and distribution diagrams and other technical documents.

Perform simple repair or maintenance to plant equipment such as pumps, valves, and electronic monitoring devices.

Perform simple to moderately complex tasks while wear Level A personal protective equipment.

Demonstrate the capability to independently operate all of the Water Division's facilities.

Exercise capable operations in all phases of plant operations: start-up, shutdown, reduction or bypass of unit processes, adverse or emergency conditions.

Accurately observe and record operating conditions and furnish verbal reports.

Travel to alternate duty/work locations and offsite meetings.

Work any shift, weekends, and holidays, at any Water Division facility.

Lift 55 pounds and move heavy chemical containers

Wear respiratory protection equipment as required.

Maintain the ability to perform required duties while wearing a Self-Contained Breathing Apparatus (SCBA).

Travel to alternate duty/work locations and offsite meetings.

Work independently without supervision.

MINIMUM QUALIFICATIONS:

Experience:

A minimum of twenty-four (24) months experience in the City of Vallejo classification of Water Treatment Plant Operator II.

OR

A minimum of three (3) years of water treatment operating experience, which includes at least one (1) year functioning as a journey-level operator, while holding Grade T3 Water Treatment Plant Operator certification at a T3 or higher surface water treatment facility. As a condition of continued employment, employees shall successfully complete the Water Treatment Plant Operator Promotional Review Process within twelve (12) months of the date of hire into this classification

Training:

A high school diploma or G.E.D with three (3) years of high school mathematics, including at least two (2) years of algebra.

Completion of the following four (4) California State University, Sacramento "Ken Kerri" Series of Courses: Water Treatment Plant Operation (Vols. 1 & 2); Small Water System Operation and Maintenance; and Water Distribution Operation and Maintenance.

Certification:

Possess and maintain a valid Class C California Driver License.

Possess and maintain a Water Treatment Operator Grad T3 Certification issued by the State Water Resources Control Board (SWRCB). Failure to maintain appropriate certification for classification will result in termination of employment.

Possess and maintain recertification for Hazardous Materials Technician, Confined Space Entry, CPR/First Aid, and Fork Lift Safety as often as set forth by the authority establishing the requirement.

OTHER REQUIREMENTS

Prior to appointment to this classification, the incumbent must have attained Grade T3 Water Treatment Plant Operator certification. Internal candidates must have demonstrated receipt of satisfactory performance reviews within the preceding twenty-four (24) month period, and successful completion of the Water Treatment Plant Operator Promotional Review Process.

Pursuant to California Government Code, Title 1 Division 4, Chapter 8, Section 3100 "all public employees have been declared to be disaster service workers subject to such disaster service activities as may be assigned to them by their superiors or by law."

Must be medically approved for wearing a Self-contained Breathing Apparatus (SCBA), and remain shaven of facial hair at all times as required to wear respiratory protection equipment.

Must maintain the ability to perform required duties while wearing SCBA.

Must be able to work safely while wearing Personal Protective Equipment (PPE).

Work on an unscheduled basis for emergency situations; must be willing to work any day and any shift within a 24-hour period as assigned, including holidays, week

WORKING CONDITIONS:**WORKING CONDITIONS**

Risk of exposure to chemicals; some lifting; machinery noise.

Work in and around confined spaces and elevated structures.

Work in proximity of high voltage and electronic equipment.

Work outdoors in a variety of weather conditions.

Work around complex, moving machinery in a biohazard environment.

ATTACHMENT D



Department of Public Works • 555 Santa Clara Street • Vallejo • CA • 94590

Via Hand-Delivery, First Class Mail and Certified Mail/Return Receipt Requested Mail

May 31, 2016

**Kenneth W. McKay
816 2nd Street
Fairfield, CA 94533**

NOTICE OF WRITTEN REPRIMAND

Dear Mr. McKay:

Pursuant to the City of Vallejo's ("City") Administrative Rule ("AR") 2.35—*Employee Discipline* [Attachment A] you are receiving a Written Reprimand. Your discipline is based upon you violating Fleming Hill Water Treatment Plant ("FHWTP") Standard Operating Procedure ("SOP") 2.38—*Belt Press Start-up & Shutdown*, in relevant part:

- "37. Clean lower half of belt presses, particularly the rollers, wash trays, and wash boxes." [Attachment B]
- "38. Clean until water from Wash Boxes runs clear." [Attachment B]

The aforementioned violations are based on your commission of the following acts or omissions. Please note this Notice of Written Reprimand ("Notice") is based on any one of the above violations and need not be based upon your commission of more than one violation. Facts:

- A. On March 29, 2016, you were the Water Treatment Plan Operator ("WTPO") assigned to the Belt Press at the FHWTP.
- B. Your March 29, 2016¹ logbook entry does not note the Belt Press you inherited at the beginning of your shift was dirty. [Attachment C]
- C. Between your March 29, 2016 shift and Rodney Jeffries', WTPO, April 5, 2016 shift, no other WTPO was responsible for the Belt Press being clean.
- D. On April 5, 2016, at the beginning of his shift, Mr. Jeffries noticed the Belt Press was not properly cleaned. Mr. Jeffries immediately notified Joe Abitong, Plant Operations Supervisor and Stuart Cole, Water Superintendent. Mr. Abitong and Mr. Cole took

¹ Please note, you incorrectly listed the date of your logbook entry as "11-29-16."

photographs of the dirty Belt Press. [Attachment D] Mr. Jeffries also noted in the logbook the Belt Press was dirty at the start of his shift. [Attachment E]

Based upon the facts, it is concluded:

Your failure to properly clean the Belt Press on March 29, 2016 is a violation of the FHWTP's SOP 2.38—*Belt Press Start-up & Shutdown*, in relevant part:

- "37. Clean lower half of belt presses, particularly the rollers, wash trays, and wash boxes." [Attachment B]
- "38. Clean until water from Wash Boxes runs clear." [Attachment B]

Furthermore, to exacerbate your negligence, in your role as a WTPO, you are trusted to "maintain operating equipment and facilities in a clean and orderly condition." [Attachment F] By your neglect, you violated this trust.

The adverse impact of your failure to properly clean the Belt Press is that it can cause a variety of problems, including but not limited to: clogging of the Plant's drains, corrosion of the Plant's equipment, binding of the Plant's belts and producing foul odors.

Kenneth, this Written Reprimand is intended to emphasize to you the seriousness of your negligence in the performance of your duties. You have been a WTPO since December 24, 2013 and are expected to know that you must properly clean the Belt Press. You must make immediate improvements, further incidents of this nature will result in more severe disciplinary action up to and including termination. Please govern yourself accordingly.

It is illegal and inappropriate to retaliate against any person who has participated in complaining or providing information regarding your discipline. You may not contact or in any other manner retaliate against any individual who has provided information to the City regarding your conduct.

Sincerely,



Fiona Gault Strykers
Assistant Public Works Director—Water

cc: Jasmin Loi, Human Resources Director
Janet Thiessen, Human Resources Program Manager
David Kleinschmidt, Public Works Director
Stuart Cole, Assistant Water Superintendent—Treatment
Employee personnel file

Attachments:

- A. AR 2.35—*Employee Discipline*
- B. FHWTP SOP 2.38—*Belt Press Start-up & Shutdown*
- C. Mr. McKay's March 29, 2016 logbook entry
- D. Photographs of dirty Belt Press
- E. Mr. Jeffries' April 5, 2016 logbook entry
- F. WTPO Classification Specification

• Attachment A •

CITY OF VALLEJO
ADMINISTRATIVE RULE

SUBJECT: EMPLOYEE DISCIPLINE

A.R. Number: 2.35
Date Issued: 09/01/99
Date Effective: 09/01/99
Revised: 03/27/07

1. PURPOSE

- 1.1 To establish and maintain appropriate administrative procedures to ensure that prompt action is taken with employees whose performance is unsatisfactory or whose conduct or failure to observe City of Vallejo rules and regulations necessitates action.

2. SCOPE

- 2.1 This policy applies to all locations and all entities of the City of Vallejo and to all employees.

3. POLICY

- 3.1 It is the policy of the City of Vallejo to endeavor to treat all employees equitably and to administer all policies, procedures, rules and regulations consistently. When an employee's performance is unsatisfactory, or when an employee violates the rules and regulations of the City of Vallejo, however, the City may take appropriate disciplinary action.

4. DELEGATION OF AUTHORITY

- 4.1 The City Manager or designee is granted the authority to impose discipline, pursuant to Vallejo Charter Section 500 (a). The City Manager delegates this authority to the department directors and their designees.

5. RESPONSIBILITY

- 5.1 Human Resources Department: The Human Resources Department may be consulted for advice and assistance at all levels of a proposed disciplinary action. The Human Resources Director or designee shall review all proposed disciplinary action involving a suspension, reduction in pay, demotion, or discharge for procedural (due process and just cause) compliance prior to the proposed action being issued. The Human Resources Director or designee shall meet with a representative of the City Attorney's Office and the department director or designee to discuss a proposed disciplinary action prior to the issuance of a notice of proposed

disciplinary action involving a suspension, reduction in pay, demotion, or discharge. The Human Resources Director shall maintain a record of all disciplinary actions by department and type. The Department of Human Resources is authorized to issue procedures regarding implementation and administration of this policy.

5.2 City Attorney's Office: The City Attorney's Office shall be consulted for advice and assistance prior to the issuance of a notice of proposed disciplinary action involving a suspension, reduction in pay, demotion, or discharge. Such consultation shall continue through the due process procedures, and if the employee chooses to appeal the disciplinary decision, through the Civil Service appellant process. A representative of the City Attorney's office, the Director of Human Resources or designee, and the department director or designee shall discuss a proposed disciplinary action prior to the issuance of a notice of proposed disciplinary action involving a suspension, reduction in pay, demotion, or discharge.

5.3 Department Directors: Make certain that all employees of the department understand the rules and regulations which govern their behavior and point out and discuss rule infractions. Document all pertinent facts relating to the misconduct and employee responses to the misconduct. Issue the approved disciplinary action for repeated infractions or a serious offense. Provide copies of disciplinary notices to the Department of Human Resources. Consult with Human Resources and the City Attorney's Office prior to issuing a notice of proposed disciplinary action involving a suspension, reduction in pay, demotion, or discharge prior to the proposed action being issued and follow Pre-Disciplinary Action "Skelly Rights" Procedure (see Attachment A).

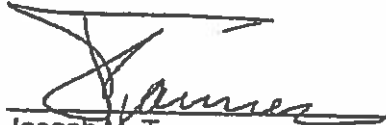
6. DISCIPLINARY POLICY:

6.1 The City of Vallejo may, in its sole discretion, employ a progressive discipline sequence involving some or all of the following steps: counseling, oral reprimand, written reprimand, suspension, reduction in pay, demotion, and discharge. The City may, however, decide to skip one or more of these steps, depending on the circumstances. In addition, the City reserves the right not to employ progressive discipline, and proceed directly to termination where the City deems it appropriate to do so.

6.2 Section 6.1 of this policy applies only to "for cause" employees, and does not apply to "at will" employees, probationary employees, temporary employees, seasonal employees, or any other employees exempt from the Civil Service.

6.3 This policy reaffirms the City of Vallejo's previous disciplinary practice of complying with all requirements regarding administration of discipline for

Fair Labor Standards Act (FLSA) exempt employees. Specifically, it is the policy of the City of Vallejo to suspend FLSA exempt employees without pay only in full day increments and not in partial day increments.



Joseph M. Tanner
City Manager

3-30-07
Date

• Attachment B •

**City of Vallejo Water Division
Fleming Hill Water Treatment Plant**

Section FH #2.38	Standard Operating Procedure #2.38 Belt Press Start-up & Shutdown	Revision No.: 3 Date: 10/15 Page 1 of 5

OVERVIEW

This procedure is necessary to understand how to operate the Belt Press facility downhill from the Fleming Hill Water Treatment Plant. Sludge water in Reclaim Basins or sludge directly from sed basins is sent down to the Belt Press facility by way of gravity feeding to the Gravity Thickener. The Belt press separates as much water from the solids. The dewatered sludge is picked up by Vallejo Recology and sent to the landfill. Decant water is sent back to a Fleming Hill Reclaim basin for further settling, before return to the headworks. This procedure must be performed by a fully trained operator of this facility and hold a minimum of a T2 license.

MAJOR EQUIPMENTS/COMPONENTS

- (2) drying lagoons for overflow
- Gravity Thickener with motorized sludge collector
- (2) Equalization chambers with a mixer each
- (3) sludge pumps
- (2) Ashbrook Belt Presses
- (2) each: poly totes, poly blender units (PBU) , and Poly Mixers (PM) aka aging tanks (holds up to ~4.0 feet of aging poly before overflow)
- (3) poly feed pumps (PFP)
- Screw conveyor with 3 openings (always leave door #3 open, last door)
- (3) sludge bins/ garbage dumpsters
- (3) decant pumps
- (2) drying lagoons for overflow

START-UP PROCEDURE

(In the Control Room)

1. Report to the control room to check for notes left by previous operator. Read last couple of log book entries and check white board for new equipment in or out of service and other misc notes.
2. Call Vallejo Recology to let them know that the facility is being operated today and ask for bin pick-ups. Ask for bin liners if needed. Also ask for bin swaps following morning to ensure there are empty bins for the next shift (even if shift not scheduled the following day).
3. Check SCADA system and Main Control Panel for any faults (If computer is locked up, re boot the system)
4. Check white board for previous equipment configuration and select equipment accordingly
5. On SCADA: Select and set desired Poly Feed Pumps to Auto
6. On SCADA: Select and set desired Poly Blender unit(s) to Auto
 - a. See note "Step#6"

7. On SCADA: Select and set desired Sludge Pumps to Auto
 - a. see note "Step #7"
8. On MAIN CONTROL PANELS: Set "Mode Select" Switch to Auto
 - a. See note "Step #8"
9. Select desired Garbage bin and Screw Conveyor gate. Make sure bin is lined. Make sure bins are in proper position. You can later align bins with forklift if necessary.
10. On Belt Press Local Control Panel: Select Dewater Switches to ON
11. Press Auto Start button on Main Control Panel.
12. Check Belt speed (some operators speed up during cleaning process)

In the Poly Room

13. Walk through facility checking for any apparent problems.
14. Check for any leaks or overflows in Poly Room.
15. Turn on poly tote mixer for 15 to 30 minutes.
16. Open discharge valves on PBUs (visually check all water valves are open in that corner)
17. Open Poly Tote valves.
18. Turn Poly Blender Units into the AUTO position
 - a. See note "step #6"
19. Turn on Aging Tank Mixers.
20. Open poly influent valves to desired Poly Feed Pumps
21. Check and note the Poly Tote weight

In Control Room

22. Log in start time and Poly Tote weight
 23. Check Sludge Level at Thickener. Log the level
- *Keep track of the number of poly totes you have available; place order in advance.**

Belt Press/ Top Floor

24. Turn on Exhaust Fans (if it is cold the gas heaters will automatically start).
25. Check Belt Presses for any obvious problems (obstructions, etc.)
26. Make sure that Hydraulic valves are in closed position on both presses.
27. Make sure that Chicanes and Scraper Blades are in down position.
28. Adjust Sludge Pumps, Poly Pumps, and Belt speeds to achieve proper process.
 - a. See note "Step #26" for additional information

SHUT-DOWN PROCEDURE

29. Press Auto Stop button on Local Control Panel OR turn "dewater off" for longer cleaning time.
30. Allow cake to clear from top of presses.
31. Lift Chicanes or not, it's your choice; lower them when finished.
32. Hose off sludge from the chicanes, loader box, inlet chute, and all exposed surfaces.
33. Hose off top of pressure wedges.
34. Hose off lower Gravity Grids and rollers.
35. Wait until all sludge has cleared the presses.
36. Open Wash water Box valves, and then close again.
37. Clean lower half of belt presses, particularly the rollers, wash trays, and wash boxes.
38. Clean until water from Wash Boxes runs clear.
39. Hose down decks, walls, stairs, and rails.
40. Allow presses to complete at least 45 minute wash down cycle.

In Poly Room

41. Turn off Aging Tank/Poly Mixers.
42. Close Poly Tote Valves.
43. Close Effluent valve on Poly Blender Units
44. Turn Poly Blender Units to the OFF position
45. Close influent valves to Poly Feed pumps

In the Control Room

46. Log shutdown time and Poly Tote final weight.
47. Calculate and log poly usage (in gallons) and number of bins filled.
48. Update white board on any equipment status changes or equipment configurations.
49. On SCADA: Turn Poly Feed Pumps, Sludge Pumps, and Poly Blender Units to OFF.
50. On MAIN CONTROL PANELS: set "Mode Select Switch" to OFF
51. Turn off Exhaust Fans (Gas heaters should turn off automatically).
52. During summer, leave Air Conditioner ON, set at 75 degrees.
53. Log out.
54. Turn off lights and check/lock all doors.

NOTES FOR PROCEDURE STEPS:

Step #6

Poly Blender Units – Often, it can be helpful to keep in SCADA OFF and go directly to units in Poly Room. *Only continue with this "test" if Aging tank level is less than 4'.

After opening poly tote valves and PBU discharge valves, turn PBU in the manual ON position to ensure and verify proper poly and water flow. Do this for each unit. Turn off immediately upon verification as Aging tanks/Poly Mixers will overflow around 4'. Put units in the "AUTO" position.

Step# 7

Sludge Pumps #3 can be used in place of Sludge pump 1 or 2.

- Open Sludge pump 3 discharge valve to appropriate BFP
- In MCC room: Turn VFD controller for Sludge pump 1 or pump 2 (whichever is being replaced) to off and #3 to Auto

Step #8 (normal operation)

Control Settings

Main Control Panels:

Control Power: ON

Wash water Valve: PLC

Hydraulic Pump: PLC

Belt Drive: PLC

Polymer Type: AGED

Control Select: LOCAL

Mode Select: AUTO

Step# 26 Sludge cake guidelines

Adjust Sludge Pumps, Poly Pumps, and Belt speeds to achieve proper process.

- Check the sludge cake process often, particularly at the beginning of the shift.
- Fewer polymers will be needed for the first 15 to 30 minutes until the poly already in the Aging Tanks is used.
- The sludge at the bottom of the equalization Chambers will be processed after 30 to 60 minutes, and another poly adjustment will be required.
- The process should then remain stable unless the Water Plant begins de-sludging, or the sludge in the thickener is depleted.

a) Too Much Poly:

- Sludge sticks to the belts past the scraper blades.
- Cake accumulates at chicanes or belt press loading box and gets stuck.
- Filtrate water is milky.
- Foam develops on top of cake.
- Water does not drop out (due to belt blinding).
- **Decrease poly flow until proper cake is achieved.

b) Not Enough Poly:

- Sludge does not cake.
- Sludge escapes past seals and into filtrate.
- Sludge oozes out between belts
- Cake is wet and heavy going into bins.
- **Increase poly flow until proper cake is achieved.

c) Low Sludge Solids Content:

- Water does not drop out (excessive water).
- Sludge is thin and almost clear.
- Very low Poly requirement.
- **Lower the sludge flow, poly flow, and belt speed until cake is achieved, or shut down.
- **Equalization Chamber inlets plugged. Clear inlets. Closed the two EQ valves and allow it to lower to 4 feet and reopen valve to clear the channel from any clogging.

GENERAL NOTES:

a) Weekly Facility Maintenance Operations:

Clean The Clarifier:

- Hose down stairs, decks, walkways, and platforms.
- Hose off mud and algae from filtrate spillway and sides of weirs.
- Hose off algae from sides of thickener.

Clear the Equalization Chamber Inlet Pipes:

- Plugged inlet pipes will cause low solids content in chambers.
- With presses running, close the (2) Equalization Chamber Inlet Valves.
- Watch levels of the Chambers.
- Mixers will shut off at 3 feet.
- Re-open inlet valves. Head pressure should clear the pipes.
- If still plugged, repeat this procedure.

Clean the Filtrate Well (weekly) Total Time 2 Hours:

- Contact the Water Plant and have them stop de-sludging a few hours before shutting down the Belt Presses.
- Shut down and clean Belt Presses.
- The Clarifier level should be no higher than one foot from the top of the weirs.
- Turn off the Filtrate Wet Well Low Level Controls at the control panel (Downstairs MCC Room).
- Manually turn on the Filtrate Pump(s) using the SCADA Controls.
- Filtrate Pump(s) will turn off at approximately 2 feet.
- Plug in Filtrate Well Sump Pump (Orange power cord inside Sludge Pump Building).
- Using Fire Hose mix mud inside Filtrate Well into a slurry. Repeat as necessary.
- Pump mud out of Filtrate Well, Hose, and repeat until clean.
- Unplug the Sump Pump.
- Set Belt Press Wash water Pumps to Bypass on Main Control Panel to refill filtrate well.
- When Filtrate Well level reaches 4 feet turn Low Level Controls back on.
- Turn Filtrate pumps to Off and then back to Remote at control panel (Downstairs MCC Room).
- Watch Filtrate Well Level on SCADA. (approx. 40 minutes)
- Filtrate Pumps should turn on when level reaches 6.5 feet.
- If pumps do not turn on, reset pumps again at control panel.
- Set Wash water Pumps back to PLC on Main Control Panel.

General Facility Cleaning:

- Sweep and/or hose down the Bin Loading Area
- Open valves to clean out Conveyor Gates.
- Sweep and/or hose down walls, floors, decks, and stairs on all three levels of Belt press Building.
- Hose out mud in Belt press filtrate drain stalls.
- Sweep out Sludge Pump Building.
- Sweep and clean the Polymer Feed Room
- Sweep out the Electrical Room.
- Knock down spider webs and spray for insects as necessary.
- Sweep sidewalks and pull weeds around buildings as necessary.

b) Troubleshooting:

No Poly/low poly:

Valve closed at Poly Tote or feed line incorrectly valved.

- Check valves to ensure poly flow to blenders.
- Open correct Poly Tote Valve.

Poly feed pumps shut down due to low flow or high Pressure.

- Reset Poly Pump at control in MCC Room
- Adjust Poly Pump speed at Local Control panel
- Speed should be between 20% and 85%

Air in Poly Feed line

- Bleed air out of system

Poly feed line or injector plugged.

- Increase poly pump speed until clog is forced out (90% or more)
- In the poly feed room, open water line to flush out the poly pipes (do this while the belt press is running)

Poly Mixer plugged (No poly in clear blending chamber)

- Bleed air from poly blender with bleed valve on back of blender pump.

REFERENCES:

1. Previous operation and maintenance documents.

• Attachment C •

0-18.000 Seifines

OK

in bling

re-act

rel 16.1

#1 Bin MT

in 1/3 Full

Filling #

3 Bin &
tched to

manure

all process

Filling
in 1/3 Full
checked

whos
operated 1
1st Floor,

along

Flora

ing paper-

of water

11/49

a/l above

210 to 210

3/25/16 1055 Friday
Facility check - all OK

3 Full sludge bins.

Classifier - lots of room for sludge

No alarm

SEA

3/26/16 1215 Saturday
Facility check - all OK

3/27/16 1350

Mack, Facility check OK

3/28/16 1000 hrs

Costa doing Facility check, All OK

checked Forklift Battery, it started OK

1178

11-29-2016

1100

Mack in, Tote start 1148, 3 MT's

END 809

Filled 4 Bins

$33\frac{3}{4} \times 2 = 37\frac{1}{2} = 9 + 31 \text{ hrs}$

Valley of Garbage only come once, asked
for liner, did not bring.

switched poly tote.

Process ok, not ideal due to it being
mostly Alum

emptied super sacks of old GAC into
recology bins.

Consolidated all waste poly into 2 Totes

1130

Mack to Hill, 12 of mud

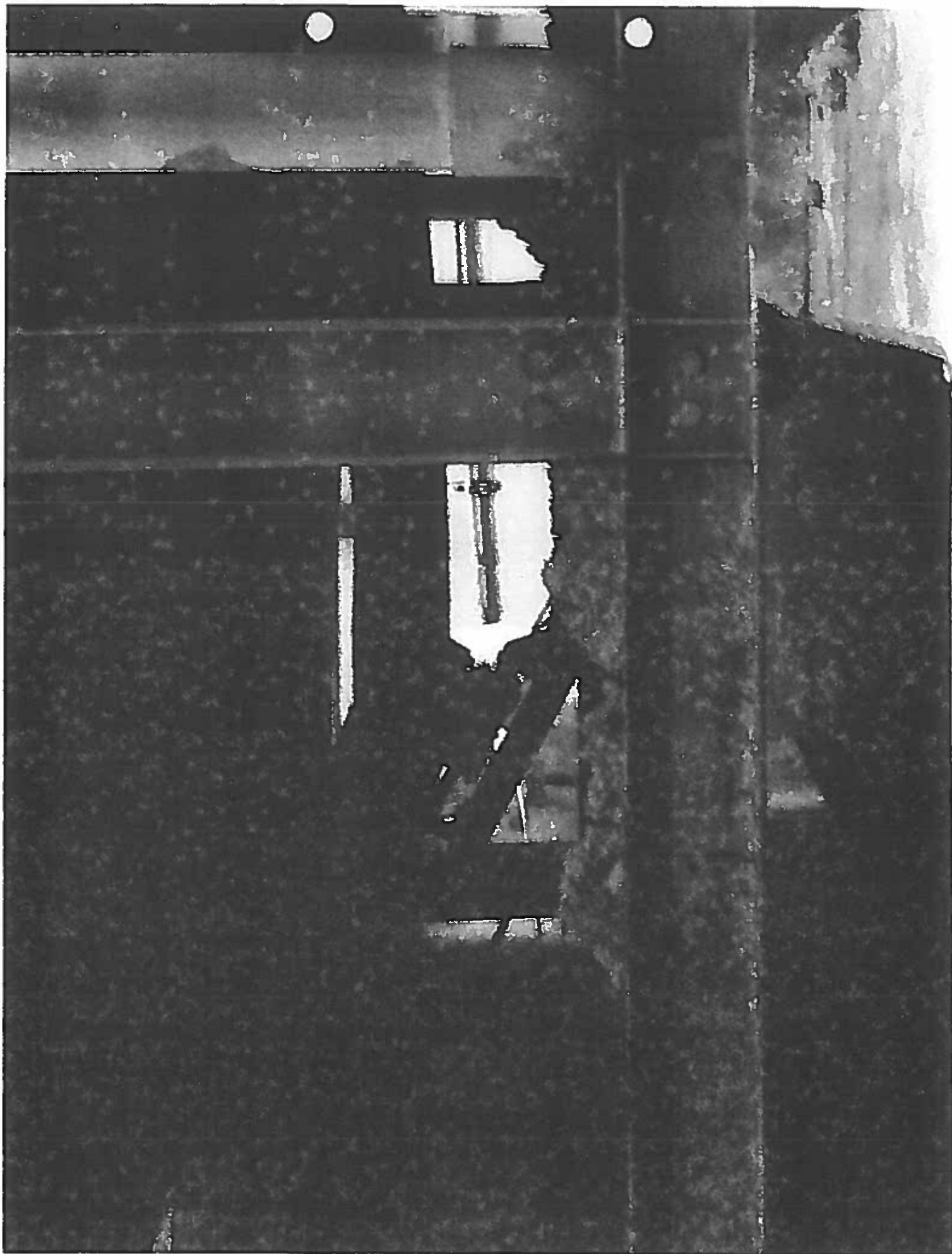
March 31, 2016 Thursday

1155

Costa doing Facility check, all OK

April 1, 2016 Friday

• Attachment D •





• Attachment E •

Two Wally in for check all ok
Saturday 4-2-16

1700 Bernie on-site, checking Building
8' Fireward

1715 Bernie leaving site

4/3/16

0400 Security check OK - HAFF

4/4/16

1205 Security check

April 5, 2016

0745 Jeffries on site / Press check OK

except that lower part of press #1 & 2
are dirty large clumps of sludge below
/ Thickening 20' sludge

0815 started press #1 & 2 / contacted
Vallejo Garbage has only enough
liner material for 2 Bin left message
to Mike (VG) to get some brought
in.

1030 switch Bins to #2 left second
message to VG again / press #1 not
doing well / an process contacted
F.H.I. to see what can be done
possible Belt Binding of poly

1120 Mike H. Here check Press
say Belt speed to fast and
adjust Poly / called Mike VG again
left message

Process extra
involves C
was shutt
extremely wet
more C VG
no liner
cleaned
cleaned / m
hosed Alg
Press Aut.
going to 1
at 1600

4/6/16

1555 Haff in

• Attachment F •



Water Treatment Plant Operator

Bargaining Unit: International Brotherhood
of Electrical Workers

Class Code:
000

CITY OF VALLEJO

Established Date: Jun 8, 2015

Revision Date: Jun 23, 2015

SALARY RANGE

\$38.34 - \$46.61 Hourly
\$3,067.57 - \$3,728.65 Biweekly
\$6,646.40 - \$8,078.74 Monthly
\$79,756.77 - \$96,944.85 Annually

DEFINITION:

To perform a variety of skilled technical duties and semi-skilled labor as shift operator, as regulated by Federal and State potable water treatment guidelines, in the operation and maintenance of the City's drinking water treatment plants, transmission, distribution systems, and appurtenances.

DISTINGUISHING CHARACTERISTICS

This is the full journey level classification in the treatment plant operator series, meeting requirements set by the U.S. Environmental protection Agency under the Safe Drinking Water Act, as well as by the State Water Resources Control Board (SWRCB), under the California Safe Drinking Water Act. The regulations ensure that water treatment facilities are operated and maintained by operators who are certified at the appropriate level, ensuring the protection of public health and safety. Performance expectations at this level include performance of the full range of responsibilities within the function. Individuals in this classification have satisfactorily demonstrated they are capable of operating and maintaining serviceable water supply, according to the City's treatment facility classification consistent with Environmental Protection Agency regulations, through the City's transmission, distribution facilities, water treatment plants and sludge de-watering project on an assigned shift, often without immediate supervision. Incumbents apply board job knowledge to resolve issues/problems of diverse scope where analysis of data requires evaluation of identifiable factors. Work requires independent judgment, initiative, and action within established operational parameters. This classification is distinguished from the Advanced Water Treatment Plant Operator class, as the latter is the challenging responsibilities for which problem-solving frequently requires analysis of unique issue/problems without precedent and/or structure.

AS a condition of continued employment with the City of Vallejo, incumbents are required to adhere to the process for maintaining the Grade T3 Water Treatment Plan Operator certification outlined by the State Water Resources Control Board (SWRCB). If the certification is not maintained, employment will be terminated. Advancement beyond the classification of Water Treatment Plant Operator is not required as a condition of continued employment.

SUPERVISION RECEIVED AND EXERCISED

Receives general supervision from supervisory and management staff such as the Water

Treatment Plant Supervisors and the Water Operations Superintendent. May receive lead direction from Advanced Water Treatment Plant Operators.

Exercises functional and technical supervision over, and provides training to Water Treatment Plant Operator Trainee staff.

EXAMPLES OF DUTIES:

EXAMPLES OF IMPORTANT RESPONSIBILITIES AND DUTIES - *Important responsibilities and duties may include, but are not limited to, the following:*

Monitors, adjusts and controls functions at water treatment plants, transmission/distribution system and sludge de-watering facility, using local controls and the Supervisory Control and Data Acquisition System (SCADA).

Operates and adjusts treatment plant pumps, motors, feeders and other equipment to maintain appropriate plant operations; regulate the flow of water through the water treatment plant and distribution system. Correctly regulates waste side-streams and return flows.

Calculates dosages and adjusts chemical feed machines for proper operation and application of chemicals in order to assure finished water quality standards. Arranges, safely receives and records deliveries of process chemicals to ensure adequate supplies.

Performs water quality tests using standardized testing methods in the plant laboratory; mixes and applies process chemicals at various stages in the treatment process.

Assembles updates and maintains plant operations logs and reports; performs and records mathematical calculations related to plant operational activities, process testing and control.

Works with hazardous chemicals related to water treatment and branch laboratory operations; receives training in and assists in spill prevention and response at City facilities.

Schedules, safely receives and records deliveries of process chemicals and monitors inventories to ensure adequate supplies.

Maintains plant, operating equipment and facilities in a clean and orderly condition; performs routine housekeeping inside and outside the plant and conducts regular site safety inspections

Dispatch call-out personnel as required at all hours. May act in a central communications function as follows: taking, relaying, transmitting, and providing information to and from City personnel or outside emergency services as required.

Operate city-owned motor vehicle to a number city facilities; operates licensed, City communication equipment.

Receives, safely unloads and stores materials by hand and by use of motorized and mechanical equipment.

Receives business contact with other city employees, customer inquiries and makes every effort to enhance public relations. Conducts general tours of the facilities.

Provides for safe plant conditions and working environment at all times by exercising a routine of attentiveness and proactive responses to plant safety and security matters.

Provides for safe plant conditions and working environment at all times by exercising a routine of attentiveness and proactive responses to plant safety and security matters.

Participates in accurate and complete shift change turn-overs to discuss vital plant information.

Participates in emergency preparedness training and exercises.

Perform related duties and responsibilities as required.

KNOWLEDGE AND ABILITIES:
QUALIFICATIONS

Knowledge of:

Standard principles of mathematics, biology, chemistry, and hydraulics as applied in the operation of a water treatment facility.

Standard principles, practices of drinking water treatment plant operations, laboratory analysis techniques and current drinking water standards and regulations.

Operating principles of plant equipment such as valves, pumps motors, controls, instrumentation and telemetry.

Operational and safety regulations pertaining to water treatment plant operations and vehicle and equipment usage.

Safety regulations pertaining work practices and use of related equipment.

Regulations, techniques and equipment used in managing mitigation, recovery and reporting of hazardous materials release.

Basic computer (PC) skills in Microsoft Suite software.

Safe vehicle and equipment use.

Ability to:

Logically solve problems and identify hazardous work conditions.

Understand and carry out written and oral instructions.

Operate and maintain water treatment plant equipment.

Diagnose operating problems and take effective courses of action.

Make independent technical decisions within established parameters to maintain proper treatment operations.

Establish and maintain effective working relationships with those contacted in the course of work.

Apply the practices, procedures, techniques, and treatment rules pertaining to the operation of water treatment plants and distribution system into daily practice.

Read and interpret gauges and other recording devices, plant piping and distribution diagrams and other technical documents.

Perform simple repair or maintenance to plant equipment such as pumps, valves, and electronic monitoring devices.

Perform simple to moderately complex tasks while wear Level A personal protective equipment.

Demonstrate the capability to independently operate all of the Water Division's facilities.

Exercise capable operations in all phases of plant operations: start-up, shutdown, reduction or bypass of unit processes, adverse or emergency conditions.

Accurately observe and record operating conditions and furnish verbal reports.

Travel to alternate duty/work locations and offsite meetings.

Work any shift, weekends, and holidays, at any Water Division facility.

Lift 55 pounds and move heavy chemical containers

Wear respiratory protection equipment as required.

Maintain the ability to perform required duties while wearing a Self-Contained Breathing Apparatus (SCBA).

Travel to alternate duty/work locations and offsite meetings.

Work independently without supervision.

MINIMUM QUALIFICATIONS:

Experience and Training Guidelines

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

A minimum of twenty-four (24) months experience in the City of Vallejo classification of Water Treatment Plant Operator II.

OR

A minimum of three (3) years of water treatment operating experience, which includes at least one (1) year functioning as a journey-level operator, while holding Grade T3 Water Treatment Plant Operator certification at a T3 or higher surface water treatment facility. As a condition of continued employment, employees shall successfully complete the Water Treatment Plant Operator Promotional Review Process within twelve (12) months of the date of hire into this classification

Training:

Equivalent to completion of the twelfth (12th) grade with three (3) years of high school mathematics, including at least two (2) years of algebra.

Completion of the following four (4) California State University, Sacramento "Ken Kerri" Series of Courses: Water Treatment Plant Operation (Vols. 1 & 2); Small Water System Operation and Maintenance; and Water Distribution Operation and Maintenance.

Certification:

Possess and maintain a valid Class C California Driver License.

Possess and maintain a Water Treatment Operator Grad T3 Certification issued by the State Water Resources Control Board (SWRCB). Failure to maintain appropriate certification for classification will result in termination of employment.

Possess and maintain recertification for Hazardous Materials Technician, Confined Space Entry, CPR/First Aid, and Fork Lift Safety as often as set forth by the authority establishing the requirement.

OTHER REQUIREMENTS

Prior to appointment to this classification, the incumbent must have attained Grade T3 Water Treatment Plant Operator certification. Internal candidates must have demonstrated receipt of satisfactory performance reviews within the preceding twenty-four (24) month period, and successful completion of the Water Treatment Plant Operator Promotional Review Process.

Pursuant to California Government Code, Title 1 Division 4, Chapter 8, Section 3100 "all public employees have been declared to be disaster service workers subject to such disaster service activities as may be assigned to them by their superiors or by law."

Must be medically approved for wearing a Self-contained Breathing Apparatus (SCBA), and remain shaven of facial hair at all times as required to wear respiratory protection equipment.

Must maintain the ability to perform required duties while wearing SCBA.

Must be able to work safely while wearing Personal Protective Equipment (PPE).

Work on an unscheduled basis for emergency situations; must be willing to work any day and any shift within a 24-hour period as assigned, including holidays, week

WORKING CONDITIONS:
WORKING CONDITIONS

Risk of exposure to chemicals; some lifting; machinery noise.
Work in and around confined spaces and elevated structures.
Work in proximity of high voltage and electronic equipment.
Work outdoors in a variety of weather conditions.
Work around complex, moving machinery in a biohazard environment.

ATTACHMENT E



Department of Public Works · 555 Santa Clara Street · Vallejo · CA · 94590

Via First Class Mail and Certified/Return Receipt Requested Mail

October 12, 2016

Kenneth W. McKay
2006 Goodman Court
Fairfield, CA 94533

NOTICE OF TERMINATION

Dear Mr. McKay:

You were presented with a *Notice of Intent to Terminate and Investigation Closure* ("Notice"), dated September 15, 2016,¹ based upon your threats of violence against coworkers, intimidating behavior directed towards your coworkers, and failure to professionally and reasonably work with others in the workplace. (Attachment 1)

As you are aware, the City conducted a confidential administrative investigation regarding the complaint William Stockman ("Stockman"), Water Treatment Plant Operator ("WTPO"), brought against you regarding your threatening and inappropriate behavior in the workplace. (Attachment 1, Sub-Attachment D) As you are further aware, based on the information provided from the investigation, the City made the following administrative determinations with regard to the underlying allegations of the complaint against you:

- The allegation that you made threatening comments against supervisor Stuart Cole ("Cole"), Assistant Water Superintendent—Treatment, was sustained, as you stated words to the effect, "Stuart fucked me and I'm going to get him...He promised me and I'm going to get him back," in reference to Mr. Cole declining to give you preferential treatment for a vacant position in the Green Valley Water Treatment Plant's caretaker house.

¹ All dates are 2016 unless otherwise noted.

- The allegation that you made threatening comments against coworker Rodney Jeffries, WTPO, was sustained, as you stated words to the effect that Mr. Jeffries "ratted" you out to management regarding a dirty Belt Press, that Mr. Jeffries should have talked to you directly about the issue, and that you wanted to "beat the fuck out of him."
- In addition, you were found to have engaged in combative and inflammatory acts towards your coworkers on multiple occasions, as you have used profanity or offensive language in response to work-related conversations, slammed papers on the counter, snapped at your coworkers with a raised voice, angry expressions, or aggressive body language despite any provocation, among other contentious acts.

Your *Skelly* meeting was held on October 7. Your *Skelly* officer was Police Captain Lee Horton ("Horton"). In addition to Captain Horton and yourself, also present were your union representatives, Jennifer Gray, IBEW Local 1245 Business Representative and Ray Thomas, IBEW Local 1245 Assistant Business Manager. At your *Skelly* meeting, you denied making threats against your coworkers. In addition, you and your representatives alleged the following:

- Motivation for the *Notice* by the City of Vallejo ("City") was in retaliation for you helping Erin Waid, WTPO, file her Equal Employment Opportunity Commission ("EEOC") charge against the City and for you filing your own EEOC charge against the City.
- Your supervisors failed to act expeditiously over your alleged threats against Mr. Cole and Mr. Jeffries or for your alleged combative and inflammatory acts.
- The City did not interview six additional employees regarding your alleged acts.
- The interviews and investigation by James Peavey, Personnel Analyst II, were biased.

Captain Horton considered the *Notice*, your *Skelly* meeting response, your prior disciplinary record² and your current Annual Performance Assessment.³ Captain Horton is sustaining the recommendation you be terminated from your WTPO position with the City.

² Specifically, on May 31, you were issued a *Written Reprimand for Negligence*, which is found at Attachment 1, Sub-Attachment D.

³ Your most recent Annual Performance Assessment regarding your performance between December 24, 2014 and July 28, 2015 also reveals your ongoing challenges with working constructively with others and treating others in a professional manner, which is found at Attachment 1, Sub-Attachment E. Specifically, you were noted for "demonstrat[ing] combative and inflammatory behavior if he [did] not get his way." You openly displayed "a poor attitude with an angry tone, sharp words, and even, at times, physically threatening demeanor when someone expects him to work with a situation that he disagrees with... The angry outbursts tend to make his co-workers feel threatened." In addition, you "...alienated other coworkers with aggressive behavior, angry outbursts and threatening tone, words, and body language, and problem solving that requires teamwork does not meet expectations..."

Therefore, pursuant to the City's *Administrative Rule ("AR") 2.35—Employee Discipline* (Attachment 1, Sub-Attachment A) and *Civil Service Commission Rule 18—Suspension, Fine or Removal*, (Attachment 1, Sub-Attachment B) I am terminating you from employment as a WTPO with the City, effective 5:15 p.m. on October 12.

Per *Civil Service Commission Rule 19.1—Appeals and Hearings* (Attachment 2), you have the right to appeal your discipline to the Civil Service Commission ("Commission") within five calendar days. Specifically, your written appeal must be received by Jasmin Loi, Executive Secretary of the Commission, by 5:15 p.m. on October 17. Your written appeal must be submitted to one of the following:

- Email: jasmin.loi@cityofvallejo.net
- Facsimile: (707) 648-5292
- Mail or in person: 555 Santa Clara Street, Room 102, Vallejo, CA 94590

It is illegal and inappropriate to retaliate against any person who has participated in complaining or providing information regarding your termination. You may not contact or in any other manner retaliate against any individual who has provided information to the City regarding your misconduct.

Sincerely,



Fiona Gault Strykers
Interim Assistant Public Works Director—Water Division

cc: David Kleinschmidt, Public Works Director
Jasmin Loi, Human Resources Director
Crystal Tobin, Personnel Analyst II
Employee Personnel File

Attachments:

1. *Notice of Intent to Terminate and Investigation Closure*, dated September 15⁴
2. *Civil Service Commission Rule 19.1—Appeals and Hearings*

⁴ On September 15, the City mailed the *Notice* to your mailing address at 816 2nd Street, Fairfield, CA 94533. Since the City had a second mailing address on file for you, in order to ensure proper notice, on September 23, the City sent you an additional copy of the *Notice* to your mailing address at 2008 Goodman Court, Fairfield, CA 94533.



Department of Public Works · 555 Santa Clara Street · Vallejo · CA · 94590

Via First Class Mail and Certified/Return Receipt Requested Mail

September 23, 2016

Kenneth W. McKay
2006 Goodman Court
Fairfield, CA 94533

Re: Additional Copy of Notice of Intent to Terminate and Investigation Closure

Dear Mr. McKay:

On September 15, 2016, the City of Vallejo mailed a Notice of Intent to Terminate and Investigation Closure ("Notice of Intent") to your mailing address at 816 2nd Street, Fairfield, CA 94533.

However, since the City of Vallejo ("City") has located a second mailing address on file for you, in order to ensure proper notice, the City is sending the enclosed Notice of Intent to your mailing address at 2006 Goodman Court, Fairfield, CA 94533.

In order to ensure you are provided with your full due process rights, the City is providing you an extended timeline within which to respond to the enclosed Notice of Intent.

If you wish to submit a written response, it must be received by the City's Department of Human Resources, located at 555 Santa Clara Street, Room 102, Vallejo, CA 94590, by 5:15 p.m., September 30, 2016.

If you wish to have a pre-disciplinary *Skelly* meeting, you must advise the City's Department of Human Resources of that fact by contacting Tanya Starks, Senior Administrative Clerk, at (707) 648-4398 or tanya.starks@cityofvallejo.net, by 5:15 p.m., September 30, 2016.

Sincerely,



Fiona Gault Strykers
Interim Assistant Public Works Director—Water Division

cc: David Kleinschmidt, Public Works Director
Jasmin Loi, Human Resources Director
Employee Personnel File

Enclosure: Notice of Intent to Terminate and Closure of Investigation, dated September 15, 2016



Department of Public Works · 555 Santa Clara Street · Vallejo · CA · 94590

Via First Class Mail and Certified/Return Receipt

Noted Mr.

September 15, 2016

Kenneth W. McKay
816 2nd Street
Fairfield, CA 94533

NOTICE OF INTENT TO TERMINATE AND INVESTIGATION CLOSURE

Dear Mr. McKay:

Pursuant to *Skelly v. State Personnel Board* (1975) 15 Cal.3d 194 ("Skelly"), the City of Vallejo's ("City") Administrative Rule 2.35, Civil Service Commission Rule 18, and the Collective Bargaining Agreement ("CBA") between the City of Vallejo and International Brotherhood of Electrical Workers Local 2376, AFL-CIO ("IBEW"), I am advising you of my preliminary decision to terminate you from your position as a Water Treatment Plant Operator. If my recommendation remains unchanged following completion of any pre-disciplinary review in this matter, then you will be provided with written notice of your discipline. Your recommended discipline is based upon your threats of violence against coworkers, intimidating behavior directed towards your co-workers, and failure to professionally and reasonably work with others in the workplace.

A. GROUND'S FOR DISCIPLINE

A classified employee may be suspended, fined, or dismissed, as provided by City Administrative Rule 2.35—Employee Discipline (See Attachment A), and Civil Service Commission Rule 18—Suspension, Fine or Removal (See Attachment B). The recommended discipline is based upon findings that you have committed the following violations of the CBA, Section 7—Safety (See Attachment C):

"It is the policy of the City to comply with all federal, state and local health and safety regulations to provide a work environment as free as practicalbe

from recognized hazards. Employees are expected to comply with all safety and health requirements whether established by the City or by federal, state, or local law....No employee shall be expected to work in the presence of any valid safety or health hazard. Should any employee believe that such conditions exist, the employee should so notify a supervisor to determine the degree of the existing hazard..."

This recommended discipline is also based upon findings that your conduct violated Civil Service Commission Rule 18—Suspension, Fine or Removal (See Attachment B):

"Every person holding a position in the classified service shall be subject to suspension, fine, demotion or removal....for misconduct... or for failure to cooperate reasonably with the department head or with his his/her fellow employees..."

B. FACTUAL BASIS FOR RECOMMENDATION ACTION

1. Investigation

As you are aware, the City conducted a confidential administrative investigation regarding the complaint William Stockman, Water Treatment Plant Operator, brought against you regarding your threatening and inappropriate behavior in the workplace. The City takes allegations of workplace safety seriously and is committed to furnishing a safe and healthful work environment for its employees. The City enlisted James Peavey, Personnel Analyst II with the City's Human Resources Department, to conduct the investigation. Mr. Peavey had full freedom to conduct the investigation as he saw fit and without the City's interference or influence. Mr. Peavey conducted an extensive investigation, including interviews of nine witnesses, including you and several other Treatment Operation team members, and an extensive review of relevant documents. The investigation has concluded.

Based on the information provided from the investigation, the City made the following administrative determinations with regard to the underlying allegations of the complaint against you:

- The allegation that you made threatening comments against supervisor Stuart Cole is SUSTAINED, as you stated words to the effect, "Stuart fucked me and I'm going to get him...He promised me and I'm going to get him back," and in reference to Mr. Cole declining to give you preferential treatment for a vacant position in the Green Valley Water Treatment Plant's caretaker house.
- The allegation that you made threatening comments against coworker Rodney Jeffries is SUSTAINED, as you stated words to the effect that Mr. Jeffries "ratted"

you out to management regarding a dirty Belt Press, that Mr. Jeffries should have talked to you directly about the issue, and that you wanted to "beat the fuck out of him."

2. Proposed Remedial Action

Based on the City's administrative findings and determination set forth above, the City intends to implement remedial policy measures to further assure a safe and healthful work environment for its employees so as to prevent similar instances from occurring in the future.

Based on the City's administrative findings and determination as set forth above, the City makes the recommendation that the discharge of your employment as the appropriate level of disciplinary action based upon your misconduct as detailed below.

Please note, this Notice of Intent to Terminate ("Notice") is based on any one of your acts and need not be based upon your commission of more than one act. The City finds that you made threatening comments about fellow City employees, Stuart Cole, Assistant Water Superintendent—Treatment, and Rodney Jeffries, Water Treatment Plant Operator (See Attachment D):

- In December 2015, during a conversation with William Stockman, Water Treatment Plant Operator, you expressed your displeasure with Stuart Cole, Assistant Water Superintendent—Treatment, for failing to allow you to move into the Green Valley Water Treatment Plant's caretaker house, specifically stating "Stuart [Mr. Cole] fucked me and I'm going to get him [Mr. Cole]" and "He [Mr. Cole] promised me and I'm going to get him [Mr. Cole] back."
- On April 23, 2016, during a conversation with William Stockman, Water Treatment Plant Operator, you expressed your displeasure with Rodney Jeffries, Water Treatment Plant Operator, for reporting to management your failure to properly clean the Fleming Hill Water Treatment Plant's Belt Press, and that Mr. Jeffries should have directly talked to you about it, specifically stating "He [Mr. Jeffries] ratted me out to management" and that you wanted to "Beat the fuck out of him [Mr. Jeffries]."

In addition, you have engaged in combative and inflammatory acts towards your coworkers on multiple occasions, as you have used profanity or offensive language in response to work-related conversations, slammed papers on the counter, snapped at your co-workers with a raised voice, angry expressions, or aggressive body language despite any provocation, among other contentious acts. (See Attachment D).

Your explicit comments about hurting and retaliating against team members as well as your intimidating demeanor towards others have had a disruptive impact on the workplace.

C. LEVEL OF DISCIPLINE

The City has a legal duty pursuant to the California Occupational Safety and Health Act of 1973 ("Cal OSHA") to ensure its workplace is free from violence and threats of violence and to furnish employment and a place of employment that is safe and healthful for the employees therein. (See, Labor Code section 9400). Workplace violence is any act or threat of physical violence, harassment, intimidation, or other threatening disruptive behavior that occurs at the work site.

You have threatened the safety of others in the workplace by making statements of violence against Mr. Cole and Mr. Jeffries, exhibited an aggressive attitude and directed angry outbursts towards fellow Treatment Operations team members on numerous occasions. What is especially concerning is that your escalated reactions were in response to work-related circumstances that were not provoking, demeaning, or antagonizing in any way. Your behavior has caused your coworkers to feel intimidated or reluctant to work with you.

I have also reviewed and considered your entire personnel file in making the aforementioned recommendation. Your most recent Annual Performance Assessment regarding your performance between December 24, 2014 and July 28, 2015 also reveals your ongoing challenges with working constructively with others and treating others in a professional manner. Specifically, you were noted for "demonstrat[ing] combative and inflammatory behavior if he [did] not get his way." You openly displayed "a poor attitude with an angry tone, sharp words, and even, at times, physically threatening demeanor when someone expects him to work with a situation that he disagrees with...The angry outbursts tend to make his co-workers feel threatened." In addition, you "...alienated other coworkers with aggressive behavior, angry outbursts and threatening tone, words, and body language, and problem solving that requires teamwork does not meet expectations..." (See Attachment E) You may review your personnel file upon reasonable request by contacting Tanya Starks, Senior Administrative Clerk, at (707) 648-4398 or tanya.starks@cityofvallejo.net.

The City cannot tolerate your explicit threats of violence or your intimidating demeanor towards City employees. Further, your pattern of belligerent behavior is inappropriate and reflective of your inability to work constructively with your fellow employees in a professional and reasonable way. In addition, I have concluded that lesser discipline will not likely be effective because you were counseled on the very same issues during your last formal evaluation, dated July 28, 2015. Despite having an opportunity to improve, you not only continued to display similar deficient behavior, but more

egregiously, expressed your desire to harm two team members. Therefore, based upon the facts, I have concluded that the highest level of discipline is appropriate and recommend termination from your position as a Water Treatment Plant Operator.

D. RIGHT TO RESPOND

Pursuant to *Skelly*, you may provide a written and/or verbal response to this Notice. Your written response must be received by the Department of Human Resources by 5:15 p.m., September 22, 2016. If you wish to have a pre-disciplinary *Skelly* meeting, you must advise the City of that fact by contacting Ms. Starks at (707) 648-4398 or tanya.starks@cityofvallejo.net, by 5:15 p.m., September 22, 2016. Although the pre-disciplinary meeting is not designed to be a formal evidentiary hearing, legal counsel or another individual of your choice may represent you. Your failure to provide a written response or to attend a pre-disciplinary *Skelly* meeting will constitute a waiver of your right to provide a response. Accordingly, the decision to either sustain, modify or reject this recommendation will be based exclusively upon a review of this Notice and its attachments.

E. NON-RETALIATION

The City prohibits retaliation against those, including you, for participating in the complaint and investigation process. Please immediately report actions, comments, or conduct, if any, that you believe to be retaliation for your participation in this complaint and investigation process.

Sincerely,



Fiona Gault Strykers
Interim Assistant Public Works Director—Water Division

cc: David Kleinschmidt, Public Works Director
Jasmin Loi, Human Resources Director
Employee Personnel File

Attachments:

- A. City of Vallejo's Administrative Rule 2.35
- B. Civil Service Commission Rule 18
- C. CBA between the City of Vallejo and IBEW Local 2376, Section 7
- D. Confidential Administrative Investigation Report, dated September 13, 2016
- E. Annual Performance Assessment, dated July 28, 2016

Attachment A

NOTICE OF INTENT TO TERMINATE AND INVESTIGATION CLOSURE • KENNETH MCKAY

ATTACHMENT A

**CITY OF VALLEJO
ADMINISTRATIVE RULE**

SUBJECT: EMPLOYEE DISCIPLINE

**A.R. Number: 2.35
Date Issued: 09/01/99
Date Effective: 09/01/99
Revised: 03/27/07**

1. PURPOSE

- 1.1 To establish and maintain appropriate administrative procedures to ensure that prompt action is taken with employees whose performance is unsatisfactory or whose conduct or failure to observe City of Vallejo rules and regulations necessitates action.

2. SCOPE

- 2.1 This policy applies to all locations and all entities of the City of Vallejo and to all employees.

3. POLICY

- 3.1 It is the policy of the City of Vallejo to endeavor to treat all employees equitably and to administer all policies, procedures, rules and regulations consistently. When an employee's performance is unsatisfactory, or when an employee violates the rules and regulations of the City of Vallejo, however, the City may take appropriate disciplinary action.

4. DELEGATION OF AUTHORITY

- 4.1 The City Manager or designee is granted the authority to impose discipline, pursuant to Vallejo Charter Section 500 (a). The City Manager delegates this authority to the department directors and their designees.

5. RESPONSIBILITY

- 5.1 Human Resources Department: The Human Resources Department may be consulted for advice and assistance at all levels of a proposed disciplinary action. The Human Resources Director or designee shall review all proposed disciplinary action involving a suspension, reduction in pay, demotion, or discharge for procedural (due process and just cause) compliance prior to the proposed action being issued. The Human Resources Director or designee shall meet with a representative of the City Attorney's Office and the department director or designee to discuss a proposed disciplinary action prior to the issuance of a notice of proposed

disciplinary action involving a suspension, reduction in pay, demotion, or discharge. The Human Resources Director shall maintain a record of all disciplinary actions by department and type. The Department of Human Resources is authorized to issue procedures regarding implementation and administration of this policy.

5.2 City Attorney's Office: The City Attorney's Office shall be consulted for advice and assistance prior to the issuance of a notice of proposed disciplinary action involving a suspension, reduction in pay, demotion, or discharge. Such consultation shall continue through the due process procedures, and if the employee chooses to appeal the disciplinary decision, through the Civil Service appellant process. A representative of the City Attorney's office, the Director of Human Resources or designee, and the department director or designee shall discuss a proposed disciplinary action prior to the issuance of a notice of proposed disciplinary action involving a suspension, reduction in pay, demotion, or discharge.

5.3 Department Directors: Make certain that all employees of the department understand the rules and regulations which govern their behavior and point out and discuss rule infractions. Document all pertinent facts relating to the misconduct and employee responses to the misconduct. Issue the approved disciplinary action for repeated infractions or a serious offense. Provide copies of disciplinary notices to the Department of Human Resources. Consult with Human Resources and the City Attorney's Office prior to issuing a notice of proposed disciplinary action involving a suspension, reduction in pay, demotion, or discharge prior to the proposed action being issued and follow Pre-Disciplinary Action "Skelly Rights" Procedure (see Attachment A).

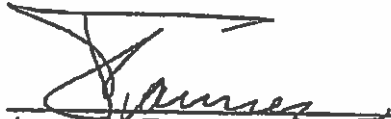
6. DISCIPLINARY POLICY:

6.1 The City of Vallejo may, in its sole discretion, employ a progressive discipline sequence involving some or all of the following steps: counseling, oral reprimand, written reprimand, suspension, reduction in pay, demotion, and discharge. The City may, however, decide to skip one or more of these steps, depending on the circumstances. In addition, the City reserves the right not to employ progressive discipline, and proceed directly to termination where the City deems it appropriate to do so.

6.2 Section 6.1 of this policy applies only to "for cause" employees, and does not apply to "at will" employees, probationary employees, temporary employees, seasonal employees, or any other employees exempt from the Civil Service.

6.3 This policy reaffirms the City of Vallejo's previous disciplinary practice of complying with all requirements regarding administration of discipline for

Fair Labor Standards Act (FLSA) exempt employees. Specifically, it is the policy of the City of Vallejo to suspend FLSA exempt employees without pay only in full day increments and not in partial day increments.



Joseph M. Tanner
City Manager

3-30-07
Date

NOTICE OF INTENT TO TERMINATE AND INVESTIGATION CLOSURE • KENNETH MCKAY

ATTACHMENT B

RULE 18

SUSPENSION, FINE OR REMOVAL

18.1 Employees Subject To

Every person holding a position in the classified service shall be subject to suspension, fine, demotion or removal from office or employment by the person, board, or commission appointing such persons, for misconduct, incompetency, inefficiency, failure to perform the duties or to observe the rules and regulations of such department, office, board or commission, or for failure to cooperate reasonably with the department head or with his/her fellow employees; subject to the right of the employee to appeal to the Civil Service Commission in the manner set forth in the Charter and these Rules.

18.2 Statement of Reason

Every employee shall be given a written statement of the reason for such suspension, fine, demotion or removal from office or employment at the time of such suspension, fine, demotion or removal. Such statement shall include in itemized form the specific instances in support of such suspension, fine, demotion or removal from office or employment. A copy of such statement shall be delivered to such person or shall be left at his/her last known address.

18.3 Filing of Appeal

Any employee who has been so disciplined shall have five (5) days after service of such written statement within which to file an appeal to the same. A copy of such appeal shall be filed during office hours at the office of the person, board or commission imposing such discipline and the original shall be filed by such employee in the office of the Executive Secretary of the Commission. Should the last day on which an appeal may be filed fall upon a Sunday or holiday the time for filing such appeal shall be extended to include the next following business day.

18.4 Investigation and Hearing Required

The Commission may make, or cause to be made, such investigation as it shall deem necessary and thereafter shall hold a hearing at which time it shall hear evidence for and against such employee. Hearings may be conducted informally and the conclusions shall be made by the Commission within ten (10) days after the matter has been submitted and thereupon the same shall be certified to the official, board or commission from whose order the appeal has been taken. The findings and conclusions of the Commission also may contain such recommendations as said Commission shall deem proper, and shall include the amount of compensation such employee is entitled to receive, if any. Said findings and conclusions of the Commission shall be final.

NOTICE OF INTENT TO TERMINATE AND INVESTIGATION CLOSURE • KENNETH MCKAY

ATTACHMENT C

SECTION 7 MISCELLANEOUS

7.1 FILLING OF VACANT POSITIONS

- A. Effective July 23, 2002 the City retains the sole and exclusive right to determine when and if a vacant position will be filled. Such decision shall not be subject to grievance or arbitration.

7.2 SAFETY

- A. It is the policy of the City to comply with all federal, state and local health and safety regulations to provide a work environment as free as practicable from recognized hazards. Employees are expected to comply with all safety and health requirements whether established by the City or by federal, state or local law.
 - 1. No employee shall be expected to work in the presence of any valid safety or health hazard. Should any employee believe that such conditions exist, the employee should so notify a supervisor to determine the degree of the existing hazard.
 - 2. It is the responsibility of management and supervisory personnel to provide suitable safety equipment, training and supervision to each employee and to address known safety hazards.
 - 3. Should an employee or the Union believe that any of the above provisions have been violated, the employee or the Union may enforce such provisions through the California Department of Industrial Relations.
- B. Appropriate safety equipment will be furnished and maintained by the City in a condition suitable for its purpose. Employees are to appropriately maintain City-provided personal protective safety equipment. The City will be responsible for the reasonable replacement cost of such equipment only when the need for such replacement does not arise out of the employee's negligence or carelessness.
- C. The City agrees to allow one (1) employee designated by the Union to accompany an OSHA Inspector and any other persons who may be designated by the City on any appropriate inspection tour of a City facility at which employees in this bargaining unit normally work. Time necessarily lost by the employee from his/her regularly scheduled work shall be compensated at said employee's regular straight-time rate of pay.
- D. The City and the Union shall establish a Joint Safety Committee consisting of three (3) employee representatives appointed by the Union and three (3) City representatives.

1. It shall be the right of the committee members to (a) report and discuss unsafe conditions they may observe or which may be called to their attention, including accidents; (b) assist in the development and dissemination of safety information to the employees; and (c) make recommendations with respect to the adequacy of the safety devices, safety equipment and safety practices within the City's operation.
2. The Joint Safety Committee shall have a regular monthly meeting unless there are no matters to be discussed. A report relative to the discussions at and results of such meeting shall be prepared and sent within five (5) calendar days to the City Manager. Time necessarily lost by the Joint Safety Committee members from their regularly scheduled work shall be compensated at said employees' regular straight-time rate of pay.

The Joint Safety Committee shall not file or handle grievances involving safety.

7.3 TRANSFERS AND ASSIGNMENTS

A. Temporary Transfers/Assignments

1. The City shall have the right to temporarily transfer or assign employees irrespective of their seniority status from one job classification to another to cover for employees who are absent, to fill temporary vacancies, or to take care of unusual conditions or situations which may arise.
 - a. In no case shall a temporarily transferred employee suffer a loss in pay as a result of such transfer.
 - b. When an employee is temporarily transferred or assigned to perform substantially the duties of an employee in a higher classification, such transferred employee shall receive the rate of pay applicable as if the employee were promoted to such position, for each day such work is performed. In no case shall such rate of pay be less than five (5) percent above such transferred employee's regular rate of pay, provided that employees serving in such positions shall not receive a rate of pay above the maximum step of the range of the position in which they are serving in an acting capacity.
2. The commencement and termination of each such temporary transfer or assignment shall be immediately reported by the employee's supervisor on a form designated for that purpose by the

Department of Human Resources. The employee involved shall promptly receive a copy of each such completed form.

3. When an employee is transferred or assigned to a position within a higher pay range, such employee shall have the right to remain in such higher-rated position as long as he or she performs satisfactorily and the need for filling such position on a temporary basis continues to exist.
 - a. In no event, however, shall a temporary assignment or transfer exceed twelve (12) months. Employees who work beyond six months will continue to receive "acting pay" when they are on paid leave.
4. Any employee temporarily transferred or assigned pursuant to this Section shall not acquire any permanent title or right to the position to which such employee is so transferred or assigned, but shall retain his or her seniority in the permanent classification from which such transfer or assignment was made.
5. This Section specifically supersedes and renders null and void any and all Civil Service Commission Rules and Regulations in conflict herewith, and the Civil Service Commission shall be foreclosed from dealing with such matters for positions within the bargaining unit.

B. Permanent Transfers/Assignments

1. Employees who wish to transfer permanently from one position in a classification to another position in the same classification shall so inform the Department of Human Resources, which shall maintain a transfer list of such employees.
2. When a vacancy occurs within the City, the Department of Human Resources shall poll the employees whose names are on the transfer list to determine who is interested in being considered for the vacancy. The Department of Human Resources shall convey the transfer list with appropriate documentation to the appropriate department for consideration; the employees may be interviewed at the discretion of the department involved.

7.4 CERTIFICATION/LICENSE FEES

- A. Employees who are required as a condition of employment or continued employment to obtain state certification or licensing in the field in which they are employed by the City shall be reimbursed by the City for the annual cost of such certificate or license

7.5 TRAINING FOR SUPERVISORY EMPLOYEES

- A. Individuals in supervisory classifications or lead worker positions who are responsible for supervising personnel as part of their daily job duties and functions will receive training within the first year of their appointment into their supervisor/lead-worker position and may request or will be provided additional supervisory and/or leadership training on an annual basis to continue their development of supervisory/leadership skills as deemed appropriate by their Department, Human Resources, or the City Manager. This provision will take effect following ratification of this agreement by IBEW and adoption by the City Council in accordance with the Government Code and Meyers-Millias-Brown Act.**

NOTICE OF INTENT TO TERMINATE AND INVESTIGATION CLOSURE • KENNETH MCKAY

ATTACHMENT D

Attachment D

NOTICE OF INTENT TO TERMINATE AND INVESTIGATION CLOSURE • KENNETH MCKAY

ATTACHMENT D

CONFIDENTIAL ADMINISTRATIVE **INVESTIGATION REPORT**

**Report Concerning Complaints Regarding
Kenneth W. McKay, Water Treatment Plant Operator**

CONFIDENTIAL ADMINISTRATIVE INVESTIGATION REPORT • KENNETH W. MCKAY

I. INTRODUCTION

This is a Confidential Administrative Investigation Report ("Report") that contains detailed information, witness accounts, relevant documentation, analyses and findings related to the allegations. It is anticipated this Report will be maintained confidentially by the decision-makers and will not be disseminated except as required or as determined by the decision-makers or applicable law.

On June 9, 2016,¹ William Stockman, Water Treatment Plant Operator, notified Jasmin Loi, Human Resources Director, that he was concerned Kenneth McKay, Water Treatment Plant Operator, made threatening and inappropriate comments about employees at work. Ms. Loi directed the undersigned to investigate.

II. WITNESSES AND DOCUMENTS

A. WITNESSES

Unless otherwise noted, all interviews were held in the Human Resources Office. The undersigned conducted interviews of the following individuals:

<u>Name</u>	<u>Title</u>
William Stockman	Water Treatment Plant Operator
Stuart Cole	Assistant Water Superintendent—Treatment
Roger Kasper	Water Treatment Plant Supervisor
Frank Costa	Advanced Water Treatment Plant Operator
Lynn Schulte	Water Treatment Plant Operator
Rodney Jeffries	Water Treatment Plant Operator
Richard Baker	Water Treatment Plant Operator
Joe Abitong	Water Treatment Plant Supervisor
Erin Wald	Water Treatment Plant Operator
Kenneth McKay	Water Treatment Plant Operator

The undersigned admonished all witnesses that 1) they had a duty to answer every question fully and truthfully, 2) to keep the contents of the interview confidential and 3) not to discuss their interview with others (whether on-duty or off-duty). Furthermore, the undersigned explained to witnesses this Report would be shared with others on a need-to-know basis. In addition, the undersigned informed all witnesses of the City of Vallejo's ("City") policy prohibiting retaliation for either bringing a claim or participation in an investigation and if they were to be retaliated against, they must immediately report this to the undersigned.

Interview summaries in this Report are not verbatim recitation of witnesses' statements. Verbatim statements are cited using quotations.

¹ All dates are 2016 unless otherwise stated.

CONFIDENTIAL ADMINISTRATIVE INVESTIGATION REPORT • KENNETH W. MCKAY

B. DOCUMENTS

The following documents were reviewed and are attached:

Exhibit #	Document
1.	Mr. McKay's Written Reprimand for Negligence, dated May 31.
2.	Mr. McKay's most recent Annual Performance Assessment (for the period of December 24, 2014 to July 28, 2015).
3.	Fleming Hill Water Treatment Plant Operations Work Schedule—April 23.
4.	Mr. McKay's email to Mr. Abitong, dated November 24, 2015.
5.	Mr. Cole's memorandum, memorializing a Verbal Reprimand given to Mr. McKay for 1) not reporting to the correct worksite and 2) failing to inform management that he would not report to work due to illness, dated July 28, 2015.
6.	Mr. McKay's written rebuttal to his Verbal Reprimand for not reporting to the correct worksite, not dated and not signed.
7.	Mr. McKay's written rebuttal to his Verbal Reprimand for failing to report that he would not report to work due to illness (i.e., "call-in sick"), not dated and not signed.
8.	Mr. Stockman's signed written statement memorializing his allegations, dated July 8.
9.	U.S. Department of Labor's definition of "Workplace Violence."
10.	California Labor Code 6400 (a)

III. INTERVIEWS

A. WILLIAM STOCKMAN

Mr. Stockman was interviewed on June 23. He is a Water Treatment Plant Operator. He has worked for the City for 15 years. His direct supervisor is Joe Abitong, who in turn reports to Mr. Cole.

Mr. Stockman said that immediately after a December 2015 union meeting, Mr. McKay approached him and expressed his displeasure with Mr. Cole.² Mr. Stockman said Mr. McKay told him that he was mad at Mr. Cole for reneging on his promise to select Mr. McKay to live at the Green Valley Water Treatment Plant's caretaker house. Mr. Stockman stated Mr. McKay specifically told him "Stuart [Mr. Cole] fucked me and I'm going to get him." Mr. Stockman said he told Mr. McKay that since other employees also requested to live at the Green Valley Water Treatment Plant's caretaker house, the department must have an application process, including interviews. According to Mr. Stockman, Mr. McKay replied "Screw that, he [Mr. Cole] promised me and I'm going to get him back." Mr. Stockman added he did not initially report Mr. McKay's remark because he was very hesitant to

² According to Mr. Stockman, although there were other people milling about, no one was within earshot of his conversation with Mr. McKay.

CONFIDENTIAL ADMINISTRATIVE INVESTIGATION REPORT • KENNETH W. MCKAY

report a fellow union shop steward to management, especially since Mr. McKay made the remark immediately following a union meeting.

Mr. Stockman said that on April 23, during the "turn-over,"³ he was speaking with Mr. McKay in the Fleming Hill Water Treatment Plant's Control Room.⁴ According to Mr. Stockman, Mr. McKay said he was angry with Mr. Jeffries for reporting his failure to clean the Belt Press⁵ to management and Mr. Jeffries should have talked to him about it.⁶ According to Mr. Stockman, Mr. McKay said "He [Mr. Jeffries] ratted me out to management" and he wanted to "Beat the fuck out of him [Mr. Jeffries]." Mr. Stockman explained he "struggled" for several weeks over whether to report Mr. McKay's "threats" to management. Mr. Stockman said he finally chose to alert Mr. Cole, explaining "You hear a lot about workplace violence, and armchair quarterbacking after the fact. When Ken [Mr. McKay] is not upset, he's nice. But he can get mad quickly."⁷ Mr. Stockman added he does not want to see Mr. McKay terminated, but he also wants to ensure a safe work environment.

B. Stuart Cole

Mr. Cole was interviewed on August 5. He is the Assistant Water Superintendent—Treatment. He has worked for the City for nine years. He started as a Water Treatment Plant Operator and was promoted to his current position two years ago. He reports to Fiona Gault Strykers, Interim Assistant Public Works Director—Water Division. Mr. Cole has overall supervision of all Water Treatment Plant Operators.

Regarding the Green Valley Water Treatment Plant's caretaker house, Mr. Cole said at the time when Mr. McKay originally spoke to him about the position, Mr. McKay was the only employee who had expressed interest. Yet, between the time when Mr. McKay originally expressed interest and when the residence was ready for habitation, several other Water Treatment Plant Operators had expressed interest in living there too.⁸ Therefore, in order to ensure fairness, a competitive application process was necessary. Mr. Cole said when he shared this information with Mr. McKay, he became "angry" with him.

Regarding the two Verbal Reprimands issued to Mr. McKay, Mr. Cole said they were given to Mr. McKay for: 1) not reporting to the correct worksite and 2) failing to inform management he would not report to work due to illness (i.e., "call-in sick"). Mr. Cole stated the Verbal Reprimands were not given to

³ Turn-over is the semantical term used to describe the overlapping of the Water Treatment Plant Operators' shifts (i.e., when one Water Treatment Plant Operator "turns-over" the shift to the Water Treatment Plant Operator who is relieving him/her).

⁴ According to Mr. Stockman, he and Mr. McKay were the only two employees in the Control Room.

⁵ During Mr. McKay's shift on March 29.

⁶ Based on information provided by Mr. Jeffries, Mr. McKay received a Written Reprimand for "Negligence", dated May 31, which is found at Exhibit 1.

⁷ On July 8, Mr. Stockman submitted a signed/dated written statement memorializing his allegations.

⁸ Currently, the Green Valley Water Treatment Plant's caretaker house is vacant.

CONFIDENTIAL ADMINISTRATIVE INVESTIGATION REPORT • KENNETH W. MCKAY

Mr. McKay in retaliation for his helping Ms. Waid file an EEOC complaint.⁹ Mr. Cole added he used to be a union shop steward and he is a proponent of employees exercising their union rights.

Mr. Cole denied he had elicited negative comments from coworkers about Mr. McKay. Mr. Cole added if employees made negative comments to him about Mr. McKay, he asked them to submit their negative comments to him in writing.

Mr. Cole added that Mr. McKay's challenges with working constructively with coworkers and treating others in a professional manner was addressed in Mr. McKay's most recent Annual Performance Assessment (for the period of December 24, 2014 to July 28, 2015). Specifically, Mr. McKay was noted for "demonstrat[ing] combative and inflammatory behavior if he [did] not get his way" and he openly displayed "a poor attitude with an angry tone, sharp words, and even, at times, physically threatening demeanor when someone expects him to work with a situation that he disagrees with... The angry outbursts tend to make his co-workers feel threatened." In addition, it was noted that Mr. McKay "...alienated other coworkers with aggressive behavior, angry outbursts and threatening tone, words, and body language, and problem solving that requires teamwork does not meet expectations..." [Exhibit 2]

When asked, Mr. Cole said the following employees had expressed their concerns about Mr. McKay's behavior: Roger Kasper, Water Treatment Plant Supervisor; Frank Costa, Advanced Water Treatment Plant Operator; Lynn Schulte, Water Treatment Plant Operator; Rodney Jeffries, Water Treatment Plant Operator; and Joe Abitong, Water Treatment Plant Supervisor.

During a follow up telephone call on August 15, Mr. Cole said when he was the Acting Assistant Water Superintendent—Treatment, he would volunteer to cover open shifts only when no Water Treatment Plant Operators were able/willing to work the open shift. Mr. Cole approximated that over the course of two years, he only worked four overtime shifts.¹⁰

C. Roger Kasper

Mr. Kasper was interviewed on August 5.¹¹ He is a Water Treatment Plant Supervisor. He normally supervises the Water Treatment Plant Operators at

⁹ On July 14, 2015, Ms. Waid filed a charge of discrimination with the Equal Employment Opportunity Commission (EEOC) against the City alleging she was subjected to wage disparity based on her sex. Information is provided about Ms. Waid's complaint only because Mr. McKay's involvement with it forms the basis for his retaliation claim.

¹⁰ During Ms. Schulte's August 8 interview, she said ever since Mr. Cole's promotion, Mr. McKay has had "it out for Stu [Mr. Cole]." explaining that no matter what Mr. Cole does, Mr. McKay "will spin it to make it look bad for Stu [Mr. Cole]." Ms. Schulte gave as an example when Mr. Cole offered to come into work and get his "hands dirty" when his staff were unwilling or unable to work overtime. Ms. Schulte said she appreciated Mr. Cole's offer since "sometimes I work 18-hour shifts." Ms. Schulte went on to explain that Mr. McKay "turned red in his face" and said Mr. Cole was "stealing overtime."

¹¹ Telephone interview

CONFIDENTIAL ADMINISTRATIVE INVESTIGATION REPORT • KENNETH W. MCKAY

the Travis Air Force Base Water Treatment Plant. He is the back-up supervisor for the Fleming Hill Water Treatment Plant, where he was the supervisor from 1995 through 2005. He reports to Mr. Cole.

Mr. Kasper said Mr. McKay is "intelligent," yet he "angers easily," "holds grudges," "thinks that everyone is out to get him" and is prone to "lose his composure" and provided the following examples of incidents he observed in which he formed this basis:

- In the summer of 2015, when Mr. McKay became aware he would have to compete in a competitive selection process to live in the Green Valley Water Treatment Plant's caretaker house, he blamed Mr. Stuart, telling Mr. Kasper "Stuart [Mr. Cole] turned on me" and "He's [Mr. Cole] out for me."
- In the winter of 2015, Mr. Kasper spoke with Mr. McKay regarding some mistakes in Mr. McKay's monthly report, and Mr. McKay "exploded" at him. Specifically, Mr. McKay raised his voice at Mr. Kasper, and waved his hands at Mr. Kasper in an "aggressive" manner.

During a follow up telephone call on August 16, Mr. Kasper said Mr. Cole did not order him to ask employees if they had ever felt threatened by Mr. McKay. Mr. Kasper denied asking Mr. Baker if he ever felt threatened by Mr. McKay.¹² To the contrary, Mr. Kasper said that it was *Mr. Baker* who broached the topic of hearing rumors about Mr. McKay's angry outbursts. (Emphasis added.) Mr. Kasper said that in response to Mr. Baker's statement, he told Mr. Baker that if in the future, any employee who expressed his/her concern about Mr. McKay's behavior, he should suggest to the employee that he/she speak with Mr. Kasper.

D. Frank Costa

Mr. Costa was interviewed on August 5. He is an Advanced Operator. He normally works at the Fleming Hill Water Treatment Plant and the Green Valley Water Treatment Plant. He began employment with the City in December 2000.

Mr. Costa said Mr. McKay "tends to hold onto things" and "it takes Ken [Mr. McKay] a long time to get over something." Mr. Costa provided the example that even though it had been over half a year since Mr. McKay was told he would not be guaranteed to move into the Green Valley Water Treatment Plant's caretaker house, as of May 2016 he was still ruminating about it.

¹² Mr. Baker was interviewed on August 11. Mr. Baker said that, in October or November 2015, Mr. Kasper asked him if he ever felt threatened by Mr. McKay.

CONFIDENTIAL ADMINISTRATIVE INVESTIGATION REPORT • KENNETH W. MCKAY

Mr. Costa added "I like Ken as a person, but he's hard to be around because he gets so angry so easily."

E. Lynne Schulte

Ms. Schulte was interviewed on August 8. She is a Water Treatment Plant Operator. She has held this position since June 2010. She directly reports to Joe Abitong.

Ms. Schulte said ever since Mr. Cole was promoted, Mr. McKay has had "it out for Stu [Mr. Cole]," explaining that no matter what Mr. Cole does, Mr. McKay "will spin it to make it look bad for Stu [Mr. Cole]." Ms. Schulte gave as an example when Mr. Cole offered to come into work and get his "hands dirty" when his staff were unwilling or unable to work overtime. Ms. Schulte said she appreciated Mr. Cole's offer since "sometimes I work 18-hour shifts." Ms. Schulte went on to explain that Mr. McKay "turned red in his face" and said Mr. Cole was "stealing overtime."

Ms. Schulte described Mr. McKay's behavior as "erratic," "explosive" and "paranoid" and that he will blow up at people. Ms. Schulte gave an example in the summer of 2015, when—in the presence of Mr. McKay—Mr. Jeffries asked her how a new Water Treatment Plant Operator Trainee (Darryl Potts) was performing. According to Ms. Schulte, she told Mr. Jeffries that Mr. Potts was doing "okay" and in response, Mr. McKay "blew-up" at her—specifically, becoming red in the face, waving his arms and said in a loud, condescending tone, "He's [Mr. Potts] doing better than 'okay'! He's doing 'fine!'" Ms. Schulte said because of Mr. McKay's angry outburst, she no longer felt safe working with him and asked Mr. Abitong to not schedule her to work simultaneously with Mr. McKay.

Ms. Schulte gave another example of an incident at the Fleming Hill Water Treatment Plant that occurred in November or December 2015. Ms. Schulte explained Mr. Jeffries asked Mr. McKay to drain a water basin and in response, Mr. McKay "screamed" at Mr. Jeffries, and in a scolding, loud manner, said "I know what to do!"

Ms. Schulte said "I don't like people losing their jobs, but I sure as hell don't want him [Mr. McKay] at work. Something is wrong with him [Mr. McKay]. He's [Mr. McKay] dangerous."

F. Rodney Jeffries

Mr. Jeffries was interviewed on August 11. He is a Water Treatment Plant Operator. He has worked for the City for 25 years. His direct supervisors are Mr. Abitong and Mr. Kasper, who in turn report to Mr. Cole.¹³

Asked about the dirty Belt Press matter, Mr. Jeffries said the reason he decided to report it directly to Mr. Abitong (and not to Mr. McKay) is twofold: 1) because Mr. Abitong is his direct supervisor and as such he has an obligation to keep Mr. Abitong informed and 2) in the past he had brought an error to Mr. McKay's attention and Mr. McKay raised his voice at him and he "didn't want to go through that again."¹⁴

Mr. Jeffries said about two weeks after he reported the dirty Belt Press (mid to late April 2016), he was conducting a *turn-over*¹⁵ with Mr. McKay. Mr. Jeffries said Mr. McKay appeared "perturbed" and said, regarding the dirty Belt Press, "Next time let me know. You should have told me."

G. Richard Baker

Mr. Baker was interviewed on August 11. He is a Water Treatment Plant Operator. He has worked for the City for eight years. His direct supervisor is Mr. Kasper, who in turn reports to Mr. Cole.

Mr. Baker said that in October or November 2015, Mr. Kasper asked him if he ever felt threatened by Mr. McKay. Mr. Baker indicated he personally does not have any issues with Mr. McKay.

Mr. Baker said he did not believe Mr. Cole nor anyone else had conspired to retaliate against Mr. McKay.

H. Joe Abitong

Mr. Abitong was interviewed on August 11. He is the Fleming Hill Water Treatment Plant Supervisor. He has worked for the City since 1992. At any one time, he supervises approximately 10 Water Treatment Plant Operators who are assigned to work at the Fleming Hill Water Treatment Plant.¹⁶

¹³ When Mr. Jeffries works at the Travis Water Treatment Plant, his supervisor is Mr. Abitong. When he works at the Fleming Hill Water Treatment Plant, his supervisor is Mr. Kasper.

¹⁴ Mr. Jeffries said that in late November 2015, he noticed Mr. McKay did not complete his Quality Control Report and brought this to Mr. McKay's attention. Mr. Jeffries said that in response, Mr. McKay screamed at him "This is chicken shit of you! Go fuck yourself!"

¹⁵ *Turn-over* is the semantical term used to describe the overlapping of the Water Treatment Plant Operators' shifts (i.e., when one Water Treatment Plant Operator "turns-over" the shift to the Water Treatment Plant Operator who is relieving him/her).

¹⁶ Mr. Abitong said that, generally, Water Treatment Plant Operators rotate through the Fleming Hill Water Treatment plant every three-months.

CONFIDENTIAL ADMINISTRATIVE INVESTIGATION REPORT • KENNETH W. MCKAY

Mr. Abitong expressed that not only has he "heard rumors" about Mr. McKay, Mr. Abitong said he has personally witnessed Mr. McKay "lose his temper" twice. Mr. Abitong explained "sometime in 2015," on two separate occasions, he personally witnessed Mr. McKay "slam," in an aggressive manner, a manual/stack of papers onto a counter in the Fleming Hill Water Treatment Plant's Control Room.

Mr. Abitong said he did not retaliate against Mr. McKay for his assisting Ms. Waid with filing her EEOC charge against the City, and he did not know of anyone else who has retaliated against Mr. McKay.

I. Erin Waid

Ms. Waid was interviewed on August 12. She is a Water Treatment Plant Operator. She has worked for the City for almost four years. Her supervisor is Mr. Abitong, who in turn reports to Mr. Cole.

Ms. Waid said she has never observed Mr. McKay get angry, yet she said he could be "passionate."

Ms. Waid said she felt Mr. Cole was targeting Mr. McKay. She gave as an example Mr. McKay being disciplined for the dirty Belt Press. She said that in the past three months, both Mr. Cole and Dan Ellicock, Water Treatment Plant Operator, had left the Belt Press dirty, yet she believed neither Mr. Cole nor Mr. Ellicock had been disciplined.¹⁷

During a follow up telephone call on August 15, Ms. Waid said she did not report the Belt Press left dirty by Mr. Ellicock because Mr. Abitong had also seen it, and since Mr. Abitong is a Water Treatment Plant Supervisor, she assumed he would deal with it. Regarding the Belt Press left dirty by Mr. Cole, Ms. Waid said she was alone when she saw it, and she did not report it because she did not believe any action would be taken against Mr. Cole since he is the Assistant Water Superintendent—Treatment.

When asked if she knew of a motive for Mr. Stockman to make false accusations against Mr. McKay, Ms. Waid said "Bill [Mr. Stockman] gets his feelings hurt easily. Ken [Mr. McKay] has corrected misstatements that Bill [Mr. Stockman] has made." Ms. Waid explained Mr. Stockman has made many misstatements at union meetings and Mr. McKay has corrected him.

¹⁷ Confidentiality and privacy issues preclude discussing whether any other City employees were disciplined.

CONFIDENTIAL ADMINISTRATIVE INVESTIGATION REPORT • KENNETH W. MCKAY

J. KENNETH MCKAY

Mr. McKay was interviewed on July 18.¹⁸ He is a Water Treatment Plant Operator. He has worked for the City for five years. His direct supervisors are Mr. Abitong and Mr. Kasper, who in turn report to Mr. Cole.¹⁹

Mr. McKay recalled having a conversation with Mr. Stockman after a December 2015 union meeting, in which he expressed his frustration at Mr. Stuart for not allowing him to move into the Green Valley Water Treatment Plant's caretaker house. Mr. McKay denied saying words to the effect of "Stuart [Mr. Cole] fucked me and I'm going to get him," stating "Never, never. I don't do retaliation. It's not my thing." When asked why Mr. Stockman would falsely accuse him, Mr. McKay said Mr. Stockman had admitted to being a "management 'shill'"²⁰ who was "planted" in the union to "pit members against each other."

Mr. McKay did not recall working with Mr. Stockman on April 23.²¹ However, when asked if he ever discussed with Mr. Stockman his displeasure with Mr. Jeffries for reporting the dirty Belt Press matter to management,²² Mr. McKay answered he "probably did" on April 23, explaining he was "irritated" with Mr. Jeffries and said "It was Rodney's [Mr. Jeffries'] duty to come to me about it [the dirty Belt Press]." When asked when he became aware Mr. Jeffries had reported his dirty Belt Press to management, Mr. McKay answered "soon afterwards."²³ Mr. McKay added the Belt Press "wasn't really as dirty as Rodney [Mr. Jeffries] made it out to be."

Mr. McKay denied he told Mr. Stockman he wanted to "beat the fuck out of him [Mr. Jeffries]" stating "Never, never. I don't hold grudges. I believe in the Buddhist saying that anger is like a hot piece of coal, the longer you hold onto it the more it hurts you." When asked why Mr. Stockman would falsely accuse him, Mr. McKay answered "Again, because of union issues."

Mr. McKay added "I believe this is a complete retaliation. I believe they are retaliating against me for filing an equal pay act for Erin Waid." Mr. McKay explained he believes he is being retaliated against because he assisted Ms. Waid in filing an EEOC charge in which Ms. Waid alleged pay disparity in violation of the Equal Pay Act and Title VII. When asked to specify who he

¹⁸ Ray Thomas, IBEW Local 1245 Assistant Business Manager, represented Mr. McKay at his investigatory interview.

¹⁹ When Mr. McKay works at the Travis Water Treatment Plant, his supervisor is Mr. Abitong. When Mr. McKay works at the Fleming Hill Water Treatment Plant, his supervisor is Mr. Kasper.

²⁰ Merriam-Webster defines "shill" as "to act as a spokesperson or promoter."

²¹ Records show that Mr. McKay and Mr. Stockman shared a turn-over on April 23, and are found at Exhibit 3.

²² On May 31, Mr. McKay was issued a Written Reprimand for "Negligence," based on his failure to properly clean the Belt Press during his shift on March 29.

²³ On April 5, Mr. Jeffries reported the dirty Belt Press to management.

CONFIDENTIAL ADMINISTRATIVE INVESTIGATION REPORT • KENNETH W. MCKAY

believes are retaliating against him, Mr. McKay identified Mr. Stockman, Mr. Stuart and Mr. Jeffries.²⁴

In support of his claim coworkers conspired against him, Mr. McKay presented the following documentation:

1. An email he sent to Mr. Abitong, in which he asks Mr. Abitong to stop coworkers from retaliating against him, dated November 24, 2015.²⁵ [Exhibit 4]
2. Mr. Cole's memorandum, memorializing a Verbal Reprimand given to Mr. McKay for: 1) not reporting to the correct worksite and 2) failing to inform management he would not report to work due to illness (i.e., "call-in sick"), dated July 28, 2015.²⁶ [Exhibit 5]
3. Mr. McKay's written rebuttal to his Verbal Reprimand for not reporting to the correct worksite, not dated and not signed.²⁷ [Exhibit 6]
4. Mr. McKay's written rebuttal to his Verbal Reprimand for failing to inform management he would not report to work due to illness (i.e., "call-in sick"). [Exhibit 7]²⁸

When asked, Mr. McKay said Mr. Baker and Ms. Wade would be able to provide information to support his claims of retaliation.

IV. CREDIBILITY ASSESSMENT, FINDINGS AND DISCUSSION

The undersigned analyzed the facts to determine whether Mr. Stockman's allegations were with or without merit under a "preponderance of the evidence standard" that for purposes of the Report is defined as the evidence on one side outweighs (i.e., more than) the evidence on the other side.²⁹ The undersigned drew the conclusions in the Report from the totality of the evidence, an exhaustive analysis of the facts and—where needed—made credibility determinations. The undersigned considered and gave appropriate weight to information that might be considered hearsay in legal proceedings. Finally, while much time was spent reviewing documents and interviewing witnesses, the Report does not purport to include every detail as described by the witnesses and found in the documents. Rather, the Report assesses the important facts as they pertain to the alleged conduct.

²⁴ When asked what was Mr. Jeffries' motivation to falsely accuse him of not properly cleaning the Belt Press (which led to Mr. McKay being disciplined) Mr. McKay answered "I don't know. It's conjecture."

²⁵ Mr. McKay explained that during a November 12, 2015 "safety test," Mr. Baker told him Mr. Kasper had asked employees if they had ever felt threatened or intimidated by Mr. McKay. Mr. McKay said Mr. Kasper was doing this at the behest of Mr. Cole in order to elicit statements from co-workers portraying Mr. McKay as aggressive. When asked on what basis he made this connection between Mr. Cole and Mr. Kasper, Mr. McKay answered "It's conjecture."

²⁶ Mr. McKay said the Verbal Reprimands were without merit and were issued by Mr. Cole in retaliation for his assisting Ms. Waid file the EEOC claim against the City.

²⁷ Mr. McKay could not recall when he originally submitted the rebuttal.

²⁸ Mr. McKay could not recall when he originally submitted the rebuttal.

²⁹ This is a qualitative standard (i.e., not a quantitative standard).

CONFIDENTIAL ADMINISTRATIVE INVESTIGATION REPORT • KENNETH W. MCKAY

Mr. Stockman's account was verified or corroborated by other witnesses. For example, based on the statements of Mr. Cole, Mr. Kasper, Mr. Costa, Ms. Schulte and Mr. Stockman, Mr. McKay was angry with Mr. Cole for not allowing him to move into the Green Valley Water Treatment Plant's caretaker house. Clearly, Mr. McKay was upset with Mr. Cole.

In addition, contrary to Mr. McKay's assertions, based on the statements of Mr. Cole, Mr. Kasper, Mr. Costa, Ms. Schulte and Mr. Stockman, Mr. McKay tends to hold grudges against coworkers and has difficulty controlling his temper at work (e.g., Mr. Cole said when he told Mr. McKay he was not guaranteed to live at the Green Valley Water Treatment Plant's caretaker house he became "angry" with him; Mr. Kasper said when he spoke with Mr. McKay regarding some mistakes in Mr. McKay's monthly report, Mr. McKay "exploded" at him—raised his voice and waved his hands in an "aggressive" manner; Mr. Costa said Mr. McKay "tends to hold onto things" and "it takes Ken [Mr. McKay] a long time to get over something." Mr. Costa provided the example that even though it had been over half a year since Mr. McKay was told he would not be guaranteed to move into the Green Valley Water Treatment Plant's caretaker house, as of May 2016 he was still ruminating about it; Ms. Schulte gave an example of an incident at the Fleming Hill Water Treatment Plant that occurred in November or December 2015, in which Mr. Jeffries asked Mr. McKay to drain a water basin, and in response, Mr. McKay "screamed" at Mr. Jeffries, and in a scolding, loud manner, said "I know what to do!"; and Mr. Stockman, said Mr. McKay told him "He [Mr. Jeffries] ratted me out to management" and he wanted to "Beat the fuck out of him [Mr. Jeffries]").

Additionally, Mr. McKay's challenges with working constructively with coworkers and treating others in a professional manner was addressed in Mr. McKay's most recent Annual Performance Assessment (for the period of December 24, 2014 to July 28, 2015) Specifically, Mr. McKay was noted for "demonstrat[ing] combative and inflammatory behavior if he [did] not get his way" and he openly displayed "a poor attitude with an angry tone, sharp words, and even, at times, physically threatening demeanor when someone expects him to work with a situation that he disagrees with...The angry outbursts tend to make his co-workers feel threatened." In addition, it was noted that Mr. McKay "...alienated other coworkers with aggressive behavior, angry outbursts and threatening tone, words, and body language, and problem solving that requires teamwork does not meet expectations..."

Furthermore, there is no evidence to conclude Mr. Cole, Mr. Kasper, Mr. Costa, Ms. Schulte and/or Mr. Stockman conspired to make false

statements about Mr. McKay.³⁰ What is more persuasive is that even a witnesses which Mr. McKay suggested to be interviewed (Mr. Baker) also refuted his conspiracy theory. Additionally, Mr. McKay's credibility regarding his accusation of such a conspiracy is diminished by his failure to provide a motivation for Mr. Jeffries to falsely accuse him of not cleaning the Belt Press, stating his belief was based on "conjecture."

In summary, taking into the totality of the evidence, Mr. Stockman's statements are plausible and his version of events were likely to occur based on other employees observations of Mr. McKay's pattern of aggressive behavior and demeanor.

2. Did Mr. McKay make a threatening comment about Mr. Jeffries?

Sustained. The weight of the evidence supports a finding Mr. McKay made a threatening comment targeting Mr. Jeffries.

Mr. Stockman said that on April 23, he was speaking with Mr. McKay in the Fleming Hill Water Treatment Plant's Control Room—they were the only two people in the room. According to Mr. Stockman, Mr. McKay said he was angry with Mr. Jeffries, for reporting to management his failure to properly clean the Belt Press and Mr. Jeffries should have directly talked to him about it. According to Mr. Stockman, Mr. McKay said "He [Mr. Jeffries] ratted me out to management" and Mr. McKay wanted to "Beat the fuck out of him [Mr. Jeffries]." Because Mr. McKay denied making this statement and there were no third-party witnesses, this finding is based on the credibility determination of who is telling the truth.

Mr. Stockman's account makes the most sense. For example, Mr. McKay had motive to be angry with Mr. Jeffries—specifically, for reporting his failure to properly clean the Belt Press (during his March 29 shift³¹) which led to him receiving a Written Reprimand (on May 31).

In addition, contrary to Mr. McKay's assertions, based on the statements of multiple interviewees, he tends to holds grudges and has difficulty controlling his temper. Furthermore, what is more telling are Mr. McKay's own words that seem to further support Mr. Stockman's allegations. For example, when asked to describe his April 23 conversation with Mr. Stockman, Mr. McKay said, "It was Rodney's [Mr. Jeffries'] duty to come to me about it." This demonstrates Mr. McKay holds grudges because—after nearly three-weeks since he became aware Mr. Jeffries had reported the dirty Belt Press—he was still "irritated" with Mr. Jeffries.

³⁰ In fact, Ms. Schulte and Mr. Stockman both said they did not want Mr. McKay to lose his job. In addition, Mr. Costa said "I like Ken as a person, but he's hard to be around because he gets so angry so easily." Furthermore, Mr. Kasper said Mr. McKay is "intelligent."

³¹ On April 5, Mr. Jeffries reported the dirty Belt Press to management.

CONFIDENTIAL ADMINISTRATIVE INVESTIGATION REPORT • KENNETH W. MCKAY

What is more persuasive is the temporal proximity between the time Mr. McKay became aware of Mr. Jeffries reporting the dirty Belt Press (on or about April 5) and when Mr. McKay made the threatening statements towards Mr. Jeffries (April 23).

In summary, taking into the totality of the evidence, Mr. Stockman's statements are plausible and his version of events were likely to occur based on other employees observations of Mr. McKay's pattern of aggressive behavior and demeanor.³²

V. CONCLUSION:

Workplace violence is defined as any act or threat of physical violence, harassment, intimidation, or other threatening disruptive behavior that occurs at the work site.³³

Clearly, Mr. McKay committed workplace violence by making threats of violence against coworkers by stating "Stuart [Mr. Cole] fucked me and I'm going to get him [Mr. Cole]," "He [Mr. Cole] promised me and I'm going to get him [Mr. Cole] back," and he wanted to "...beat the fuck out of him [Mr. Jeffries]."

RESPECTFULLY SUBMITTED BY:


James E. Peavey, Personnel Analyst II

09-13-16
date

³² The credibility assessment behind this finding is identical to that of the previous finding.

³³ As defined by the U.S. Department of Labor, which is found at Exhibit 9. Furthermore, California Labor Code 6400 (a), mandates the City ensure its workplace is free from violence and threats of violence, stating "Every employer shall furnish employment and a place of employment that is safe and healthful for the employees therein," which is found at Exhibit 10.

ATTACHMENT F

INTRODUCTION

This is a Confidential Administrative Investigation Report ("Report") containing detailed information, witness accounts, relevant documentation, analyses and findings related to the allegations. It is anticipated this Report will be maintained confidentially by the decision-makers and will not be disseminated except as required or as determined by the decision-makers or applicable law.

On October 11, 2019, City of Vallejo ("City") Water Department Director Mike Malone ("Malone") forwarded to me an email string that included statements from two Water Maintenance employees who allegedly observed Water Treatment Plant Operator (WTPO) Kenneth McKay ("Mr. McKay") sleeping in the Green Valley Operators Control Room while he was on duty.

Once the scope of the investigation was determined and agreed upon, the investigator operated with complete independence as to witness identification, interview content, and preparation of findings.

WITNESSES

The undersigned conducted interviews of the following individuals:

Name	Title	Date
Jacob Parsons	Instrument Technician I	11/13/2019
Jacob Barlow	Instrument Technician I	11/13/2019
James Grandrath	Utility Mechanic	11/13/2019
Nick Rolley	Water Treatment Plant Operator	12/11/2019
Ken McKay	Water Treatment Plant Operator	12/12/2019

Unless otherwise noted, all interviews were held in the Human Resources Office. The undersigned admonished all witnesses 1) they had a duty to answer every question fully and truthfully, 2) to keep the contents of the interview confidential and 3) to not discuss their interview with others (whether on-duty or off-duty), apart from their protected activity. Furthermore, the undersigned explained to witnesses this Report would be shared with others on a need-to-know basis. In addition, the undersigned informed all witnesses of the City policy prohibiting retaliation for either bringing a claim or participation in an investigation and if they were to be retaliated against, they must immediately report this to the undersigned.

Interview summaries in this Report are not verbatim recitation of witnesses' statements. Verbatim statements are cited using quotations.

DOCUMENTS

The following documents were reviewed and are attached:

Exhibit #	Documents
1	Administrative Rule – 18 Suspension, Fine or Removal
2	Administrative Rule – 2.28 Alcohol And Drug Abuse Policy
3	Jacob Parson's – Written Statement
4	Jacob Barlow's – Written Statement
5	James Grandrath – Written Statement
6	Ken McKay's email to Joe Abitong
7	Pictures provided by Mr. McKay of exercise mat he brought to work

RELEVANT POLICIES

Administrative Rule 18, **Suspension, Fine or Removal** provides in pertinent part:

Every person holding a position in the classified service shall be subject to suspension, fine, demotion or removal from office or employment by the person, board, or commission appointing such persons, for misconduct, incompetency, inefficiency, failure to perform the duties or to observe the rules and regulations of such department, office, board or commission, or for failure to cooperate reasonably with the department head or with his/her fellow employees; subject to the right of the employee to appeal to the Civil Service Commission in the manner set forth in the Charter and these Rules.

Administrative Rule 2.28, **Alcohol and Drug Abuse Policy** provides in pertinent part:

In recognition of the public service responsibilities entrusted to the employees of the City of Vallejo and that drug and alcohol usage can hinder a person's ability to perform duties safely and effectively, the following policy against drug and alcohol abuse is hereby adopted by the City of Vallejo.

While use of validly prescribed medications and drugs does not violate this policy per se, failure by an employee to notify his/her supervisor, before beginning work, when taking medications or drugs which could foreseeably interfere with the safe and effective performance of duties, or the operation of City of Vallejo equipment, can result in discipline up to and including termination.

In the event there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medications or drugs, clearance from a qualified physician may be required.

IV. Employee Responsibilities:

An employee must:

- Notify his/her supervisor, before beginning work, when taking any medications or drugs, prescription or non-prescription, which may interfere with the safe and effective performance of duties or operation of the City of Vallejo equipment.

FACTUAL BACKGROUND

On October 8, 2019, PG&E informed the City of Vallejo of its intent to implement its Public Safety Power Shutoff (PSPS) program in Vallejo due to forecasted extreme weather conditions. As a result, the Vallejo Water Department took proactive actions that included scheduling 24-hour staffing with 12 hour shifts at the City's water treatment plants.

The City's Green Valley Water Treatment Plant is a public facility located on Green Valley Road in Solano County and is responsible for treating up to one million gallons of sewer wastewater and solid waste to insure clean water for human consumption. Under normal circumstances the Green Valley plant's operation is monitored from the Fleming Hill plant, via a monitoring screen connected by a T1 line. During the PSPS the Green Valley plant was running on emergency power and was in full operating mode with a non-functioning remote monitor. As such, physical on-site monitoring was required.

On October 9, 2019, at or around 3 p.m. Mr. McKay received a phone call from on duty WTPO Winifredo Cruz ("Mr. Cruz") asking if he could work the 6:00 p.m. to 6 a.m. shift at the Green Valley Plant. Mr. McKay informed Mr. Cruz that he could not come at 6:00 p.m. but can make it for 8:00 p.m. It was not mandatory that Mr. McKay agree to work the shift, as all overtime is voluntary. The expectation, however, is that the employee who volunteers is able and willing to take on the responsibilities of working the shift.

According to Water Operations Superintendent Joe Abitong ("Abitong") who is Mr. McKay's manager, Mr. McKay's responsibilities included operating and monitoring the Supervisory Control and Data Acquisition program (SCADA). Mr. McKay was also responsible for reporting any malfunctions, perform operational adjustments for various operational malfunctions and respond to water quality changes and system malfunctions immediately.

On the date in question at 3:00 a.m. Mr. McKay was found sleeping on duty and the water treatment plant was running unattended. Two witnesses, Instrument Technician Jacob Barlow ("Mr. Barlow") and Utility Mechanic James Grandrath ("Mr. Grandrath") provided written statements describing Mr. McKay sleeping on a mat with a pillow and blanket and his shoes were under the desk and the lights were turned off.

INTERVIEW SUMMARIES

Jacob Parsons

Jacob Parsons ("Mr. Parsons") was interviewed on November 13, 2019.

He is an Instrument Technician for the Water Department. He has worked for the City for two years and he reports to Water Facilities Superintendent John Palesi.

Mr. Parsons said that on October 9, 2019 he went to the Green Valley Plant between 10:30 p.m. and 11:00 p.m. to do inspections. Mr. McKay was sitting at the Operators desk and the plant was operating normally. According to Mr. Parsons there was a black mat rolled up on the Operation Room floor. Mr. Parson said he asked Mr. McKay if he was planning to sleep on the mat during the night. Mr. McKay replied that he was and jokingly asked if anyone would see him sleeping if they visited the plant during the night. Mr. Parsons replied yes and he proceeded to check out the generators and fuel tanks and then he left.

Jacob Barlow

Mr. Barlow was interviewed on November 13, 2019. He is an Instrument Technician for the Water Department. He has worked for the City for ten years and he reports to Water Facilities Superintendent John Palesi.

Mr. Barlow stated that at or around 3:00 a.m. on October 10, 2019 he and Mr. Grandrath visited the Green Valley water treatment plant to check on the generator. According to Mr. Barlow, he and Mr. Grandrath first checked the pump station and then headed up to the plant. Mr. Barlow stated that he noticed the plant door was locked and the control room lights were off. He unlocked the door and entered to find Mr. McKay asleep on a black mat, and a white standard pillow with a blanket over him and his shoes were under the table.

Mr. Barlow said he proceeded to bring in Mr. Grandrath to witness Mr. McKay sleeping. According to Mr. Barlow, he and Mr. Grandrath did not attempt to be quiet and in fact spoke and walked as normal and Mr. McKay never woke up. After being at the plant for 30 minutes Mr. Barlow and Mr. Grandrath proceeded to leave and locked the door.

Mr. Barlow expressed concern that the SCADA was not being monitored for alarms and there was no way to remotely monitor the plant for potential problems because the T1 line was down.

Mr. Barlow stated that the Water Department would have had no clue of a main break or other major issues. After Mr. Barlow and Mr. Grandrath's shift was over at 6:00 a.m. they immediately reported the incident.

During a follow up email conversation on December 16, 2019, Mr. Barlow confirmed that the pictures Mr. McKay emailed to the undersigned of his exercise mat is the same as the one he observed Mr. McKay sleeping on (attached). Additionally, Mr. Barlow confirmed that Mr. McKay had a blanket covering him when he was sleeping on the mat.

James Grandrath

Mr. Grandrath was interviewed on November 13, 2019. He is a Utility Mechanic for the Water Department. He has worked for the City for ten years and he reports to Water Facilities Superintendent John Palesi.

According to Mr. Grandrath he and Mr. Barlow arrived at the Green Valley plant at 3:00 a.m. to check on the fuel level and the rest of the plant. While doing so, they pulled up next to the Operations window. When they got out of the truck they noticed the light was off and the front door was locked. Mr. Barlow proceeded to unlock the door, and they walked in and looked into the Operations room and saw Mr. McKay sleeping on a mat with a pillow and blanket and his shoes were under the table next to the door. They proceeded to go into the wet lab to check the readings. They then left the inside of the plant locking the door behind them.

Mr. Grandrath said they got back into the truck, closing the doors and backing up with the backup alarms sounding as they drove away from the plant. They noticed at that point that there was still no movement of any kind as they drove around to the reclaim basins.

During a follow up email conversation on December 16, 2019, Mr. Grandrath confirmed that the pictures Mr. McKay emailed to the undersigned of his exercise mat is the same mat he observed Mr. McKay sleeping on. Additionally, Mr. Grandrath confirmed that Mr. McKay had a blanket covering him when he was sleeping on the mat and pillow. Mr. Grandrath stated that he has worked with Mr. McKay roughly 12 times and never heard of him bringing an exercise mat to work.

Nick Rolley

Mr. Rolley was interviewed on November 13, 2019. He is a Utility Mechanic for the Water Department. He has worked for the City for 10 years and he reports to Water Operations Superintendent Joe Abitong.

Mr. Rolley has worked on the same shift with Mr. McKay for the last 10 years. Mr. Rolley was interviewed to help establish whether or not Mr. McKay usually brings his exercise mat to work as he stated when interviewed by the undersigned. Mr. Rolley stated that he has partnered with Mr. McKay on shifts at the Fleming Hill plant since 2010 and he has never seen Mr. McKay bring a mat to work or do any type of exercise.

Additionally, according to Mr. Rolley, Mr. McKay, unlike other WTPO has a preference for the lights to be on because of his vision problems.

When asked what he knew about a sleeping incident that allegedly occurred during the PSPS, Mr. Rolley responded he had not heard anything about a sleeping incident during the PSPS.

Ken McKay

Mr. McKay was interviewed on December 12, 2019. He is a Water Treatment Plant Operator. He has worked for the City for ten years and he reports to Water Operations Superintendent Joe Abitong.

Mr. McKay stated that he received a call on his day off and was asked if he could come in and work the 6 p.m. to 6 a.m. shift at the Green Valley Plant. Mr. McKay said he replied yes to the request. Mr. McKay explained that the Green Valley plant usually runs by itself but because the T1 line was down there was a need to have operators on duty. When asked what he understood his responsibilities to be for that shift, Mr. McKay responded listening for alarms and watching the screen for different processes.

When asked if he went to sleep during his shift, Mr. McKay responded "I do not remember falling asleep or waking up". When asked if he told Mr. Parsons that he was planning on sleeping on the mat, Mr. McKay responded "I do not recall saying that".

Mr. McKay's explanation for having the mat at work was that he regularly brought a yoga mat to work for stretching and that it was an ADA accommodation granted to him as a result of a workplace accident 3 years ago. Additionally, Mr. McKay stated that he had not slept that day at all and was drowsy from taking his prescription medication.

FINDINGS AND DISCUSSION

On October 9, 2019 as the Water Treatment Plant Operator on duty, Mr. McKay demonstrated negligence and willful misconduct by sleeping on duty which directly interfered with his ability to perform the essential functions of the WTPO position.

Furthermore, Mr. McKay going to sleep and leaving the plant unattended could have led to immense harmful implications to water quality and serious detrimental legal implications to the City, such as:

- Equipment failure that might cause the City to violate California Code of Regulation ("CCR") Title 22 (attached).
- Equipment failure that might cause immense repair costs.
- Over-pressurizing pipes that might cause main-line breaks.

- Over-dosing chemicals that might cause the poisoning of consumers.
- Under-dosing of chemicals: that might cause consumer disease outbreaks such as dysentery and giardia.

Sleeping on duty in and of itself while the waste treatment plant is running demonstrates misconduct and failure to perform duties. More significantly, this was not just a simple matter of Mr. McKay nodding off momentarily. Instead, Mr. McKay's misconduct was especially egregious because it is obvious that the sleeping on duty was intentional and planned as is evident by him bringing the mat, pillow and blanket to work on October 9, 2019.

Other aggravating factors include Mr. McKay turned off the lights and locked the door of the plant this is telling of (nesting). Nesting is making a bed or creating a place conducive to sleeping often in a secluded area. Nesting is a deliberate neglect of job duties.

Additionally, Mr. McKay's personnel file contains a signed acknowledgement of Administrative Rule 2.28, **Alcohol and Drug Abuse Policy** (attached). That states employees must:

- Not report to work or be subject to duty while his/her ability to perform job duties is impaired due to on or off duty alcohol or drug use;
- Notify his/her supervisor, before beginning work, when taking any Medications or drugs, prescription or non-prescription, which may interfere with the safe and effective performance of duties or operation of City of Vallejo equipment.

By his own admission, Mr. McKay violated Administrative Rule 2.28 when he knowingly accepted a shift at the Water Treatment Plant while impaired and neglected to notify his supervisor before beginning work that he had taken prescription medication that has the potential side effect of drowsiness.

Mr. McKay was not obligated to accept the shift because overtime is voluntary. However, Mr. McKay chose to volunteer for a shift at the Green Valley Water Treatment Plant that treats sewage water for the purpose of human consumption when he was impaired.

FINDINGS

1. Did Mr. McKay go to sleep while on duty and as a result left the Green Valley Treatment Plant running unattended?

Sustained. The weight of the evidence supports a finding that Mr. McKay did go to sleep while on duty and the Green Valley Treatment Plant was running unattended.

Mr. McKay stated that he does not recall falling asleep or waking up. Which was an indirect response to a direct question, calling into question the credibility of that response.

Furthermore, what is more telling are Mr. McKay's own words that seem to further support the sleeping on duty allegations. For example, Mr. McKay said "I did not sleep all day and I was drowsy from medication". Which is an indication that he was attempting to establish an alibi for sleeping while on duty.

Additionally, witnesses Mr. Barlow and Mr. Grandrath statements were consistent with each other and corroborated that Mr. McKay was asleep and the plant was running unattended.

Did Mr. McKay violate Administrative Rule 2.28 (Alcohol and Drug Abuse Policy)?

Sustained. The weight of the evidence supports a finding that Mr. McKay did violate Administrative Rule 2.28

Mr. McKay volunteered that he was feeling drowsy while on duty as a result of taking his medication. Furthermore, Mr. McKay signed the acknowledgment of having received, understand and agree to abide by Administrative Rule 2.28 that clearly states employees must not report to work or be subject to duty while his/her ability to perform job duties is impaired due to on or off duty alcohol or drug use.

Additionally, Administrative Rule 2.28 states that employees must notify their supervisor, before beginning work, when taking any medications or drugs.

Mr. McKay, did not inform his supervisor that he was feeling drowsy or that he had taken medications that would make him drowsy and therefore unable to safely and effectively operate the Green Valley water treatment plant.

CONCLUSION

Clearly Mr. McKay demonstrated blatant misconduct when he intentional went to sleep and left the plant running unattended. Additionally, Mr. McKay failed to notify his supervisor before beginning work, that he had taken medications that has a side effect of causing drowsiness.

Finally, Mr. McKay deliberately and with premeditation as proved by his making advance arrangements for sleeping and nesting, exposed the plant and residences of Vallejo to a potentially serious safety hazard when he neglected his duties.

RESPECTFULLY SUBMITTED BY:

Doris Papillon-Allen

Doris Papillon-Allen, MHROD
Personnel Analyst II

February 11, 2020

Date

EXHIBIT # 1

RULE 18

SUSPENSION, FINE OR REMOVAL

18.1 Employees Subject To

Every person holding a position in the classified service shall be subject to suspension, fine, demotion or removal from office or employment by the person, board, or commission appointing such persons, for misconduct, incompetency, inefficiency, failure to perform the duties or to observe the rules and regulations of such department, office, board or commission, or for failure to cooperate reasonably with the department head or with his/her fellow employees; subject to the right of the employee to appeal to the Civil Service Commission in the manner set forth in the Charter and these Rules.

18.2 Statement of Reason

Every employee shall be given a written statement of the reason for such suspension, fine, demotion or removal from office or employment at the time of such suspension, fine, demotion or removal. Such statement shall include in itemized form the specific instances in support of such suspension, fine, demotion or removal from office or employment. A copy of such statement shall be delivered to such person or shall be left at his/her last known address.

18.3 Filing of Appeal

Any employee who has been so disciplined shall have five (5) days after service of such written statement within which to file an appeal to the same. A copy of such appeal shall be filed during office hours at the office of the person, board or commission imposing such discipline and the original shall be filed by such employee in the office of the Executive Secretary of the Commission. Should the last day on which an appeal may be filed fall upon a Sunday or holiday the time for filing such appeal shall be extended to include the next following business day.

18.4 Investigation and Hearing Required

The Commission may make, or cause to be made, such investigation as it shall deem necessary and thereafter shall hold a hearing at which time it shall hear evidence for and against such employee. Hearings may be conducted informally and the conclusions shall be made by the Commission within ten (10) days after the matter has been submitted and thereupon the same shall be certified to the official, board or commission from whose order the appeal has been taken. The findings and conclusions of the Commission also may contain such recommendations as said Commission shall deem proper, and shall include the amount of compensation such employee is entitled to receive, if any. Said findings and conclusions of the Commission shall be final.

EXHIBIT # 2

CITY OF VALLEJO

ADMINISTRATIVE RULE

SUBJECT: ALCOHOL AND DRUG ABUSE POLICY

AR Number: 2.28

Date Issued: 6/28/95

Date Effective: 7/1/95

Date Revised: 1/2/96

I. PURPOSE

It is the intention of this policy to eliminate substance abuse and its effects in the workplace. While the City of Vallejo has no intention of intruding into the private lives of its employees, involvement with drugs and alcohol on and off the job can take its toll on job performance and employee safety. Our concern is that employees are in a condition to perform their duties safely and efficiently, in the interests of their fellow workers and the public, as well as themselves. The presence of drugs and alcohol on the job, and the influence of these substances on employees during working hours, are inconsistent with this objective of having employees perform their duties safely and efficiently.

Employees who think they may have an alcohol or drug usage problem are urged to voluntarily seek confidential assistance from the Employee Assistance Program. While the City of Vallejo will be supportive of those who seek help voluntarily, the City will be equally firm in identifying and disciplining those who continue to be substance abusers and do not seek help or continue substance abuse even while enrolled in counseling or rehabilitation programs.

Supervisors will be trained to recognize abusers and become involved in this control process. Alcohol or drug abuse will not be tolerated, and disciplinary action, up to and including termination, will be used as necessary to achieve this goal.

This policy provides guidelines for the detection and deterrence of alcohol and drug abuse. It also outlines the responsibilities of City of Vallejo managers and employees. To that end, the City will act to eliminate any substance abuse (alcohol, illegal drugs, prescription drugs or any other substance which could impair an employee's ability to safely and effectively perform the functions of their job) which increases the potential for accidents, absenteeism, substandard performance, poor employee morale or damage to the Agency's reputation. All persons covered by this policy should be aware that violations of the policy may result in discipline, up to and including termination, or in not being hired.

In recognition of the public service responsibilities entrusted to the employees of the City of Vallejo and that drug and alcohol usage can hinder a person's ability to perform duties safely and effectively, the following policy against drug and alcohol abuse is hereby adopted by the City of

Vallejo.

II. APPLICATION

This policy applies to all employees of and to all applicants for positions with City of Vallejo whose use of alcohol could effect workplace safety or performance of requisite job standards, duties or responsibilities. This policy does not apply to employees covered by a collective bargaining agreement containing an alcohol or drug abuse policy where the collective bargaining provision conflicts with this policy. This policy does not apply to employees in or applicants for positions for which the City cannot legally apply this policy. This policy applies to alcohol and drugs, including all substances, drugs, or medications, whether legal or illegal, which could impair an employee's ability to effectively and safely perform the functions of the job.

III. POLICY

It is City of Vallejo policy that employees shall not be under the influence, or in possession, of alcohol or drugs while on City of Vallejo property, at work locations, or while on duty or subject to being called to duty, and that employees shall not sell or provide drugs or alcohol to any other employee or person while on duty or subject to being called to duty as a result of formally being placed on an "on call" or "standby" status by an appropriate management representative.

While use of validly prescribed medications and drugs does not violate this policy per se, failure by an employee to notify his/her supervisor, before beginning work, when taking medications or drugs which could foreseeably interfere with the safe and effective performance of duties, or the operation of City of Vallejo equipment, can result in discipline up to and including termination. In the event there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medications or drugs, clearance from a qualified physician may be required.

City of Vallejo reserves the right to search for alcohol or impairing drugs, without employee consent, in all areas and property in which the City of Vallejo maintains control or joint control with the employee when there is reasonable suspicion of work-related employee misconduct or when the search is necessary for a non-investigatory work-related purpose. Otherwise, the City may notify appropriate law enforcement agencies that an employee may have illegal drugs in his or her possession or in an area not jointly or fully controlled by City of Vallejo.

Refusal to immediately submit to an alcohol and/or drug analysis when requested by City of Vallejo management or law enforcement personnel, or refusal to submit to a search of personal properties if requested by law enforcement personnel, may constitute insubordination and be grounds for discipline up to and including termination.

Employees reasonably believed to be under the influence of alcohol or drugs shall be prevented from engaging in further work and shall be detained for a reasonable period of time until he or she can be safely transported from the work site. Supervisors or managers must arrange for safe transportation of the employee from the work site. Refusal to refrain from engaging in further work or refusal to be detained until safe transportation can be arranged may constitute insubordination and be grounds for discipline up to and including termination. Under no circumstances shall a supervisor or manager allow an employee to transport himself/herself from a work site.

The City of Vallejo is committed to providing reasonable accommodation to those employees whose drug or alcohol problem classifies them as disabled under federal and/or state law.

The City of Vallejo has established a voluntary Employee Assistance Program (EAP) to assist those employees who voluntarily seek help for alcohol or drug problems. Employees should contact their supervisors, the Department of Human Resources, Risk Management or the EAP for additional information. Supervisors are encouraged to refer employees to the EAP at the earliest sign of any problems.

IV. EMPLOYEE RESPONSIBILITIES

An employee must:

- not report to work or be subject to duty while his/her ability to perform job duties is impaired due to on or off duty alcohol or drug use;
- not possess or use alcohol or impairing drugs, including illegal drugs and prescription drugs without a prescription, during working hours or while subject to duty, on breaks, during meal periods or at anytime while on City of Vallejo property;
- not directly or through a third party sell or provide drugs or alcohol to any person, including any employee, while either or both employees are on duty or subject to being called to duty;
- submit immediately to an alcohol and drug test when requested by City of Vallejo management, supervisory or any law enforcement personnel;
- notify his/her supervisor, before beginning work, when taking any medications or drugs, prescription or non-prescription, which may interfere with the safe and effective performance of duties or operation of City of Vallejo equipment; and
- provide, within 24 hours of request, bona fide verification of a current valid prescription for any potentially impairing drug or medication identified when a drug screen/test is positive, The prescription must be in the employee's name.

V. MANAGEMENT RESPONSIBILITIES AND GUIDELINES

- Managers and supervisors are responsible for reasonable enforcement of this policy.
- Managers and supervisors may request that an employee submit to a drug and/or alcohol test when a manager or supervisor has a reasonable suspicion that an employee is intoxicated or under the influence of drugs or alcohol while on the job or subject to being called. If possible, a second supervisor should be present. When requesting a drug or alcohol test, supervisors or managers should notify their Department Head or designee and the Department of Human Resources as soon as is practicable.

'Reasonable suspicion' is a belief based on objective facts sufficient to lead a reasonably prudent supervisor to suspect that an employee is under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is impaired or so that the employee's ability to perform his/her job safely is reduced. The number of reasonable suspicion indicators and the compelling nature of the evidence attached to each indicator needs to be assessed in determining whether there is sufficient reasonable suspicion to require a test.

For example, any of the following, alone or in combination, may constitute reasonable suspicion:

- o Slurred speech;
 - o Alcohol odor on breath;
 - o Unsteady walking and movement;
 - o An accident involving City of Vallejo property, where it appears the employee's conduct is at fault;
 - o Physical altercation;
 - o Verbal altercation;
 - o Unusual behavior;
 - o Possession of alcohol or drugs;
 - o Information obtained from a reliable person with personal knowledge.
- Any manager or supervisor requesting an employee to submit to a drug and/or alcohol analysis should document in writing the facts constituting reasonable suspicion that the employee in question is intoxicated or under the influence of drugs.
 - Any manager or supervisor encountering an employee who refuses an order to submit to a drug and/or alcohol analysis upon request shall remind the employee of the requirements and disciplinary consequences of this policy.
 - Where there is reasonable suspicion that the employee is under the influence of alcohol or drugs, the manager or supervisor should arrange for the employee to be safely transported to the drug and alcohol testing site and from the drug and alcohol testing site to home.

Under no circumstances shall an employee or manager allow an employee who is reasonably believed to be under the influence of alcohol or drugs to transport himself/herself from a work site or from the drug and alcohol testing site.

- Managers and supervisors shall not physically search the person of employees, nor shall they search the personal possessions of employees without the freely given written consent of, and in the presence of, the employee.
- Managers and supervisors shall notify their Department Head or designee and the Department of Human Resources when they have reasonable suspicion to believe that an employee may have illegal drugs in his or her possession or in an area not jointly or fully controlled by City of Vallejo. If the Department Head or designee concurs that there is reasonable suspicion of illegal drug possession, the Department Head shall notify the appropriate law enforcement personnel.

VI. PHYSICAL EXAMINATION AND PROCEDURE

The drug and/or alcohol test may test for any substance which could impair an employee's ability to effectively and safely perform the functions of his/her job, including, but not limited to, prescription medications, alcohol, heroin, cocaine, morphine and its derivatives, P.C.P., methadone, barbiturates, amphetamines, marijuana and other cannabinoids. Attachment "A" describes the method in which the initial test will be conducted, how the sample will be processed after the drug and/or alcohol test is completed, and how a confirmatory test after an initial positive result will be performed.

VII. RESULTS OF DRUG AND/OR ALCOHOL ANALYSIS

A. Pre-Employment Physical

Applicants for positions with the City of Vallejo whose use of drugs and/or alcohol could effect workplace safety or other requisite job standards, duties or responsibilities will be subject to drug and/or alcohol testing as a part of the pre-employment physical examination process. A positive result from a drug and/or alcohol analysis may result in the applicant not being hired.

If a drug screen is positive at the pre-employment physical, the applicant must provide within 24 hours of request bona fide verification of a valid current prescription for the drug identified in the drug screen. If the prescription is not in the applicant's name or the applicant does not provide acceptable verification, or if the drug is one that is likely to impair the applicant's ability to perform the job duties, the applicant may not be hired.

B. During Employment Physical or Alcohol/Drug Tests

A positive result from a drug and/or alcohol analysis may result in disciplinary action, up to and including discharge.

If the drug screen is positive, the employee must provide within 24 hours of request bona fide verification of a valid current prescription for the drug identified in the drug screen. The prescription must be in the employee's name. If the employee does not provide acceptable verification of a valid prescription, or if the prescription is not in the employee's name, or if the employee has not previously notified his or her supervisor, the employee will be subject to disciplinary action up to and including discharge.

If an alcohol or drug test is positive, the City of Vallejo shall conduct an investigation to gather all facts. The decision to discipline or discharge will be carried out in conformance with City of Vallejo disciplinary procedures and Civil Service Rules and Regulations.

VIII. CONFIDENTIALITY

Laboratory reports and test results shall not appear in an employee's general personnel file. Information of this nature will be contained in a separate confidential medical folder that will be securely kept under the control of the Department of Human Resources. The reports or test results may be disclosed to City of Vallejo management on a strictly need-to-know basis and to the tested employee upon request. Disclosures, without patient consent, may also occur when: (1) the information is compelled by law or by judicial or administrative process; (2) the information has been placed at issue in a formal dispute between the employer and employee; (3) the information is to be used in administering an employee benefit plan; and/or (4) the information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure.

Attached: Appendix A


WALTER V. GRAHAM
CITY MANAGER

APPENDIX A

ALCOHOL AND DRUG TESTING PROCEDURES

I. CONTACT

A. Regular Business Hours

When requesting a reasonable suspicion alcohol and/or drug test Monday through Friday during the hours of 8:30 a.m. - 5:15 p.m., supervisors and managers should first contact the Department of Human Resources or Risk Management and their Department Head or designee.

Upon notification of Human Resources and the Department Head, supervisors and managers may contact the number listed below directly to notify the testing site of the need for drug and/or alcohol testing. Supervisors and managers must arrange transportation of the employee to the testing site.

Alcohol and/or drug testing on Monday through Friday during the hours of 8:00 a.m. - 5:00 p.m. will be conducted at Northbay Health at Work, 1200 B. Gale Wilson Drive #107, Fairfield, CA 94533, (707) 429-7701.

B. After Hours

When requesting a reasonable suspicion drug test after regular business hours, the supervisor or manager must call Northbay at (707) 429-7701 and leave a message on the recorder. The message should indicate that you are a City of Vallejo supervisor and are requesting a reasonable suspicion drug test as soon as is possible. You should also include your name, job title, and a number where you can be reached immediately. A Northbay technician is on call 24 hours a day and will return your call within thirty minutes. The technician will arrange to meet the supervisor and employee at Northbay Health at Work, 1200 B. Gale Wilson Drive #107, Fairfield, CA 94533.

When requesting a reasonable suspicion alcohol test after regular business hours, the supervisor or manager must go immediately to the Northbay Medical Center Emergency

Room at 1200 B. Gale Wilson Drive, Fairfield, CA 94533, (707) 429-7833. The Emergency Room staff will contact the Northbay technician.

On the next regular business day, you must notify Human Resources or Risk Management and your Department Head that you have ordered a reasonable suspicion alcohol and/or drug test.

II. CONTROLLED SUBSTANCES TESTING PROCEDURES

Pre-employment and reasonable suspicion testing shall include, but may not be limited to the following controlled substances: marijuana; cocaine; opiates; amphetamines; and phencyclidine (PCP). Although the specimen will not be analyzed specifically for adulterants, the lab may conduct adulteration checks (PH, specific gravity or creatinine). The test may be canceled if adulterants are detected.

A. Specimen Collection Process

1. The collection shall take place in a secure location to prevent unauthorized access during the collection process.
2. The specimen shall be kept in sight of the employee and the collection site person until it is sealed and ready for shipment.
3. Employees and applicants shall have individual privacy when providing a specimen except when:
 - a) The employee or applicant presents a specimen that is outside the accepted temperature range and he/she refuses to have an oral body temperature measurement, or the body temperature measurement varies more than 10 C OR 1.80 F from the specimen temperature.
 - b) The collector observes the employee or applicant attempting to adulterate or substitute the specimen.
 - c) The employee's last provided specimen was determined to be diluted.
 - d) The employee has previously had a verified positive test.

In a. and b. above, the employee or applicant must provide a specimen under direct observation. In c. and d. above, the employer may require a direct observation collection.

4. The following specific procedures will be followed during the collection process:
 - a) The donor must submit identification to the collector. The collection shall not proceed until a positive identification is made.
 - b) The donor will not be required to undress, or to change into an examination gown. Only outer garments should be removed, i.e., jackets.
 - c) The donor shall be asked to wash his/her hands prior to urination, and shall not have access to any water sources until the specimen has been collected.
 - d) A bluing agent shall be added to the toilet bowl and the donor may flush the toilet only after releasing the specimen to the collector. Chemical toilets and toilets where the water supply has been turned off do not apply.
 - e) The specimen must be at least 45 ml to be acceptable.
 - f) The collector must measure the specimen temperature within four minutes of urination to determine sample acceptability.
5. The specimen shall be divided into two parts. The collector shall pour 30 ml of urine from the specimen bottle into a second specimen bottle, to be used as the primary specimen. The remainder of the urine, at least 15 ml, shall be poured into another container to be used as the "split sample".
6. Both samples shall be shipped in a single shipping container with the appropriate chain of custody forms.
7. The collector and donor must be present together to complete the following process:
 - ◇ Seal and label the specimen bottles.
 - ◇ Donor initials the bottle labels or seals.
 - ◇ The chain of custody forms must be signed and dated.
8. If an employee or applicant refuses to cooperate with the collection process the collector shall notify the employer representative and note the non-cooperation on the custody and control form.

B. Inability to provide an adequate urine sample

If the donor cannot provide a sufficient volume of urine, he/she shall remain at the collection site and be provided not more than twenty-four ounces of fluids to drink. The donor shall have a

period of up to two hours to produce an acceptable sample, using a fresh collection container.

The original insufficient specimen shall be discarded. If the employee is still unable to provide an adequate specimen, the insufficient specimen shall be discarded, testing discontinued, and the employer so notified.

The MRO shall refer the individual for a medical evaluation to develop pertinent information concerning whether the individual's inability to provide a specimen is genuine or constitutes a refusal to test (In pre-employment testing, if the employer does not wish to hire the individual, the MRO is not required to make such a referral.). Upon completion of the examination, the MRO shall report his or her conclusions to the employer in writing.

If the donor is unable to produce a sample without a valid medical reason the employer shall consider the circumstance to be a refusal to test.

C. Split Sample

1. If the test result of the primary specimen is positive, an employee may request that the MRO direct that the split specimen be analyzed.
2. The split sample analysis will be conducted by a laboratory who will analyze the sample for presence of the drug(s) for which a positive result was obtained in the primary sample.
3. If the result of the test of the split sample fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, the MRO shall cancel the test and report the cancellation to The Employer.
4. With all positive drug tests, the MRO will first contact the employee to determine if there is an alternative medical explanation for the positive result. If documentation is provided and the MRO determines that there was a legitimate medical use for the prohibited drug, the test result may be reported to the City as "negative." After the MRO notifies the employee of a positive result for the presence of a drug(s) in the primary sample, the employee has up to seventy-two hours to request analysis of the split sample.

III. ALCOHOL TESTING

A. Testing Procedures

Alcohol testing will be conducted only on a reasonable suspicion basis. Applicants for employment will normally not be required to undergo alcohol testing.

1. The test shall take place in a secure location that affords visual and aural privacy to prevent unauthorized persons from seeing or hearing test results.
2. When an employee enters the testing location, the BAT will require him/her to provide positive identification. The test shall not proceed until positive identification of the employee is made.
3. An individually-sealed mouthpiece shall be opened in view of the employee and then attached to the testing unit.
4. The employee shall be required to blow forcefully into the mouthpiece for at least six seconds or until an adequate amount of breath has been obtained.
5. The employee shall be shown the result both on the testing unit and the recording form. The employee shall verify both results are the same. If a result printed by the testing unit does not match the displayed result, the BAT shall declare the test invalid.
6. If the result of the screening test is less than 0.02 breath alcohol concentration no other testing will be conducted.
7. If the result of the screening test reflects an alcohol concentration of 0.02 or greater, a confirmation test shall be performed.
8. Prior to conducting the confirmation test the employee may not eat, drink, or place anything in his/her mouth. If possible, the employee should not belch during the waiting period. The confirmation test shall be conducted no less than fifteen minutes and no more than twenty minutes from the screening test.
9. The fifteen minutes waiting period is provided for the employee's benefit. This time period allows for the dissipation of any mouth alcohol, thereby helping to prevent an artificially high reading.
10. In the event the screening and the confirmation test results do not match, the confirmation results will be considered the final results.
11. If the employee refuses to sign the breath alcohol testing form or fails to provide an adequate amount of breath without a valid medical reason, the employer may determine the circumstance to be a refusal to test.

B. Inability to Provide Adequate Breath

1. If the employee fails to provide an adequate amount of breath he/she shall provide the employer with an evaluation from a licensed physician, who is acceptable to the employer, concerning the employee's medical ability to provide adequate breath.
2. If the physician determines there is a valid medical reason precluding the employee from providing adequate breath then the employee's failure shall not be deemed a refusal to test.
3. If the physician is unable to determine a valid medical reason, the employee's failure to provide adequate breath shall be considered a refusal to test.

EXHIBIT # 3

Doris Papillon-Allen

From: Mike Malone
Sent: Tuesday, October 15, 2019 4:56 PM
To: Doris Papillon-Allen
Subject: FW: 10/9/19 PSPS Green Valley Plant

From: Joe Abitong
Sent: Tuesday, October 15, 2019 4:55 PM
To: Mike Malone <Mike.Malone@cityofvallejo.net>
Subject: Fwd: 10/9/19 PSPS Green Valley Plant

Sent via the Samsung Galaxy S8, an AT&T 5G Evolution capable smartphone

----- Original message -----

From: Jacob Parsons <Jacob.Parsons@cityofvallejo.net>
Date: 10/15/19 4:24 PM (GMT-08:00)
To: Joe Abitong <Joe.Abitong@cityofvallejo.net>
Cc: John Palesi <John.Palesi@cityofvallejo.net>, Jacob Barlow <Jacob.Barlow@cityofvallejo.net>
Subject: 10/9/19 PSPS Green Valley Plant

Good afternoon Joe.

I am giving you my account of what I saw at the Green Valley Treatment Plant Thursday night during the PSPS.

I went to the Green Valley Plant around 10:30-11PM 10/9. Ken was sitting at the operations desk and the plant was operating normally. He had a sleeping mat and pillow on the floor in the operations room. I asked him if he was planning to sleep on that during the night. He replied that he would, and jokingly asked me if anyone would see him sleeping if someone visited the plant during the night. I said yes, checked out the generator and fuel tank, then left.

If you have any more questions, don't hesitate to ask.

Jacob Parsons
Instrument Technician I
City of Vallejo | Water Department
(707) 315-2512 | Jacob.Parsons@cityofvallejo.net



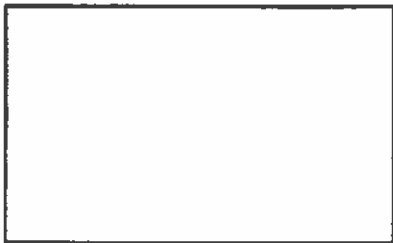
Jacob Parsons 11/13/19

EXHIBIT # 4

On 10/9 while making inspection rounds, Jacob Parsons visited GWWTP at approximately 22:30. He noted that Ken McKay the operator at the plant had a mattress and pillow on the floor of the control room. McKay was awake and operating the plant with no issues.

Later on at approximately 03:00 on 10/10 James Grandrath and myself visited GWWTP. We first checked at the SID pump station and then headed up to the plant. I noticed the door was locked and the control room lights were off. I unlocked the door and entered to find Ken McKay sleeping on the floor while the plant was operating. I proceeded to bring in James to witness it. I wasn't quiet and he never awoke, I didn't enter the control room. I proceeded to go outside and lock the door.

Not only did this bother me because the plant was operating, but the T1 line was down at this point and there was no way to remotely monitor the plant or distribution. We would have had no clue of a main break or other major issue.



Jacob Barlow

Acting Senior Instrument Technician

202 Fleming Hill Rd.

Vallejo, CA 94589

City of Vallejo | Water Department

(707) 648-4307 | (707) 333-0465 jacob.barlow@cityofvallejo.net

EXHIBIT # 5

Doris Papillon-Allen

From: Mike Malone
Sent: Tuesday, October 15, 2019 4:55 PM
To: Doris Papillon-Allen
Subject: FW: GVTP 10/8/19

From: Joe Abitong
Sent: Tuesday, October 15, 2019 4:54 PM
To: Mike Malone <Mike.Malone@cityofvallejo.net>
Subject: Fwd: GVTP 10/8/19

Sent via the Samsung Galaxy S8, an AT&T 5G Evolution capable smartphone

----- Original message -----

From: James Grandrath <James.Grandrath@cityofvallejo.net>
Date: 10/15/19 3:41 PM (GMT-08:00)
To: Joe Abitong <Joe.Abitong@cityofvallejo.net>, "Kevin J. Brown" <Kevin.Brown2@cityofvallejo.net>
Cc: John Palesi <John.Palesi@cityofvallejo.net>
Subject: GVTP 10/8/19

This email is in regards to what was seen as the Green Valley Water Treatment Plant on October 8, 2019.

The first thing that was seen by Jacob Parsons around 10:30 pm was a bed roll and a pillow on the floor in the Operations area. Ken was asked if he was planning on using them overnight and he answered yes and then asked if someone was going to come up later and see him sleeping on it.

Around 3 am Jacob Barlow and myself went to go check on the fuel level and the rest of the plant. While doing so, we pulled up next to the Operations window. Getting out of the truck and closing the doors of the truck we noticed the light was off and the front door was locked. Jacob Barlow proceeded to unlock the door and we walked in and we looked in to the Operations room and saw Ken sleeping on his bed roll and his shoes were sitting under the table next to the door. We proceeded to go into the wet lab and check the readings. We then left the inside of the plant locking the door. We got back into the truck, closing the doors and backing up, with the backup alarms sounding, leaving the plant. We noticed at that point that there was still no movement of any kind as we went around to the reclaim basins.

Sent via the Samsung Galaxy S7, an AT&T 4G LTE smartphone



1 11. 13-19

EXHIBIT # 6

Doris Papillon-Allen

Subject: FW: Green Valley.

From: Kenneth McKay [<mailto:Kenneth.McKay@cityofvallejo.net>]

Sent: Tuesday, November 05, 2019 11:16 PM

To: Joe Abitong <Joe.Abitong@cityofvallejo.net>; Kevin J. Brown <Kevin.Brown2@cityofvallejo.net>

Cc: kennethwmckay@gmail.com

Subject: Green Valley.

I found out today, that while I was at Green Valley on 10/11 ? during the power outage someone came by at 0300

and reported I was sleeping,I dont recall anyone coming by nor do I recall sleeping.

If I dozed off,I dont know why I wasn't woken up, I don't know why it required an administrative investigation .

If I did doze off I do apologize and will not let it happen again I will try and keep our image in operations good.

There are some mitigating circumstances, I was still on the day shift and did not sleep that day, and as I recall I didn't get the call to come in until late afternoon.

I am also taking a medication for my back injury that makes me drowsy.I will talk to my doctor and see if any adjustments in meds need to be made.

As my job that night was only to monitor the plant it is possible that I did get drowsy and doze off next time I will make busy work to keep from getting drowsy, however like I said I dont recall falling a sleep nor was it my intention to sleep.I do find it worrisome that this was forwarded to HR for an investigation,and not to my Supervisors to clear up.

Once again I do apologize if I did doze off and will do better next time.I will also do my best too keep the image of operations high.

Kind Regards,

Ken McKay

Water Treatment Plant Operator 3

202 Fleming Hill Rd

Vallejo CA,94589

707 553 7252

EXHIBIT # 7

Business Rep
Local 1245, IBEW
#D201743
(707)761-1948

CONFIDENTIALITY NOTICE: This e-mail may contain privileged information including confidential information that was shared in the course of seeking contractual advice. If you have received this message by mistake, please notify us immediately by replying to this message or telephoning us at the above number. Do not review, disclose or distribute the message. Thank you (hlvs)

From: Kenneth McKay <Kenneth.McKay@cityofvallejo.net>
Sent: Thursday, December 12, 2019 9:01 PM
To: Doris Papillon-Allen <Doris.Allen@cityofvallejo.net>
Cc: Aaron Cano <Aaron.Cano@cityofvallejo.net>; Macor, Janval <JVM6@IBEW1245.com>
Subject: RE: Photos of yoga mats

Here's my black trifold mat.





Kind Regards,
Ken McKay
Water Treatment Plant Operator 3
202 Fleming Hill Rd
Vallejo CA, 94589
707 553 7252

RULE 18

SUSPENSION, FINE OR REMOVAL

18.1 Employees Subject To

Every person holding a position in the classified service shall be subject to suspension, fine, demotion or removal from office or employment by the person, board, or commission appointing such persons, for misconduct, incompetency, inefficiency, failure to perform the duties or to observe the rules and regulations of such department, office, board or commission, or for failure to cooperate reasonably with the department head or with his/her fellow employees; subject to the right of the employee to appeal to the Civil Service Commission in the manner set forth in the Charter and these Rules.

18.2 Statement of Reason

Every employee shall be given a written statement of the reason for such suspension, fine, demotion or removal from office or employment at the time of such suspension, fine, demotion or removal. Such statement shall include in itemized form the specific instances in support of such suspension, fine, demotion or removal from office or employment. A copy of such statement shall be delivered to such person or shall be left at his/her last known address.

18.3 Filing of Appeal

Any employee who has been so disciplined shall have five (5) days after service of such written statement within which to file an appeal to the same. A copy of such appeal shall be filed during office hours at the office of the person, board or commission imposing such discipline and the original shall be filed by such employee in the office of the Executive Secretary of the Commission. Should the last day on which an appeal may be filed fall upon a Sunday or holiday the time for filing such appeal shall be extended to include the next following business day.

18.4 Investigation and Hearing Required

The Commission may make, or cause to be made, such investigation as it shall deem necessary and thereafter shall hold a hearing at which time it shall hear evidence for and against such employee. Hearings may be conducted informally and the conclusions shall be made by the Commission within ten (10) days after the matter has been submitted and thereupon the same shall be certified to the official, board or commission from whose order the appeal has been taken. The findings and conclusions of the Commission also may contain such recommendations as said Commission shall deem proper, and shall include the amount of compensation such employee is entitled to receive, if any. Said findings and conclusions of the Commission shall be final.



555 Santa Clara Street – Vallejo CA 94590

June 10, 2020

TO: Mike Malone, Director, Water Department
Heather Ruiz, Director, Human Resources Department
Doris Papillon-Allen, Human Resources Analyst

FROM: Daryl C. Arbuthnott, Fire Chief, Vallejo Fire Department
Skelly Hearing Officer

SUBJECT: **SKELLY HEARING FINDINGS – KENNETH MCKAY**

On June 10, 2020, at approximately 1105 hours, a Skelly Hearing requested by Mr. Kenneth McKay was held in response to a proposed 5-Day suspension. Mr. McKay was represented by Mr. Janval "JV" Macor, IBEW representative. The meeting was held in person at 970 Nimitz Avenue, Mare Island, Vallejo at the Vallejo Fire Department's Headquarters.

The intent of this Skelly Hearing was to allow Mr. McKay an opportunity to respond orally and/or in writing to the recommendation that he receive a 5-Day suspension based upon the charges of failing to adhere to City of Vallejo, Administrative Rule 2.16 – Use of City Vehicles, *"operate a City vehicle and privately owned vehicles on City business, in a reasonable safe, and law abiding manner."*

Skelly Hearing Officer's Decision

Based upon careful review of the "Notice of Intent to Suspend", Mr. McKay's investigation packet; verbal response and additional documents (attached) provided during the Skelly meeting; and the review of his history of discipline included in the proposed disciplinary packet, the following recommendations are respectfully submitted below:

It is recommended that Mr. McKay's discipline be reduced to a 1-Day Suspension from his duties with the City of Vallejo, Water Department for his failure to report his use of a prescribed medication prior to reporting to work. Knowing he had already taken prescribed medication, Mr. McKay agreed that he had the option of declining the overtime shift or the responsibility of informing his supervisor prior to accepting the shift.

Statement Summary

The follow summarizes statements and/or information provided in the Skelly Hearing in support of the decision rendered above:

- 1) The allegation of sleeping while on duty cannot be sufficiently substantiated due to the fact that the witnesses failed to approach and awaken Mr. McKay, thereby verifying that he was actually sleep. The portion of the complaint regarding if Mr. McKay was asleep or not could have easily been resolved by the witnesses engaging Mr. McKay at that moment.
- 2) Additionally, Mr. McKay provided documentation stating that he officially requested the City's Interactive Process to discuss his ability to use his personal exercise/stretching equipment during break time, supporting the reason for the presence of a yoga mat.
- 3) When asked, "What would you do differently if given the same circumstances", Mr. McKay replied, he would have informed his supervisor he had taken prescription medication and would have left the lights on in the room.
- 4) Mr. McKay believed the cause of the incident and resulting complaint was entirely cause by the complainant's actions and that he was only reacting to the situation.

All of Mr. McKay's statements, documentation and Skelly packet were considered in the final decision. Additionally, Mr. McKay's statements during the initial investigation were found to be non-disputable.

Skelly Hearing – Kenneth McKay

June 10, 2020

Page 3

Conclusion

It is the opinion of this Skelly Hearing Officer that Mr. McKay's statements were non-disputable and plausible given that this complaint mainly hinged on witness statements.

A handwritten signature in black ink, appearing to read 'DCA', is written over a horizontal line.

Daryl C. Arbuthnott, Fire Chief
Skelly Hearing Officer

Skelly Hearing Attachments:

City of Vallejo – Interactive Process Meeting (12/13/2018)

City Email – Author Kenneth McKay – (3/30/2020)

Kaiser Permanente Doctor's Note - (4/9/2020)

Travis Water Treatment Plant – Operations Work Schedule – (12/12/2018)

Doris Papillon-Allen

From: Mike Malone
Sent: Tuesday, October 15, 2019 4:56 PM
To: Doris Papillon-Allen
Subject: FW: 10/9/19 PSPS Green Valley Plant

From: Joe Abitong
Sent: Tuesday, October 15, 2019 4:55 PM
To: Mike Malone <Mike.Malone@cityofvallejo.net>
Subject: Fwd: 10/9/19 PSPS Green Valley Plant

Sent via the Samsung Galaxy S8, an AT&T 5G Evolution capable smartphone

----- Original message -----

From: Jacob Parsons <Jacob.Parsons@cityofvallejo.net>
Date: 10/15/19 4:24 PM (GMT-08:00)
To: Joe Abitong <Joe.Abitong@cityofvallejo.net>
Cc: John Palesi <John.Palesi@cityofvallejo.net>, Jacob Barlow <Jacob.Barlow@cityofvallejo.net>
Subject: 10/9/19 PSPS Green Valley Plant

Good afternoon Joe.

I am giving you my account of what I saw at the Green Valley Treatment Plant Thursday night during the PSPS.

I went to the Green Valley Plant around 10:30-11PM 10/9. Ken was sitting at the operations desk and the plant was operating normally. He had a sleeping mat and pillow on the floor in the operations room. I asked him if he was planning to sleep on that during the night. He replied that he would, and jokingly asked me if anyone would see him sleeping if someone visited the plant during the night. I said yes, checked out the generator and fuel tank, then left.

If you have any more questions, don't hesitate to ask.

Jacob Parsons
Instrument Technician I
City of Vallejo | Water Department
(707) 315-2512 | Jacob.Parsons@cityofvallejo.net

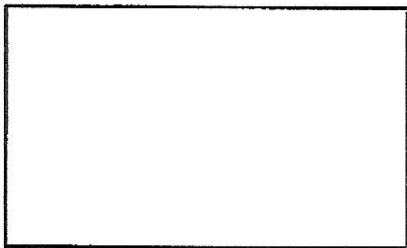


Jacob Parsons 11/13/19

On 10/9 while making inspection rounds, Jacob Parsons visited GWWTP at approximately 22:30. He noted that Ken McKay the operator at the plant had a mattress and pillow on the floor of the control room. McKay was awake and operating the plant with no issues.

Later on at approximately 03:00 on 10/10 James Grandrath and myself visited GWWTP. We first checked at the SID pump station and then headed up to the plant. I noticed the door was locked and the control room lights were off. I unlocked the door and entered to find Ken McKay sleeping on the floor while the plant was operating. I proceeded to bring in James to witness it. I wasn't quiet and he never awoke, I didn't enter the control room. I proceeded to go outside and lock the door.

Not only did this bother me because the plant was operating, but the T1 line was down at this point and there was no way to remotely monitor the plant or distribution. We would have had no clue of a main break or other major issue.



Jacob Barlow

Acting Senior Instrument Technician

202 Fleming Hill Rd.

Vallejo, CA 94589

City of Vallejo | Water Department

(707) 648-4307 | (707) 333-0465 jacob.barlow@cityofvallejo.net

Doris Papillon-Allen

From: Mike Malone
Sent: Tuesday, October 15, 2019 4:55 PM
To: Doris Papillon-Allen
Subject: FW: GVTP 10/8/19

From: Joe Abitong
Sent: Tuesday, October 15, 2019 4:54 PM
To: Mike Malone <Mike.Malone@cityofvallejo.net>
Subject: Fwd: GVTP 10/8/19

Sent via the Samsung Galaxy S8, an AT&T 5G Evolution capable smartphone

----- Original message -----

From: James Grandrath <James.Grandrath@cityofvallejo.net>
Date: 10/15/19 3:41 PM (GMT-08:00)
To: Joe Abitong <Joe.Abitong@cityofvallejo.net>, "Kevin J. Brown" <Kevin.Brown2@cityofvallejo.net>
Cc: John Palesi <John.Palesi@cityofvallejo.net>
Subject: GVTP 10/8/19

This email is in regards to what was seen as the Green Valley Water Treatment Plant on October 8, 2019.

The first thing that was seen by Jacob Parsons around 10:30 pm was a bed roll and a pillow on the floor in the Operations area. Ken was asked if he was planning on using them overnight and he answered yes and then asked if someone was going to come up later and see him sleeping on it.

Around 3 am Jacob Barlow and myself went to go check on the fuel level and the rest of the plant. While doing so, we pulled up next to the Operations window. Getting out of the truck and closing the doors of the truck we noticed the light was off and the front door was locked. Jacob Barlow proceeded to unlock the door and we walked in and we looked in to the Operations room and saw Ken sleeping on his bed roll and his shoes were sitting under the table next to the door. We proceeded to go into the wet lab and check the readings. We then left the inside of the plant locking the door. We got back into the truck, closing the doors and backing up, with the backup alarms sounding, leaving the plant. We noticed at that point that there was still no movement of any kind as we went around to the reclaim basins.

Sent via the Samsung Galaxy S7, an AT&T 4G LTE smartphone



1 11. 13-19

CITY OF VALLEJO

ADMINISTRATIVE RULE

SUBJECT: ALCOHOL AND DRUG ABUSE POLICY

AR Number: 2.28

Date Issued: 6/28/95

Date Effective: 7/1/95

Date Revised: 1/2/96

I. PURPOSE

It is the intention of this policy to eliminate substance abuse and its effects in the workplace. While the City of Vallejo has no intention of intruding into the private lives of its employees, involvement with drugs and alcohol on and off the job can take its toll on job performance and employee safety. Our concern is that employees are in a condition to perform their duties safely and efficiently, in the interests of their fellow workers and the public, as well as themselves. The presence of drugs and alcohol on the job, and the influence of these substances on employees during working hours, are inconsistent with this objective of having employees perform their duties safely and efficiently.

Employees who think they may have an alcohol or drug usage problem are urged to voluntarily seek confidential assistance from the Employee Assistance Program. While the City of Vallejo will be supportive of those who seek help voluntarily, the City will be equally firm in identifying and disciplining those who continue to be substance abusers and do not seek help or continue substance abuse even while enrolled in counseling or rehabilitation programs.

Supervisors will be trained to recognize abusers and become involved in this control process. Alcohol or drug abuse will not be tolerated, and disciplinary action, up to and including termination, will be used as necessary to achieve this goal.

This policy provides guidelines for the detection and deterrence of alcohol and drug abuse. It also outlines the responsibilities of City of Vallejo managers and employees. To that end, the City will act to eliminate any substance abuse (alcohol, illegal drugs, prescription drugs or any other substance which could impair an employee's ability to safely and effectively perform the functions of their job) which increases the potential for accidents, absenteeism, substandard performance, poor employee morale or damage to the Agency's reputation. All persons covered by this policy should be aware that violations of the policy may result in discipline, up to and including termination, or in not being hired.

In recognition of the public service responsibilities entrusted to the employees of the City of Vallejo and that drug and alcohol usage can hinder a person's ability to perform duties safely and effectively, the following policy against drug and alcohol abuse is hereby adopted by the City of

Vallejo.

II. APPLICATION

This policy applies to all employees of and to all applicants for positions with City of Vallejo whose use of alcohol could effect workplace safety or performance of requisite job standards, duties or responsibilities. This policy does not apply to employees covered by a collective bargaining agreement containing an alcohol or drug abuse policy where the collective bargaining provision conflicts with this policy. This policy does not apply to employees in or applicants for positions for which the City cannot legally apply this policy. This policy applies to alcohol and drugs, including all substances, drugs, or medications, whether legal or illegal, which could impair an employee's ability to effectively and safely perform the functions of the job.

III. POLICY

It is City of Vallejo policy that employees shall not be under the influence, or in possession, of alcohol or drugs while on City of Vallejo property, at work locations, or while on duty or subject to being called to duty, and that employees shall not sell or provide drugs or alcohol to any other employee or person while on duty or subject to being called to duty as a result of formally being placed on an "on call" or "standby" status by an appropriate management representative.

While use of validly prescribed medications and drugs does not violate this policy per se, failure by an employee to notify his/her supervisor, before beginning work, when taking medications or drugs which could foreseeably interfere with the safe and effective performance of duties, or the operation of City of Vallejo equipment, can result in discipline up to and including termination. In the event there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medications or drugs, clearance from a qualified physician may be required.

City of Vallejo reserves the right to search for alcohol or impairing drugs, without employee consent, in all areas and property in which the City of Vallejo maintains control or joint control with the employee when there is reasonable suspicion of work-related employee misconduct or when the search is necessary for a non-investigatory work-related purpose. Otherwise, the City may notify appropriate law enforcement agencies that an employee may have illegal drugs in his or her possession or in an area not jointly or fully controlled by City of Vallejo.

Refusal to immediately submit to an alcohol and/or drug analysis when requested by City of Vallejo management or law enforcement personnel, or refusal to submit to a search of personal properties if requested by law enforcement personnel, may constitute insubordination and be grounds for discipline up to and including termination.

Employees reasonably believed to be under the influence of alcohol or drugs shall be prevented from engaging in further work and shall be detained for a reasonable period of time until he or she can be safely transported from the work site. Supervisors or managers must arrange for safe transportation or the employee from the work site. Refusal to refrain from engaging in further work or refusal to be detained until safe transportation can be arranged may constitute insubordination and be grounds for discipline up to and including termination. Under no circumstances shall a supervisor or manager allow an employee to transport himself/herself from a work site.

The City of Vallejo is committed to providing reasonable accommodation to those employees whose drug or alcohol problem classifies them as disabled under federal and/or state law.

The City of Vallejo has established a voluntary Employee Assistance Program (EAP) to assist those employees who voluntarily seek help for alcohol or drug problems. Employees should contact their supervisors, the Department of Human Resources, Risk Management or the EAP for additional information. Supervisors are encouraged to refer employees to the EAP at the earliest sign of any problems.

IV. EMPLOYEE RESPONSIBILITIES

An employee must:

- not report to work or be subject to duty while his/her ability to perform job duties is impaired due to on or off duty alcohol or drug use;
- not possess or use alcohol or impairing drugs, including illegal drugs and prescription drugs without a prescription, during working hours or while subject to duty, on breaks, during meal periods or at anytime while on City of Vallejo property;
- not directly or through a third party sell or provide drugs or alcohol to any person, including any employee, while either or both employees are on duty or subject to being called to duty;
- submit immediately to an alcohol and drug test when requested by City of Vallejo management, supervisory or any law enforcement personnel;
- notify his/her supervisor, before beginning work, when taking any medications or drugs, prescription or non-prescription, which may interfere with the safe and effective performance of duties or operation of City of Vallejo equipment; and
- provide, within 24 hours of request, bona fide verification of a current valid prescription for any potentially impairing drug or medication identified when a drug screen/test is positive, The prescription must be in the employee's name.

V. MANAGEMENT RESPONSIBILITIES AND GUIDELINES

- Managers and supervisors are responsible for reasonable enforcement of this policy.
- Managers and supervisors may request that an employee submit to a drug and/or alcohol test when a manager or supervisor has a reasonable suspicion that an employee is intoxicated or under the influence of drugs or alcohol while on the job or subject to being called. If possible, a second supervisor should be present. When requesting a drug or alcohol test, supervisors or managers should notify their Department Head or designee and the Department of Human Resources as soon as is practicable.

'Reasonable suspicion' is a belief based on objective facts sufficient to lead a reasonably prudent supervisor to suspect that an employee is under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is impaired or so that the employee's ability to perform his/her job safely is reduced. The number of reasonable suspicion indicators and the compelling nature of the evidence attached to each indicator needs to be assessed in determining whether there is sufficient reasonable suspicion to require a test.

For example, any of the following, alone or in combination, may constitute reasonable suspicion:

- o Slurred speech;
 - o Alcohol odor on breath;
 - o Unsteady walking and movement;
 - o An accident involving City of Vallejo property, where it appears the employee's conduct is at fault;
 - o Physical altercation;
 - o Verbal altercation;
 - o Unusual behavior;
 - o Possession of alcohol or drugs;
 - o Information obtained from a reliable person with personal knowledge.
- Any manager or supervisor requesting an employee to submit to a drug and/or alcohol analysis should document in writing the facts constituting reasonable suspicion that the employee in question is intoxicated or under the influence of drugs.
 - Any manager or supervisor encountering an employee who refuses an order to submit to a drug and/or alcohol analysis upon request shall remind the employee of the requirements and disciplinary consequences of this policy.
 - Where there is reasonable suspicion that the employee is under the influence of alcohol or drugs, the manager or supervisor should arrange for the employee to be safely transported to the drug and alcohol testing site and from the drug and alcohol testing site to home.

Under no circumstances shall an employee or manager allow an employee who is reasonably believed to be under the influence of alcohol or drugs to transport himself/herself from a work site or from the drug and alcohol testing site.

- Managers and supervisors shall not physically search the person of employees, nor shall they search the personal possessions of employees without the freely given written consent of, and in the presence of, the employee.
- Managers and supervisors shall notify their Department Head or designee and the Department of Human Resources when they have reasonable suspicion to believe that an employee may have illegal drugs in his or her possession or in an area not jointly or fully controlled by City of Vallejo. If the Department Head or designee concurs that there is reasonable suspicion of illegal drug possession, the Department Head shall notify the appropriate law enforcement personnel.

VI. PHYSICAL EXAMINATION AND PROCEDURE

The drug and/or alcohol test may test for any substance which could impair an employee's ability to effectively and safely perform the functions of his/her job, including, but not limited to, prescription medications, alcohol, heroin, cocaine, morphine and its derivatives, P.C.P., methadone, barbiturates, amphetamines, marijuana and other cannabinoids. Attachment "A" describes the method in which the initial test will be conducted, how the sample will be processed after the drug and/or alcohol test is completed, and how a confirmatory test after an initial positive result will be performed.

VII. RESULTS OF DRUG AND/OR ALCOHOL ANALYSIS

A. Pre-Employment Physical

Applicants for positions with the City of Vallejo whose use of drugs and/or alcohol could effect workplace safety or other requisite job standards, duties or responsibilities will be subject to drug and/or alcohol testing as a part of the pre-employment physical examination process. A positive result from a drug and/or alcohol analysis may result in the applicant not being hired.

If a drug screen is positive at the pre-employment physical, the applicant must provide within 24 hours of request bona fide verification of a valid current prescription for the drug identified in the drug screen. If the prescription is not in the applicant's name or the applicant does not provide acceptable verification, or if the drug is one that is likely to impair the applicant's ability to perform the job duties, the applicant may not be hired.

B. During Employment Physical or Alcohol/Drug Tests

A positive result from a drug and/or alcohol analysis may result in disciplinary action, up to and including discharge.

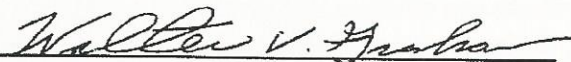
If the drug screen is positive, the employee must provide within 24 hours of request bona fide verification of a valid current prescription for the drug identified in the drug screen. The prescription must be in the employee's name. If the employee does not provide acceptable verification of a valid prescription, or if the prescription is not in the employee's name, or if the employee has not previously notified his or her supervisor, the employee will be subject to disciplinary action up to and including discharge.

If an alcohol or drug test is positive, the City of Vallejo shall conduct an investigation to gather all facts. The decision to discipline or discharge will be carried out in conformance with City of Vallejo disciplinary procedures and Civil Service Rules and Regulations.

VIII. CONFIDENTIALITY

Laboratory reports and test results shall not appear in an employee's general personnel file. Information of this nature will be contained in a separate confidential medical folder that will be securely kept under the control of the Department of Human Resources. The reports or test results may be disclosed to City of Vallejo management on a strictly need-to-know basis and to the tested employee upon request. Disclosures, without patient consent, may also occur when: (1) the information is compelled by law or by judicial or administrative process; (2) the information has been placed at issue in a formal dispute between the employer and employee; (3) the information is to be used in administering an employee benefit plan; and/or (4) the information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure.

Attached: Appendix A


WALTER V. GRAHAM
CITY MANAGER

APPENDIX A

ALCOHOL AND DRUG TESTING PROCEDURES

I. CONTACT

A. Regular Business Hours

When requesting a reasonable suspicion alcohol and/or drug test Monday through Friday during the hours of 8:30 a.m. - 5:15 p.m., supervisors and managers should first contact the Department of Human Resources or Risk Management and their Department Head or designee.

Upon notification of Human Resources and the Department Head, supervisors and managers may contact the number listed below directly to notify the testing site of the need for drug and/or alcohol testing. Supervisors and managers must arrange transportation of the employee to the testing site.

Alcohol and/or drug testing on Monday through Friday during the hours of 8:00 a.m. - 5:00 p.m. will be conducted at **Northbay Health at Work, 1200 B. Gale Wilson Drive #107, Fairfield, CA 94533, (707) 429-7701.**

B. After Hours

When requesting a reasonable suspicion **drug test** after regular business hours, the supervisor or manager must call Northbay at (707) 429-7701 and leave a message on the recorder. The message should indicate that you are a City of Vallejo supervisor and are requesting a reasonable suspicion drug test as soon as is possible. You should also include your name, job title, and a number where you can be reached immediately. A Northbay technician is on call 24 hours a day and will return your call within thirty minutes. The technician will arrange to meet the supervisor and employee at **Northbay Health at Work, 1200 B. Gale Wilson Drive #107, Fairfield, CA 94533.**

When requesting a reasonable suspicion **alcohol test** after regular business hours, the supervisor or manager must go immediately to the Northbay Medical Center Emergency

Room at 1200 B. Gale Wilson Drive, Fairfield, CA 94533, (707) 429-7833. The Emergency Room staff will contact the Northbay technician.

On the next regular business day, you must notify Human Resources or Risk Management and your Department Head that you have ordered a reasonable suspicion alcohol and/or drug test.

II. CONTROLLED SUBSTANCES TESTING PROCEDURES

Pre-employment and reasonable suspicion testing shall include, but may not be limited to the following controlled substances: marijuana; cocaine; opiates; amphetamines; and phencyclidine (PCP). Although the specimen will not be analyzed specifically for adulterants, the lab may conduct adulteration checks (PH, specific gravity or creatinine). The test may be canceled if adulterants are detected.

A. Specimen Collection Process

1. The collection shall take place in a secure location to prevent unauthorized access during the collection process.
2. The specimen shall be kept in sight of the employee and the collection site person until it is sealed and ready for shipment.
3. Employees and applicants shall have individual privacy when providing a specimen except when:
 - a) The employee or applicant presents a specimen that is outside the accepted temperature range and he/she refuses to have an oral body temperature measurement, or the body temperature measurement varies more than 10 C OR 1.80 F from the specimen temperature.
 - b) The collector observes the employee or applicant attempting to adulterate or substitute the specimen.
 - c) The employee's last provided specimen was determined to be diluted.
 - d) The employee has previously had a verified positive test.

In a. and b. above, the employee or applicant must provide a specimen under direct observation. In c. and d. above, the employer may require a direct observation collection.

4. The following specific procedures will be followed during the collection process:
 - a) The donor must submit identification to the collector. The collection shall not proceed until a positive identification is made.
 - b) The donor will not be required to undress, or to change into an examination gown. Only outer garments should be removed, i.e., jackets.
 - c) The donor shall be asked to wash his/her hands prior to urination, and shall not have access to any water sources until the specimen has been collected.
 - d) A bluing agent shall be added to the toilet bowl and the donor may flush the toilet only after releasing the specimen to the collector. Chemical toilets and toilets where the water supply has been turned off do not apply.
 - e) The specimen must be at least 45 ml to be acceptable.
 - f) The collector must measure the specimen temperature within four minutes of urination to determine sample acceptability.
5. The specimen shall be divided into two parts. The collector shall pour 30 ml of urine from the specimen bottle into a second specimen bottle, to be used as the primary specimen. The remainder of the urine, at least 15 ml, shall be poured into another container to be used as the "split sample".
6. Both samples shall be shipped in a single shipping container with the appropriate chain of custody forms.
7. The collector and donor must be present together to complete the following process:
 - ◇ Seal and label the specimen bottles.
 - ◇ Donor initials the bottle labels or seals.
 - ◇ The chain of custody forms must be signed and dated.
8. If an employee or applicant refuses to cooperate with the collection process the collector shall notify the employer representative and note the non-cooperation on the custody and control form.

B. Inability to provide an adequate urine sample

If the donor cannot provide a sufficient volume of urine, he/she shall remain at the collection site and be provided not more than twenty-four ounces of fluids to drink. The donor shall have a

period of up to two hours to produce an acceptable sample, using a fresh collection container.

The original insufficient specimen shall be discarded. If the employee is still unable to provide an adequate specimen, the insufficient specimen shall be discarded, testing discontinued, and the employer so notified.

The MRO shall refer the individual for a medical evaluation to develop pertinent information concerning whether the individual's inability to provide a specimen is genuine or constitutes a refusal to test (In pre-employment testing, if the employer does not wish to hire the individual, the MRO is not required to make such a referral.). Upon completion of the examination, the MRO shall report his or her conclusions to the employer in writing.

If the donor is unable to produce a sample without a valid medical reason the employer shall consider the circumstance to be a refusal to test.

C. Split Sample

1. If the test result of the primary specimen is positive, an employee may request that the MRO direct that the split specimen be analyzed.
2. The split sample analysis will be conducted by a laboratory who will analyze the sample for presence of the drug(s) for which a positive result was obtained in the primary sample.
3. If the result of the test of the split sample fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, the MRO shall cancel the test and report the cancellation to The Employer.
4. With all positive drug tests, the MRO will first contact the employee to determine if there is an alternative medical explanation for the positive result. If documentation is provided and the MRO determines that there was a legitimate medical use for the prohibited drug, the test result may be reported to the City as "negative." After the MRO notifies the employee of a positive result for the presence of a drug(s) in the primary sample, the employee has up to seventy-two hours to request analysis of the split sample.

III. ALCOHOL TESTING

A. Testing Procedures

Alcohol testing will be conducted only on a reasonable suspicion basis. Applicants for employment will normally not be required to undergo alcohol testing.

1. The test shall take place in a secure location that affords visual and aural privacy to prevent unauthorized persons from seeing or hearing test results.
2. When an employee enters the testing location, the BAT will require him/her to provide positive identification. The test shall not proceed until positive identification of the employee is made.
3. An individually-sealed mouthpiece shall be opened in view of the employee and then attached to the testing unit.
4. The employee shall be required to blow forcefully into the mouthpiece for at least six seconds or until an adequate amount of breath has been obtained.
5. The employee shall be shown the result both on the testing unit and the recording form. The employee shall verify both results are the same. If a result printed by the testing unit does not match the displayed result, the BAT shall declare the test invalid.
6. If the result of the screening test is less than 0.02 breath alcohol concentration no other testing will be conducted.
7. If the result of the screening test reflects an alcohol concentration of 0.02 or greater, a confirmation test shall be performed.
8. Prior to conducting the confirmation test the employee may not eat, drink, or place anything in his/her mouth. If possible, the employee should not belch during the waiting period. The confirmation test shall be conducted no less than fifteen minutes and no more than twenty minutes from the screening test.
9. The fifteen minutes waiting period is provided for the employee's benefit. This time period allows for the dissipation of any mouth alcohol, thereby helping to prevent an artificially high reading.
10. In the event the screening and the confirmation test results do not match, the confirmation results will be considered the final results.
11. If the employee refuses to sign the breath alcohol testing form or fails to provide an adequate amount of breath without a valid medical reason, the employer may determine the circumstance to be a refusal to test.

B. Inability to Provide Adequate Breath

1. If the employee fails to provide an adequate amount of breath he/she shall provide the employer with an evaluation from a licensed physician, who is acceptable to the employer, concerning the employee's medical ability to provide adequate breath.
2. If the physician determines there is a valid medical reason precluding the employee from providing adequate breath then the employee's failure shall not be deemed a refusal to test.
3. If the physician is unable to determine a valid medical reason, the employee's failure to provide adequate breath shall be considered a refusal to test.

CITY OF VALLEJO
HUMAN RESOURCES DEPARTMENT

The City of Vallejo has an Alcohol and Drug Abuse Policy. This policy is set forth in Administrative Rules 2.28. Enclosed in this packet are copies of these Administrative Rules.

I have received and understand the City of Vallejo's Alcohol and Drug Abuse Policy.



Employee Signature

Date: 4/17/2017

From: [Kenneth McKay](#)
To: [Joe Abitong](#); [Kevin J. Brown](#)
Cc: kennethwmckay@gmail.com
Subject: Green Valley.
Date: Tuesday, November 5, 2019 11:16:18 PM

I found out today, that while I was at Green Valley on 10/11 ? during the power outage someone came by at 0300

and reported I was sleeping, I don't recall anyone coming by nor do I recall sleeping.

If I dozed off, I don't know why I wasn't woken up, I don't know why it required an administrative investigation .

If I did doze off I do apologize and will not let it happen again I will try and keep our image in operations good.

There are some mitigating circumstances, I was still on the day shift and did not sleep that day, and as I recall I didn't get the call to come in until late afternoon.

I am also taking a medication for my back injury that makes me drowsy. I will talk to my doctor and see if any adjustments in meds need to be made.

As my job that night was only to monitor the plant it is possible that I did get drowsy and doze off next time I will make busy work to keep from getting drowsy, however like I said I don't recall falling asleep nor was it my intention to sleep. I do find it worrisome that this was forwarded to HR for an investigation, and not to my Supervisors to clear up.

Once again I do apologize if I did doze off and will do better next time. I will also do my best too keep the image of operations high.

Kind Regards,

Ken McKay

Water Treatment Plant Operator 3

202 Fleming Hill Rd

Vallejo CA, 94589

707 553 7252

Close this window



Water Utilities Director

Class Code:
00022

CITY OF VALLEJO

Established Date: Oct 27, 2016

Revision Date: Mar 1, 2018

SALARY RANGE

\$71.30 - \$86.67 Hourly

\$5,704.00 - \$6,933.25 Biweekly

\$12,358.67 - \$15,022.04 Monthly

\$148,304.00 - \$180,264.45 Annually

DEFINITION:

To plan, direct, manage and oversee the activities and operations of the Department of Water Utilities ("DWU") including water engineering and treatment; to coordinate assigned activities with other City departments, outside agencies; and to provide highly responsible and complex administrative support to the City Manager.

Supervision received and exercised:

Receives administrative direction from the City Manager.

Exercises direct supervision over management, supervisory, professional, technical and clerical staff.

EXAMPLES OF DUTIES:

Coordinate the organization, staffing, and operational activities for DWU, including the operation of water treatment and distribution facilities and water system engineering.

Participate in the development and implementation of goals, objectives, policies, and priorities for DWU; identify resource needs; recommend and implement policies and procedures.

Select, train, motivate and evaluate DWU personnel; provide or coordinate staff training; work with employees to correct deficiencies; implement discipline and termination procedures.

Direct, coordinate and review the work plan for DWU; meet with staff to identify and resolve problems; assign work activities and projects; monitor workflow; review and evaluate work products, methods and procedures.

Identify opportunities for improving service delivery methods and procedures; review with appropriate management staff; implement improvements.

Participate in the development and administration of DWU's budget; forecast additional funds needed for staffing, equipment, materials, and supplies; direct the monitoring of and approve expenditures; recommend adjustments as necessary.

Coordinate with other City departments and outside agencies and organizations; prepare and present staff reports and other necessary correspondence.

Negotiate contracts with developers, consulting engineers, and water service customers.

Prepare and recommend adoption of ordinances that affect the water system.

Review and approve various documents and agreements.

Attend and participate in professional group meetings; stay abreast of new trends and innovations in the engineering and water treatment fields.

Perform related duties and responsibilities as required.

KNOWLEDGE AND ABILITIES:

Knowledge of:

Operational characteristics, services and activities of a water treatment and distribution program.

Modern and complex principles and practices of civil and utility engineering.

Principles and practices of water utilities administration.

Principles of municipal budget preparation and control.

Principles of supervision, training and performance evaluation.

Pertinent Federal, State, and local laws, codes and regulations.

Ability to:

Oversee the development of utility engineering designs.

Manage and coordinate the work of supervisory, professional, and technical personnel.

Administer a variety of utility construction projects.

Select, supervise, train and evaluate staff.

Interpret and explain City water treatment and distribution policies and procedures.

Plan and direct varied utility and engineering operations.

Prepare clear and concise reports.

Communicate clearly and concisely, both orally and in writing.

Establish and maintain effective working relationships with those contacted in the course of work.

MINIMUM QUALIFICATIONS:

Experience:

Five years of responsible supervisory or administrative experience in engineering and various public water treatment and distribution activities.

Education:

Bachelor degree from an accredited college/university with major course work in utility or civil engineering or a related field.

License/Certificate:

Possession of a current/valid California D2 Certificate or a valid California T2 Certificate at time of appointment. The incumbent must maintain a current/valid California D2 Certificate or a current/valid California T2 Certificate as a condition of continued employment.

Desirable Qualification:

Possession of a current/valid California Professional Engineer License.

INTRODUCTION

This is a Confidential Administrative Investigation Report ("Report") containing detailed information, witness accounts, relevant documentation, analyses and findings related to the allegations. It is anticipated this Report will be maintained confidentially by the decision-makers and will not be disseminated except as required or as determined by the decision-makers or applicable law.

On October 11, 2019, City of Vallejo ("City") Water Department Director Mike Malone ("Malone") forwarded to me an email string that included statements from two Water Maintenance employees who allegedly observed Water Treatment Plant Operator (WTPO) Kenneth McKay ("Mr. McKay") sleeping in the Green Valley Operators Control Room while he was on duty.

Once the scope of the investigation was determined and agreed upon, the investigator operated with complete independence as to witness identification, interview content, and preparation of findings.

WITNESSES

The undersigned conducted interviews of the following individuals:

Name	Title	Date
Jacob Parsons	Instrument Technician I	11/13/2019
Jacob Barlow	Instrument Technician I	11/13/2019
James Grandrath	Utility Mechanic	11/13/2019
Nick Rolley	Water Treatment Plant Operator	12/11/2019
Ken McKay	Water Treatment Plant Operator	12/12/2019

Unless otherwise noted, all interviews were held in the Human Resources Office. The undersigned admonished all witnesses 1) they had a duty to answer every question fully and truthfully, 2) to keep the contents of the interview confidential and 3) to not discuss their interview with others (whether on-duty or off-duty), apart from their protected activity. Furthermore, the undersigned explained to witnesses this Report would be shared with others on a need-to-know basis. In addition, the undersigned informed all witnesses of the City policy prohibiting retaliation for either bringing a claim or participation in an investigation and if they were to be retaliated against, they must immediately report this to the undersigned.

Interview summaries in this Report are not verbatim recitation of witnesses' statements. Verbatim statements are cited using quotations.

DOCUMENTS

The following documents were reviewed and are attached:

Exhibit #	Documents
1	Administrative Rule – 18 Suspension, Fine or Removal
2	Administrative Rule – 2.28 Alcohol And Drug Abuse Policy
3	Jacob Parson's – Written Statement
4	Jacob Barlow's – Written Statement
5	James Grandrath – Written Statement
6	Ken McKay's email to Joe Abitong
7	Pictures provided by Mr. McKay of exercise mat he brought to work

RELEVANT POLICIES

Administrative Rule 18, **Suspension, Fine or Removal** provides in pertinent part:

Every person holding a position in the classified service shall be subject to suspension, fine, demotion or removal from office or employment by the person, board, or commission appointing such persons, for misconduct, incompetency, inefficiency, failure to perform the duties or to observe the rules and regulations of such department, office, board or commission, or for failure to cooperate reasonably with the department head or with his/her fellow employees; subject to the right of the employee to appeal to the Civil Service Commission in the manner set forth in the Charter and these Rules.

Administrative Rule 2.28, **Alcohol and Drug Abuse Policy** provides in pertinent part:

In recognition of the public service responsibilities entrusted to the employees of the City of Vallejo and that drug and alcohol usage can hinder a person's ability to perform duties safely and effectively, the following policy against drug and alcohol abuse is hereby adopted by the City of Vallejo.

While use of validly prescribed medications and drugs does not violate this policy per se, failure by an employee to notify his/her supervisor, before beginning work, when taking medications or drugs which could foreseeably interfere with the safe and effective performance of duties, or the operation of City of Vallejo equipment, can result in discipline up to and including termination.

In the event there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medications or drugs, clearance from a qualified physician may be required.

IV. Employee Responsibilities:

An employee must:

- Notify his/her supervisor, before beginning work, when taking any medications or drugs, prescription or non-prescription, which may interfere with the safe and effective performance of duties or operation of the City of Vallejo equipment.

FACTUAL BACKGROUND

On October 8, 2019, PG&E informed the City of Vallejo of its intent to implement its Public Safety Power Shutoff (PSPS) program in Vallejo due to forecasted extreme weather conditions. As a result, the Vallejo Water Department took proactive actions that included scheduling 24-hour staffing with 12 hour shifts at the City's water treatment plants.

The City's Green Valley Water Treatment Plant is a public facility located on Green Valley Road in Solano County and is responsible for treating up to one million gallons of sewer wastewater and solid waste to insure clean water for human consumption. Under normal circumstances the Green Valley plant's operation is monitored from the Fleming Hill plant, via a monitoring screen connected by a T1 line. During the PSPS the Green Valley plant was running on emergency power and was in full operating mode with a non-functioning remote monitor. As such, physical on-site monitoring was required.

On October 9, 2019, at or around 3 p.m. Mr. McKay received a phone call from on duty WTPO Winifredo Cruz ("Mr. Cruz") asking if he could work the 6:00 p.m. to 6 a.m. shift at the Green Valley Plant. Mr. McKay informed Mr. Cruz that he could not come at 6:00 p.m. but can make it for 8:00 p.m. It was not mandatory that Mr. McKay agree to work the shift, as all overtime is voluntary. The expectation, however, is that the employee who volunteers is able and willing to take on the responsibilities of working the shift.

According to Water Operations Superintendent Joe Abitong ("Abitong") who is Mr. McKay's manager, Mr. McKay's responsibilities included operating and monitoring the Supervisory Control and Data Acquisition program (SCADA). Mr. McKay was also responsible for reporting any malfunctions, perform operational adjustments for various operational malfunctions and respond to water quality changes and system malfunctions immediately.

On the date in question at 3:00 a.m. Mr. McKay was found sleeping on duty and the water treatment plant was running unattended. Two witnesses, Instrument Technician Jacob Barlow ("Mr. Barlow") and Utility Mechanic James Grandrath ("Mr. Grandrath") provided written statements describing Mr. McKay sleeping on a mat with a pillow and blanket and his shoes were under the desk and the lights were turned off.

INTERVIEW SUMMARIES

Jacob Parsons

Jacob Parsons ("Mr. Parsons") was interviewed on November 13, 2019.

He is an Instrument Technician for the Water Department. He has worked for the City for two years and he reports to Water Facilities Superintendent John Palesi.

Mr. Parsons said that on October 9, 2019 he went to the Green Valley Plant between 10:30 p.m. and 11:00 p.m. to do inspections. Mr. McKay was sitting at the Operators desk and the plant was operating normally. According to Mr. Parsons there was a black mat rolled up on the Operation Room floor. Mr. Parson said he asked Mr. McKay if he was planning to sleep on the mat during the night. Mr. McKay replied that he was and jokingly asked if anyone would see him sleeping if they visited the plant during the night. Mr. Parsons replied yes and he proceeded to check out the generators and fuel tanks and then he left.

Jacob Barlow

Mr. Barlow was interviewed on November 13, 2019. He is an Instrument Technician for the Water Department. He has worked for the City for ten years and he reports to Water Facilities Superintendent John Palesi.

Mr. Barlow stated that at or around 3:00 a.m. on October 10, 2019 he and Mr. Grandrath visited the Green Valley water treatment plant to check on the generator. According to Mr. Barlow, he and Mr. Grandrath first checked the pump station and then headed up to the plant. Mr. Barlow stated that he noticed the plant door was locked and the control room lights were off. He unlocked the door and entered to find Mr. McKay asleep on a black mat, and a white standard pillow with a blanket over him and his shoes were under the table.

Mr. Barlow said he proceeded to bring in Mr. Grandrath to witness Mr. McKay sleeping. According to Mr. Barlow, he and Mr. Grandrath did not attempt to be quiet and in fact spoke and walked as normal and Mr. McKay never woke up. After being at the plant for 30 minutes Mr. Barlow and Mr. Grandrath proceeded to leave and locked the door.

Mr. Barlow expressed concern that the SCADA was not being monitored for alarms and there was no way to remotely monitor the plant for potential problems because the T1 line was down.

Mr. Barlow stated that the Water Department would have had no clue of a main break or other major issues. After Mr. Barlow and Mr. Grandrath's shift was over at 6:00 a.m. they immediately reported the incident.

During a follow up email conversation on December 16, 2019, Mr. Barlow confirmed that the pictures Mr. McKay emailed to the undersigned of his exercise mat is the same as the one he observed Mr. McKay sleeping on (attached). Additionally, Mr. Barlow confirmed that Mr. McKay had a blanket covering him when he was sleeping on the mat.

James Grandrath

Mr. Grandrath was interviewed on November 13, 2019. He is a Utility Mechanic for the Water Department. He has worked for the City for ten years and he reports to Water Facilities Superintendent John Palesi.

According to Mr. Grandrath he and Mr. Barlow arrived at the Green Valley plant at 3:00 a.m. to check on the fuel level and the rest of the plant. While doing so, they pulled up next to the Operations window. When they got out of the truck they noticed the light was off and the front door was locked. Mr. Barlow proceeded to unlock the door, and they walked in and looked into the Operations room and saw Mr. McKay sleeping on a mat with a pillow and blanket and his shoes were under the table next to the door. They proceeded to go into the wet lab to check the readings. They then left the inside of the plant locking the door behind them.

Mr. Grandrath said they got back into the truck, closing the doors and backing up with the backup alarms sounding as they drove away from the plant. They noticed at that point that there was still no movement of any kind as they drove around to the reclaim basins.

During a follow up email conversation on December 16, 2019, Mr. Grandrath confirmed that the pictures Mr. McKay emailed to the undersigned of his exercise mat is the same mat he observed Mr. McKay sleeping on. Additionally, Mr. Grandrath confirmed that Mr. McKay had a blanket covering him when he was sleeping on the mat and pillow. Mr. Grandrath stated that he has worked with Mr. McKay roughly 12 times and never heard of him bringing an exercise mat to work.

Nick Rolley

Mr. Rolley was interviewed on November 13, 2019. He is a Utility Mechanic for the Water Department. He has worked for the City for 10 years and he reports to Water Operations Superintendent Joe Abitong.

Mr. Rolley has worked on the same shift with Mr. McKay for the last 10 years. Mr. Rolley was interviewed to help establish whether or not Mr. McKay usually brings his exercise mat to work as he stated when interviewed by the undersigned. Mr. Rolley stated that he has partnered with Mr. McKay on shifts at the Fleming Hill plant since 2010 and he has never seen Mr. McKay bring a mat to work or do any type of exercise.

Additionally, according to Mr. Rolley, Mr. McKay, unlike other WTPO has a preference for the lights to be on because of his vision problems.

When asked what he knew about a sleeping incident that allegedly occurred during the PSPS, Mr. Rolley responded he had not heard anything about a sleeping incident during the PSPS.

Ken McKay

Mr. McKay was interviewed on December 12, 2019. He is a Water Treatment Plant Operator. He has worked for the City for ten years and he reports to Water Operations Superintendent Joe Abitong.

Mr. McKay stated that he received a call on his day off and was asked if he could come in and work the 6 p.m. to 6 a.m. shift at the Green Valley Plant. Mr. McKay said he replied yes to the request. Mr. McKay explained that the Green Valley plant usually runs by itself but because the T1 line was down there was a need to have operators on duty. When asked what he understood his responsibilities to be for that shift, Mr. McKay responded listening for alarms and watching the screen for different processes.

When asked if he went to sleep during his shift, Mr. McKay responded "I do not remember falling asleep or waking up". When asked if he told Mr. Parsons that he was planning on sleeping on the mat, Mr. McKay responded "I do not recall saying that".

Mr. McKay's explanation for having the mat at work was that he regularly brought a yoga mat to work for stretching and that it was an ADA accommodation granted to him as a result of a workplace accident 3 years ago. Additionally, Mr. McKay stated that he had not slept that day at all and was drowsy from taking his prescription medication.

FINDINGS AND DISCUSSION

On October 9, 2019 as the Water Treatment Plant Operator on duty, Mr. McKay demonstrated negligence and willful misconduct by sleeping on duty which directly interfered with his ability to perform the essential functions of the WTPO position.

Furthermore, Mr. McKay going to sleep and leaving the plant unattended could have led to immense harmful implications to water quality and serious detrimental legal implications to the City, such as:

- Equipment failure that might cause the City to violate California Code of Regulation ("CCR") Title 22 (attached).
- Equipment failure that might cause immense repair costs.
- Over-pressurizing pipes that might cause main-line breaks.

- Over-dosing chemicals that might cause the poisoning of consumers.
- Under-dosing of chemicals: that might cause consumer disease outbreaks such as dysentery and giardia.

Sleeping on duty in and of itself while the waste treatment plant is running demonstrates misconduct and failure to perform duties. More significantly, this was not just a simple matter of Mr. McKay nodding off momentarily. Instead, Mr. McKay's misconduct was especially egregious because it is obvious that the sleeping on duty was intentional and planned as is evident by him bringing the mat, pillow and blanket to work on October 9, 2019.

Other aggravating factors include Mr. McKay turned off the lights and locked the door of the plant this is telling of (nesting). Nesting is making a bed or creating a place conducive to sleeping often in a secluded area. Nesting is a deliberate neglect of job duties.

Additionally, Mr. McKay's personnel file contains a signed acknowledgement of Administrative Rule 2.28, **Alcohol and Drug Abuse Policy** (attached). That states employees must:

- Not report to work or be subject to duty while his/her ability to perform job duties is impaired due to on or off duty alcohol or drug use;
- Notify his/her supervisor, before beginning work, when taking any Medications or drugs, prescription or non-prescription, which may interfere with the safe and effective performance of duties or operation of City of Vallejo equipment.

By his own admission, Mr. McKay violated Administrative Rule 2.28 when he knowingly accepted a shift at the Water Treatment Plant while impaired and neglected to notify his supervisor before beginning work that he had taken prescription medication that has the potential side effect of drowsiness.

Mr. McKay was not obligated to accept the shift because overtime is voluntary. However, Mr. McKay chose to volunteer for a shift at the Green Valley Water Treatment Plant that treats sewage water for the purpose of human consumption when he was impaired.

FINDINGS

1. Did Mr. McKay go to sleep while on duty and as a result left the Green Valley Treatment Plant running unattended?

Sustained. The weight of the evidence supports a finding that Mr. McKay did go to sleep while on duty and the Green Valley Treatment Plant was running unattended.

Mr. McKay stated that he does not recall falling asleep or waking up. Which was an indirect response to a direct question, calling into question the credibility of that response.

Furthermore, what is more telling are Mr. McKay's own words that seem to further support the sleeping on duty allegations. For example, Mr. McKay said "I did not sleep all day and I was drowsy from medication". Which is an indication that he was attempting to establish an alibi for sleeping while on duty.

Additionally, witnesses Mr. Barlow and Mr. Grandrath statements were consistent with each other and corroborated that Mr. McKay was asleep and the plant was running unattended.

Did Mr. McKay violate Administrative Rule 2.28 (Alcohol and Drug Abuse Policy)?

Sustained. The weight of the evidence supports a finding that Mr. McKay did violate Administrative Rule 2.28

Mr. McKay volunteered that he was feeling drowsy while on duty as a result of taking his medication. Furthermore, Mr. McKay signed the acknowledgment of having received, understand and agree to abide by Administrative Rule 2.28 that clearly states employees must not report to work or be subject to duty while his/her ability to perform job duties is impaired due to on or off duty alcohol or drug use.

Additionally, Administrative Rule 2.28 states that employees must notify their supervisor, before beginning work, when taking any medications or drugs.

Mr. McKay, did not inform his supervisor that he was feeling drowsy or that he had taken medications that would make him drowsy and therefore unable to safely and effectively operate the Green Valley water treatment plant.

CONCLUSION

Clearly Mr. McKay demonstrated blatant misconduct when he intentional went to sleep and left the plant running unattended. Additionally, Mr. McKay failed to notify his supervisor before beginning work, that he had taken medications that has a side effect of causing drowsiness.

Finally, Mr. McKay deliberately and with premeditation as proved by his making advance arrangements for sleeping and nesting, exposed the plant and residences of Vallejo to a potentially serious safety hazard when he neglected his duties.

RESPECTFULLY SUBMITTED BY:

Doris Papillon-Allen

Doris Papillon-Allen, MHROD
Personnel Analyst II

February 11, 2020

Date

EXHIBIT # 1

RULE 18

SUSPENSION, FINE OR REMOVAL

18.1 Employees Subject To

Every person holding a position in the classified service shall be subject to suspension, fine, demotion or removal from office or employment by the person, board, or commission appointing such persons, for misconduct, incompetency, inefficiency, failure to perform the duties or to observe the rules and regulations of such department, office, board or commission, or for failure to cooperate reasonably with the department head or with his/her fellow employees; subject to the right of the employee to appeal to the Civil Service Commission in the manner set forth in the Charter and these Rules.

18.2 Statement of Reason

Every employee shall be given a written statement of the reason for such suspension, fine, demotion or removal from office or employment at the time of such suspension, fine, demotion or removal. Such statement shall include in itemized form the specific instances in support of such suspension, fine, demotion or removal from office or employment. A copy of such statement shall be delivered to such person or shall be left at his/her last known address.

18.3 Filing of Appeal

Any employee who has been so disciplined shall have five (5) days after service of such written statement within which to file an appeal to the same. A copy of such appeal shall be filed during office hours at the office of the person, board or commission imposing such discipline and the original shall be filed by such employee in the office of the Executive Secretary of the Commission. Should the last day on which an appeal may be filed fall upon a Sunday or holiday the time for filing such appeal shall be extended to include the next following business day.

18.4 Investigation and Hearing Required

The Commission may make, or cause to be made, such investigation as it shall deem necessary and thereafter shall hold a hearing at which time it shall hear evidence for and against such employee. Hearings may be conducted informally and the conclusions shall be made by the Commission within ten (10) days after the matter has been submitted and thereupon the same shall be certified to the official, board or commission from whose order the appeal has been taken. The findings and conclusions of the Commission also may contain such recommendations as said Commission shall deem proper, and shall include the amount of compensation such employee is entitled to receive, if any. Said findings and conclusions of the Commission shall be final.

EXHIBIT # 2

CITY OF VALLEJO
ADMINISTRATIVE RULE

SUBJECT: ALCOHOL AND DRUG ABUSE POLICY

AR Number: 2.28
Date Issued: 6/28/95
Date Effective: 7/1/95
Date Revised: 1/2/96

I. PURPOSE

It is the intention of this policy to eliminate substance abuse and its effects in the workplace. While the City of Vallejo has no intention of intruding into the private lives of its employees, involvement with drugs and alcohol on and off the job can take its toll on job performance and employee safety. Our concern is that employees are in a condition to perform their duties safely and efficiently, in the interests of their fellow workers and the public, as well as themselves. The presence of drugs and alcohol on the job, and the influence of these substances on employees during working hours, are inconsistent with this objective of having employees perform their duties safely and efficiently.

Employees who think they may have an alcohol or drug usage problem are urged to voluntarily seek confidential assistance from the Employee Assistance Program. While the City of Vallejo will be supportive of those who seek help voluntarily, the City will be equally firm in identifying and disciplining those who continue to be substance abusers and do not seek help or continue substance abuse even while enrolled in counseling or rehabilitation programs.

Supervisors will be trained to recognize abusers and become involved in this control process. Alcohol or drug abuse will not be tolerated, and disciplinary action, up to and including termination, will be used as necessary to achieve this goal.

This policy provides guidelines for the detection and deterrence of alcohol and drug abuse. It also outlines the responsibilities of City of Vallejo managers and employees. To that end, the City will act to eliminate any substance abuse (alcohol, illegal drugs, prescription drugs or any other substance which could impair an employee's ability to safely and effectively perform the functions of their job) which increases the potential for accidents, absenteeism, substandard performance, poor employee morale or damage to the Agency's reputation. All persons covered by this policy should be aware that violations of the policy may result in discipline, up to and including termination, or in not being hired.

In recognition of the public service responsibilities entrusted to the employees of the City of Vallejo and that drug and alcohol usage can hinder a person's ability to perform duties safely and effectively, the following policy against drug and alcohol abuse is hereby adopted by the City of

Vallejo.

II. APPLICATION

This policy applies to all employees of and to all applicants for positions with City of Vallejo whose use of alcohol could effect workplace safety or performance of requisite job standards, duties or responsibilities. This policy does not apply to employees covered by a collective bargaining agreement containing an alcohol or drug abuse policy where the collective bargaining provision conflicts with this policy. This policy does not apply to employees in or applicants for positions for which the City cannot legally apply this policy. This policy applies to alcohol and drugs, including all substances, drugs, or medications, whether legal or illegal, which could impair an employee's ability to effectively and safely perform the functions of the job.

III. POLICY

It is City of Vallejo policy that employees shall not be under the influence, or in possession, of alcohol or drugs while on City of Vallejo property, at work locations, or while on duty or subject to being called to duty, and that employees shall not sell or provide drugs or alcohol to any other employee or person while on duty or subject to being called to duty as a result of formally being placed on an "on call" or "standby" status by an appropriate management representative.

While use of validly prescribed medications and drugs does not violate this policy per se, failure by an employee to notify his/her supervisor, before beginning work, when taking medications or drugs which could foreseeably interfere with the safe and effective performance of duties, or the operation of City of Vallejo equipment, can result in discipline up to and including termination. In the event there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medications or drugs, clearance from a qualified physician may be required.

City of Vallejo reserves the right to search for alcohol or impairing drugs, without employee consent, in all areas and property in which the City of Vallejo maintains control or joint control with the employee when there is reasonable suspicion of work-related employee misconduct or when the search is necessary for a non-investigatory work-related purpose. Otherwise, the City may notify appropriate law enforcement agencies that an employee may have illegal drugs in his or her possession or in an area not jointly or fully controlled by City of Vallejo.

Refusal to immediately submit to an alcohol and/or drug analysis when requested by City of Vallejo management or law enforcement personnel, or refusal to submit to a search of personal properties if requested by law enforcement personnel, may constitute insubordination and be grounds for discipline up to and including termination.

Employees reasonably believed to be under the influence of alcohol or drugs shall be prevented from engaging in further work and shall be detained for a reasonable period of time until he or she can be safely transported from the work site. Supervisors or managers must arrange for safe transportation of the employee from the work site. Refusal to refrain from engaging in further work or refusal to be detained until safe transportation can be arranged may constitute insubordination and be grounds for discipline up to and including termination. Under no circumstances shall a supervisor or manager allow an employee to transport himself/herself from a work site.

The City of Vallejo is committed to providing reasonable accommodation to those employees whose drug or alcohol problem classifies them as disabled under federal and/or state law.

The City of Vallejo has established a voluntary Employee Assistance Program (EAP) to assist those employees who voluntarily seek help for alcohol or drug problems. Employees should contact their supervisors, the Department of Human Resources, Risk Management or the EAP for additional information. Supervisors are encouraged to refer employees to the EAP at the earliest sign of any problems.

IV. EMPLOYEE RESPONSIBILITIES

An employee must:

- not report to work or be subject to duty while his/her ability to perform job duties is impaired due to on or off duty alcohol or drug use;
- not possess or use alcohol or impairing drugs, including illegal drugs and prescription drugs without a prescription, during working hours or while subject to duty, on breaks, during meal periods or at anytime while on City of Vallejo property;
- not directly or through a third party sell or provide drugs or alcohol to any person, including any employee, while either or both employees are on duty or subject to being called to duty;
- submit immediately to an alcohol and drug test when requested by City of Vallejo management, supervisory or any law enforcement personnel;
- notify his/her supervisor, before beginning work, when taking any medications or drugs, prescription or non-prescription, which may interfere with the safe and effective performance of duties or operation of City of Vallejo equipment; and
- provide, within 24 hours of request, bona fide verification of a current valid prescription for any potentially impairing drug or medication identified when a drug screen/test is positive, The prescription must be in the employee's name.

V. MANAGEMENT RESPONSIBILITIES AND GUIDELINES

- **Managers and supervisors are responsible for reasonable enforcement of this policy.**
- **Managers and supervisors may request that an employee submit to a drug and/or alcohol test when a manager or supervisor has a reasonable suspicion that an employee is intoxicated or under the influence of drugs or alcohol while on the job or subject to being called. If possible, a second supervisor should be present. When requesting a drug or alcohol test, supervisors or managers should notify their Department Head or designee and the Department of Human Resources as soon as is practicable.**

'Reasonable suspicion' is a belief based on objective facts sufficient to lead a reasonably prudent supervisor to suspect that an employee is under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is impaired or so that the employee's ability to perform his/her job safely is reduced. The number of reasonable suspicion indicators and the compelling nature of the evidence attached to each indicator needs to be assessed in determining whether there is sufficient reasonable suspicion to require a test.

For example, any of the following, alone or in combination, may constitute reasonable suspicion:

- o **Slurred speech;**
 - o **Alcohol odor on breath;**
 - o **Unsteady walking and movement;**
 - o **An accident involving City of Vallejo property, where it appears the employee's conduct is at fault;**
 - o **Physical altercation;**
 - o **Verbal altercation;**
 - o **Unusual behavior;**
 - o **Possession of alcohol or drugs;**
 - o **Information obtained from a reliable person with personal knowledge.**
- **Any manager or supervisor requesting an employee to submit to a drug and/or alcohol analysis should document in writing the facts constituting reasonable suspicion that the employee in question is intoxicated or under the influence of drugs.**
- **Any manager or supervisor encountering an employee who refuses an order to submit to a drug and/or alcohol analysis upon request shall remind the employee of the requirements and disciplinary consequences of this policy.**
- **Where there is reasonable suspicion that the employee is under the influence of alcohol or drugs, the manager or supervisor should arrange for the employee to be safely transported to the drug and alcohol testing site and from the drug and alcohol testing site to home.**

Under no circumstances shall an employee or manager allow an employee who is reasonably believed to be under the influence of alcohol or drugs to transport himself/herself from a work site or from the drug and alcohol testing site.

- Managers and supervisors shall not physically search the person of employees, nor shall they search the personal possessions of employees without the freely given written consent of, and in the presence of, the employee.
- Managers and supervisors shall notify their Department Head or designee and the Department of Human Resources when they have reasonable suspicion to believe that an employee may have illegal drugs in his or her possession or in an area not jointly or fully controlled by City of Vallejo. If the Department Head or designee concurs that there is reasonable suspicion of illegal drug possession, the Department Head shall notify the appropriate law enforcement personnel.

VI. PHYSICAL EXAMINATION AND PROCEDURE

The drug and/or alcohol test may test for any substance which could impair an employee's ability to effectively and safely perform the functions of his/her job, including, but not limited to, prescription medications, alcohol, heroin, cocaine, morphine and its derivatives, P.C.P., methadone, barbiturates, amphetamines, marijuana and other cannabinoids. Attachment "A" describes the method in which the initial test will be conducted, how the sample will be processed after the drug and/or alcohol test is completed, and how a confirmatory test after an initial positive result will be performed.

VII. RESULTS OF DRUG AND/OR ALCOHOL ANALYSIS

A. Pre-Employment Physical

Applicants for positions with the City of Vallejo whose use of drugs and/or alcohol could effect workplace safety or other requisite job standards, duties or responsibilities will be subject to drug and/or alcohol testing as a part of the pre-employment physical examination process. A positive result from a drug and/or alcohol analysis may result in the applicant not being hired.

If a drug screen is positive at the pre-employment physical, the applicant must provide within 24 hours of request bona fide verification of a valid current prescription for the drug identified in the drug screen. If the prescription is not in the applicant's name or the applicant does not provide acceptable verification, or if the drug is one that is likely to impair the applicant's ability to perform the job duties, the applicant may not be hired.

B. During Employment Physical or Alcohol/Drug Tests

A positive result from a drug and/or alcohol analysis may result in disciplinary action, up to and including discharge.

If the drug screen is positive, the employee must provide within 24 hours of request bona fide verification of a valid current prescription for the drug identified in the drug screen. The prescription must be in the employee's name. If the employee does not provide acceptable verification of a valid prescription, or if the prescription is not in the employee's name, or if the employee has not previously notified his or her supervisor, the employee will be subject to disciplinary action up to and including discharge.

If an alcohol or drug test is positive, the City of Vallejo shall conduct an investigation to gather all facts. The decision to discipline or discharge will be carried out in conformance with City of Vallejo disciplinary procedures and Civil Service Rules and Regulations.

VIII. CONFIDENTIALITY

Laboratory reports and test results shall not appear in an employee's general personnel file. Information of this nature will be contained in a separate confidential medical folder that will be securely kept under the control of the Department of Human Resources. The reports or test results may be disclosed to City of Vallejo management on a strictly need-to-know basis and to the tested employee upon request. Disclosures, without patient consent, may also occur when: (1) the information is compelled by law or by judicial or administrative process; (2) the information has been placed at issue in a formal dispute between the employer and employee; (3) the information is to be used in administering an employee benefit plan; and/or (4) the information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure.

Attached: Appendix A


WALTER V. GRAHAM
CITY MANAGER

APPENDIX A

ALCOHOL AND DRUG TESTING PROCEDURES

I. CONTACT

A. Regular Business Hours

When requesting a reasonable suspicion alcohol and/or drug test Monday through Friday during the hours of 8:30 a.m. - 5:15 p.m., supervisors and managers should first contact the Department of Human Resources or Risk Management and their Department Head or designee.

Upon notification of Human Resources and the Department Head, supervisors and managers may contact the number listed below directly to notify the testing site of the need for drug and/or alcohol testing. Supervisors and managers must arrange transportation of the employee to the testing site.

Alcohol and/or drug testing on Monday through Friday during the hours of 8:00 a.m. - 5:00 p.m. will be conducted at Northbay Health at Work, 1200 B. Gale Wilson Drive #107, Fairfield, CA 94533, (707) 429-7701.

B. After Hours

When requesting a reasonable suspicion drug test after regular business hours, the supervisor or manager must call Northbay at (707) 429-7701 and leave a message on the recorder. The message should indicate that you are a City of Vallejo supervisor and are requesting a reasonable suspicion drug test as soon as is possible. You should also include your name, job title, and a number where you can be reached immediately. A Northbay technician is on call 24 hours a day and will return your call within thirty minutes. The technician will arrange to meet the supervisor and employee at Northbay Health at Work, 1200 B. Gale Wilson Drive #107, Fairfield, CA 94533.

When requesting a reasonable suspicion alcohol test after regular business hours, the supervisor or manager must go immediately to the Northbay Medical Center Emergency

Room at 1200 B. Gale Wilson Drive, Fairfield, CA 94533, (707) 429-7833. The Emergency Room staff will contact the Northbay technician.

On the next regular business day, you must notify Human Resources or Risk Management and your Department Head that you have ordered a reasonable suspicion alcohol and/or drug test.

II. CONTROLLED SUBSTANCES TESTING PROCEDURES

Pre-employment and reasonable suspicion testing shall include, but may not be limited to the following controlled substances: marijuana; cocaine; opiates; amphetamines; and phencyclidine (PCP). Although the specimen will not be analyzed specifically for adulterants, the lab may conduct adulteration checks (PH, specific gravity or creatinine). The test may be canceled if adulterants are detected.

A. Specimen Collection Process

1. The collection shall take place in a secure location to prevent unauthorized access during the collection process.
2. The specimen shall be kept in sight of the employee and the collection site person until it is sealed and ready for shipment.
3. Employees and applicants shall have individual privacy when providing a specimen except when:
 - a) The employee or applicant presents a specimen that is outside the accepted temperature range and he/she refuses to have an oral body temperature measurement, or the body temperature measurement varies more than 10 C OR 1.80 F from the specimen temperature.
 - b) The collector observes the employee or applicant attempting to adulterate or substitute the specimen.
 - c) The employee's last provided specimen was determined to be diluted.
 - d) The employee has previously had a verified positive test.

In a. and b. above, the employee or applicant must provide a specimen under direct observation. In c. and d. above, the employer may require a direct observation collection.

4. The following specific procedures will be followed during the collection process:
 - a) The donor must submit identification to the collector. The collection shall not proceed until a positive identification is made.
 - b) The donor will not be required to undress, or to change into an examination gown. Only outer garments should be removed, i.e., jackets.
 - c) The donor shall be asked to wash his/her hands prior to urination, and shall not have access to any water sources until the specimen has been collected.
 - d) A bluing agent shall be added to the toilet bowl and the donor may flush the toilet only after releasing the specimen to the collector. Chemical toilets and toilets where the water supply has been turned off do not apply.
 - e) The specimen must be at least 45 ml to be acceptable.
 - f) The collector must measure the specimen temperature within four minutes of urination to determine sample acceptability.
5. The specimen shall be divided into two parts. The collector shall pour 30 ml of urine from the specimen bottle into a second specimen bottle, to be used as the primary specimen. The remainder of the urine, at least 15 ml, shall be poured into another container to be used as the "split sample".
6. Both samples shall be shipped in a single shipping container with the appropriate chain of custody forms.
7. The collector and donor must be present together to complete the following process:
 - ◇ Seal and label the specimen bottles.
 - ◇ Donor initials the bottle labels or seals.
 - ◇ The chain of custody forms must be signed and dated.
8. If an employee or applicant refuses to cooperate with the collection process the collector shall notify the employer representative and note the non-cooperation on the custody and control form.

B. Inability to provide an adequate urine sample

If the donor cannot provide a sufficient volume of urine, he/she shall remain at the collection site and be provided not more than twenty-four ounces of fluids to drink. The donor shall have a

period of up to two hours to produce an acceptable sample, using a fresh collection container.

The original insufficient specimen shall be discarded. If the employee is still unable to provide an adequate specimen, the insufficient specimen shall be discarded, testing discontinued, and the employer so notified.

The MRO shall refer the individual for a medical evaluation to develop pertinent information concerning whether the individual's inability to provide a specimen is genuine or constitutes a refusal to test (In pre-employment testing, if the employer does not wish to hire the individual, the MRO is not required to make such a referral.). Upon completion of the examination, the MRO shall report his or her conclusions to the employer in writing.

If the donor is unable to produce a sample without a valid medical reason the employer shall consider the circumstance to be a refusal to test.

C. Split Sample

1. If the test result of the primary specimen is positive, an employee may request that the MRO direct that the split specimen be analyzed.
2. The split sample analysis will be conducted by a laboratory who will analyze the sample for presence of the drug(s) for which a positive result was obtained in the primary sample.
3. If the result of the test of the split sample fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, the MRO shall cancel the test and report the cancellation to The Employer.
4. With all positive drug tests, the MRO will first contact the employee to determine if there is an alternative medical explanation for the positive result. If documentation is provided and the MRO determines that there was a legitimate medical use for the prohibited drug, the test result may be reported to the City as "negative." After the MRO notifies the employee of a positive result for the presence of a drug(s) in the primary sample, the employee has up to seventy-two hours to request analysis of the split sample.

III. ALCOHOL TESTING

A. Testing Procedures

Alcohol testing will be conducted only on a reasonable suspicion basis. Applicants for employment will normally not be required to undergo alcohol testing.

1. The test shall take place in a secure location that affords visual and aural privacy to prevent unauthorized persons from seeing or hearing test results.
2. When an employee enters the testing location, the BAT will require him/her to provide positive identification. The test shall not proceed until positive identification of the employee is made.
3. An individually-sealed mouthpiece shall be opened in view of the employee and then attached to the testing unit.
4. The employee shall be required to blow forcefully into the mouthpiece for at least six seconds or until an adequate amount of breath has been obtained.
5. The employee shall be shown the result both on the testing unit and the recording form. The employee shall verify both results are the same. If a result printed by the testing unit does not match the displayed result, the BAT shall declare the test invalid.
6. If the result of the screening test is less than 0.02 breath alcohol concentration no other testing will be conducted.
7. If the result of the screening test reflects an alcohol concentration of 0.02 or greater, a confirmation test shall be performed.
8. Prior to conducting the confirmation test the employee may not eat, drink, or place anything in his/her mouth. If possible, the employee should not belch during the waiting period. The confirmation test shall be conducted no less than fifteen minutes and no more than twenty minutes from the screening test.
9. The fifteen minutes waiting period is provided for the employee's benefit. This time period allows for the dissipation of any mouth alcohol, thereby helping to prevent an artificially high reading.
10. In the event the screening and the confirmation test results do not match, the confirmation results will be considered the final results.
11. If the employee refuses to sign the breath alcohol testing form or fails to provide an adequate amount of breath without a valid medical reason, the employer may determine the circumstance to be a refusal to test.

B. Inability to Provide Adequate Breath

1. If the employee fails to provide an adequate amount of breath he/she shall provide the employer with an evaluation from a licensed physician, who is acceptable to the employer, concerning the employee's medical ability to provide adequate breath.
2. If the physician determines there is a valid medical reason precluding the employee from providing adequate breath then the employee's failure shall not be deemed a refusal to test.
3. If the physician is unable to determine a valid medical reason, the employee's failure to provide adequate breath shall be considered a refusal to test.

EXHIBIT # 3

Doris Papillon-Allen

From: Mike Malone
Sent: Tuesday, October 15, 2019 4:56 PM
To: Doris Papillon-Allen
Subject: FW: 10/9/19 PSPS Green Valley Plant

From: Joe Abitong
Sent: Tuesday, October 15, 2019 4:55 PM
To: Mike Malone <Mike.Malone@cityofvallejo.net>
Subject: Fwd: 10/9/19 PSPS Green Valley Plant

Sent via the Samsung Galaxy S8, an AT&T 5G Evolution capable smartphone

----- Original message -----

From: Jacob Parsons <Jacob.Parsons@cityofvallejo.net>
Date: 10/15/19 4:24 PM (GMT-08:00)
To: Joe Abitong <Joe.Abitong@cityofvallejo.net>
Cc: John Palesi <John.Palesi@cityofvallejo.net>, Jacob Barlow <Jacob.Barlow@cityofvallejo.net>
Subject: 10/9/19 PSPS Green Valley Plant

Good afternoon Joe.

I am giving you my account of what I saw at the Green Valley Treatment Plant Thursday night during the PSPS.

I went to the Green Valley Plant around 10:30-11PM 10/9. Ken was sitting at the operations desk and the plant was operating normally. He had a sleeping mat and pillow on the floor in the operations room. I asked him if he was planning to sleep on that during the night. He replied that he would, and jokingly asked me if anyone would see him sleeping if someone visited the plant during the night. I said yes, checked out the generator and fuel tank, then left.

If you have any more questions, don't hesitate to ask.

Jacob Parsons
Instrument Technician I
City of Vallejo | Water Department
(707) 315-2512 | Jacob.Parsons@cityofvallejo.net



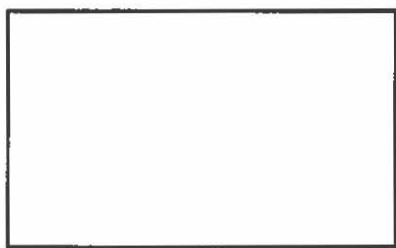
Jacob Parsons 11/13/19

EXHIBIT # 4

On 10/9 while making inspection rounds, Jacob Parsons visited GWWTP at approximately 22:30. He noted that Ken McKay the operator at the plant had a mattress and pillow on the floor of the control room. McKay was awake and operating the plant with no issues.

Later on at approximately 03:00 on 10/10 James Grandrath and myself visited GWWTP. We first checked at the SID pump station and then headed up to the plant. I noticed the door was locked and the control room lights were off. I unlocked the door and entered to find Ken McKay sleeping on the floor while the plant was operating. I proceeded to bring in James to witness it. I wasn't quiet and he never awoke, I didn't enter the control room. I proceeded to go outside and lock the door.

Not only did this bother me because the plant was operating, but the T1 line was down at this point and there was no way to remotely monitor the plant or distribution. We would have had no clue of a main break or other major issue.



Jacob Barlow

Acting Senior Instrument Technician

202 Fleming Hill Rd.

Vallejo, CA 94589

City of Vallejo | Water Department

(707) 648-4307 | (707) 333-0465 jacob.barlow@cityofvallejo.net

EXHIBIT # 5

Doris Papillon-Allen

From: Mike Malone
Sent: Tuesday, October 15, 2019 4:55 PM
To: Doris Papillon-Allen
Subject: FW: GVTP 10/8/19

From: Joe Abitong
Sent: Tuesday, October 15, 2019 4:54 PM
To: Mike Malone <Mike.Malone@cityofvallejo.net>
Subject: Fwd: GVTP 10/8/19

Sent via the Samsung Galaxy S8, an AT&T 5G Evolution capable smartphone

----- Original message -----

From: James Grandrath <James.Grandrath@cityofvallejo.net>
Date: 10/15/19 3:41 PM (GMT-08:00)
To: Joe Abitong <Joe.Abitong@cityofvallejo.net>, "Kevin J. Brown" <Kevin.Brown2@cityofvallejo.net>
Cc: John Palesi <John.Palesi@cityofvallejo.net>
Subject: GVTP 10/8/19

This email is in regards to what was seen as the Green Valley Water Treatment Plant on October 8, 2019.

The first thing that was seen by Jacob Parsons around 10:30 pm was a bed roll and a pillow on the floor in the Operations area. Ken was asked if he was planning on using them overnight and he answered yes and then asked if someone was going to come up later and see him sleeping on it.

Around 3 am Jacob Barlow and myself went to go check on the fuel level and the rest of the plant. While doing so, we pulled up next to the Operations window. Getting out of the truck and closing the doors of the truck we noticed the light was off and the front door was locked. Jacob Barlow proceeded to unlock the door and we walked in and we looked in to the Operations room and saw Ken sleeping on his bed roll and his shoes were sitting under the table next to the door. We proceeded to go into the wet lab and check the readings. We then left the inside of the plant locking the door. We got back into the truck, closing the doors and backing up, with the backup alarms sounding, leaving the plant. We noticed at that point that there was still no movement of any kind as we went around to the reclaim basins.

Sent via the Samsung Galaxy S7, an AT&T 4G LTE smartphone



1 11. 13-19

EXHIBIT # 6

Doris Papillon-Allen

Subject: FW: Green Valley.

From: Kenneth McKay [<mailto:Kenneth.McKay@cityofvallejo.net>]

Sent: Tuesday, November 05, 2019 11:16 PM

To: Joe Abitong <Joe.Abitong@cityofvallejo.net>; Kevin J. Brown <Kevin.Brown2@cityofvallejo.net>

Cc: kennethwmckay@gmail.com

Subject: Green Valley.

I found out today, that while I was at Green Valley on 10/11 ? during the power outage someone came by at 0300

and reported I was sleeping,I dont recall anyone coming by nor do I recall sleeping.

If I dozed off,I dont know why I wasn't woken up, I don't know why it required an administrative investigation .

If I did doze off I do apologize and will not let it happen again I will try and keep our image in operations good.

There are some mitigating circumstances, I was still on the day shift and did not sleep that day, and as I recall I didn't get the call to come in until late afternoon.

I am also taking a medication for my back injury that makes me drowsy.I will talk to my doctor and see if any adjustments in meds need to be made.

As my job that night was only to monitor the plant it is possible that I did get drowsy and doze off next time I will make busy work to keep from getting drowsy, however like I said I dont recall falling a sleep nor was it my intention to sleep.I do find it worrisome that this was forwarded to HR for an investigation,and not to my Supervisors to clear up.

Once again I do apologize if I did doze off and will do better next time.I will also do my best too keep the image of operations high.

Kind Regards,

Ken McKay

Water Treatment Plant Operator 3

202 Fleming Hill Rd

Vallejo CA,94589

707 553 7252

EXHIBIT # 7

Business Rep
Local 1245, IBEW
#D201743
(707)761-1948

CONFIDENTIALITY NOTICE: This e-mail may contain privileged information including confidential information that was shared in the course of seeking contractual advice. If you have received this message by mistake, please notify us immediately by replying to this message or telephoning us at the above number. Do not review, disclose or distribute the message. Thank you (hlvs)

From: Kenneth McKay <Kenneth.McKay@cityofvallejo.net>
Sent: Thursday, December 12, 2019 9:01 PM
To: Doris Papillon-Allen <Doris.Allen@cityofvallejo.net>
Cc: Aaron Cano <Aaron.Cano@cityofvallejo.net>; Macor, Janval <JVM6@IBEW1245.com>
Subject: RE: Photos of yoga mats

Here's my black trifold mat.





Kind Regards,
Ken McKay
Water Treatment Plant Operator 3
202 Fleming Hill Rd
Vallejo CA, 94589
707 553 7252

State of California

HEALTH AND SAFETY CODE

Section 106877

106877. (a) The state board may suspend, revoke, or refuse to grant or renew any water treatment operator certificate to operate a water treatment plant or may place on probation or reprimand the certificate holder upon any reasonable grounds, including, but not limited to, any of the following:

(1) The submission of false or misleading information on an application for a water treatment operator certificate or an examination for a water treatment operator certificate.

(2) The use of fraud or deception in the course of operating a water treatment plant or a water recycling treatment plant.

(3) The failure to use reasonable care or judgment in the operation of a water treatment plant or a water recycling treatment plant.

(4) The inability to perform operating duties properly in a water treatment plant or a water recycling treatment plant.

(5) Engaging in dishonest conduct during an examination for a water treatment operator certificate.

(6) The conduct of willful or negligent acts that cause or allow the violation of the federal Safe Drinking Water Act (Subchapter XII (commencing with Section 300f) of Chapter 6A of Title 42 of the United States Code), the California Safe Drinking Water Act (Chapter 4 (commencing with Section 116270) of Part 12), or the regulations and standards adopted pursuant to either act.

(7) Willfully or negligently violating or causing or allowing the violation of waste discharge requirements or permits issued pursuant to the Clean Water Act (33 U.S.C. Sec. 1251 et seq.) or the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code) while operating a water recycling treatment plant.

(b) The state board may suspend, revoke, or refuse to grant or renew any water distribution operator certificate to operate a water distribution system or may place on probation or reprimand the certificate holder upon any reasonable grounds, including, but not limited to, any of the following:

(1) The submission of false or misleading information on an application for a water distribution operator certificate or an examination for a water distribution operator certificate.

(2) The use of fraud or deception in the course of operating a water distribution system.

(3) The failure to use reasonable care of judgment in the operation of a water distribution system.

(4) The inability to perform operating duties properly in a water distribution system.

(5) Engaging in dishonest conduct during an examination for a water distribution operator certificate.

(6) The conduct of willful or negligent acts that cause or allow the violation of the federal Safe Drinking Water Act (Subchapter XII (commencing with Section 300f) of Chapter 6A of Title 42 of the United States Code), the California Safe Drinking Water Act (Chapter 4 (commencing with Section 116270) of Part 12), or the regulations and standards adopted pursuant to either act.

(c) Prior to suspension or revocation of a valid operator certificate, the state board shall provide the certificate holder with an opportunity for a hearing before the state board, in accordance with rules adopted pursuant to Section 185 of the Water Code.

(Added by renumbering Section 106876 by Stats. 2016, Ch. 305, Sec. 2. (AB 2890) Effective January 1, 2017.)



555 Santa Clara Street – Vallejo CA 94590

June 10, 2020

TO: Mike Malone, Director, Water Department
Heather Ruiz, Director, Human Resources Department
Doris Papillon-Allen, Human Resources Analyst

FROM: Daryl C. Arbuthnott, Fire Chief, Vallejo Fire Department
Skelly Hearing Officer

SUBJECT: **SKELLY HEARING FINDINGS – KENNETH MCKAY**

On June 10, 2020, at approximately 1105 hours, a Skelly Hearing requested by Mr. Kenneth McKay was held in response to a proposed 5-Day suspension. Mr. McKay was represented by Mr. Janval "JV" Macor, IBEW representative. The meeting was held in person at 970 Nimitz Avenue, Mare Island, Vallejo at the Vallejo Fire Department's Headquarters.

The intent of this Skelly Hearing was to allow Mr. McKay an opportunity to respond orally and/or in writing to the recommendation that he receive a 5-Day suspension based upon the charges of failing to adhere to City of Vallejo, Administrative Rule 2.16 – Use of City Vehicles, *"operate a City vehicle and privately owned vehicles on City business, in a reasonable safe, and law abiding manner."*

Skelly Hearing Officer's Decision

Based upon careful review of the "Notice of Intent to Suspend", Mr. McKay's investigation packet; verbal response and additional documents (attached) provided during the Skelly meeting; and the review of his history of discipline included in the proposed disciplinary packet, the following recommendations are respectfully submitted below:

It is recommended that Mr. McKay's discipline be reduced to a 1-Day Suspension from his duties with the City of Vallejo, Water Department for his failure to report his use of a prescribed medication prior to reporting to work. Knowing he had already taken prescribed medication, Mr. McKay agreed that he had the option of declining the overtime shift or the responsibility of informing his supervisor prior to accepting the shift.

Statement Summary

The follow summarizes statements and/or information provided in the Skelly Hearing in support of the decision rendered above:

- 1) The allegation of sleeping while on duty cannot be sufficiently substantiated due to the fact that the witnesses failed to approach and awaken Mr. McKay, thereby verifying that he was actually sleep. The portion of the complaint regarding if Mr. McKay was asleep or not could have easily been resolved by the witnesses engaging Mr. McKay at that moment.
- 2) Additionally, Mr. McKay provided documentation stating that he officially requested the City's Interactive Process to discuss his ability to use his personal exercise/stretching equipment during break time, supporting the reason for the presence of a yoga mat.
- 3) When asked, "What would you do differently if given the same circumstances", Mr. McKay replied, he would have informed his supervisor he had taken prescription medication and would have left the lights on in the room.
- 4) Mr. McKay believed the cause of the incident and resulting complaint was entirely cause by the complainant's actions and that he was only reacting to the situation.

All of Mr. McKay's statements, documentation and Skelly packet were considered in the final decision. Additionally, Mr. McKay's statements during the initial investigation were found to be non-disputable.

Skelly Hearing – Kenneth McKay

June 10, 2020

Page 3

Conclusion

It is the opinion of this Skelly Hearing Officer that Mr. McKay's statements were non-disputable and plausible given that this complaint mainly hinged on witness statements.

A handwritten signature in black ink, appearing to read 'DCA', written over a horizontal line.

Daryl C. Arbuthnott, Fire Chief
Skelly Hearing Officer

Skelly Hearing Attachments:

City of Vallejo – Interactive Process Meeting (12/13/2018)

City Email – Author Kenneth McKay – (3/30/2020)

Kaiser Permanente Doctor's Note - (4/9/2020)

Travis Water Treatment Plant – Operations Work Schedule – (12/12/2018)



Interactive Process Meeting

Employee: Ken McKay

Location: Finance Conference Room

Date: 12/13/18

The following items were discussed during this interactive meeting.

- Purpose of the Interactive Meeting
- QME Report/ Permanent & Stationary
- Classification – Water Treatment Plant Supervisor
- Request for Exercise Equipment
- Next Steps

Meeting Participants

Ken McKay, Employee

Signature: 

JV Macor, Union Rep

Signature: 

Mike Malone, Water

Signature: 

Sarah Brannick, Human Resources

Signature: 

Maili Madsen, Risk Management

Signature: 

Purpose of Interactive Meeting

This reasonable accommodations meeting was scheduled at the request of Mr. McKay. He is requesting a sit/stand station at Flemming Hill, and the ability to use his own personal exercise/stretching equipment during break time.

As background, the employer is engaging with this employee in accordance with requirements under Title I of the Americans with Disabilities Act (ADA) and the Fair Employment and Housing Act (FEHA). Under these laws, the employer is essentially required to do the following:

1. Engage in a timely, good faith interactive process with employees or applicants who are requesting or are in need of reasonable accommodations.
2. Provide reasonable accommodation for employees or applicants who, because of their disability, are limited in or unable to perform one or more of the essential functions of their job.

An accommodation is deemed reasonable under the law if it will support you in performing the essential functions of your position; does not impose a significant difficulty or expense on your employer; and does

Reduest for Exercise Equipment

Mr. McKay is allowed to use exercise equipment during his breaks, as is any other employee, with the understanding that it will not impede with the water plant's operations.

- The equipment can be used in the filter gallery.
- The equipment may be stored in either Mr. McKay's personal vehicle or in the filter gallery.
- Because break times are flexible, Mr. McKay will be respectful of other employees who may be working during Mr. McKay's break time.

Next Steps

- Mr. McKay will provide Risk the riser he has in mind and Ms. Madsen will work with the department to make sure it will fit in the space provided.
- Ms. Madsen will follow up with the department on making sure the current sit/stand at Travis is fixed with the appropriate bolts.
- Ms. Madsen will send a follow up email to all parties when these two issues are resolved.
- If/when Mr. McKay is assigned to another plant, the interactive process will be reinitiated to ensure that Mr. McKay is accommodated at the next location.

Re: Yoga Mat

Bernie Ortega

Mon 3/30/2020 3:49 PM

To: Kenneth McKay <Kenneth.McKay@cityofvallejo.net>;

Hi Ken, I do remember seeing two yoga mats in that room the whole summer, one of the mat is still in there. Can you check the room and tell me if you know who that one belongs too. Thanks, Ken

From: Kenneth McKay <Kenneth.McKay@cityofvallejo.net>

Date: Monday, March 30, 2020 at 3:11 PM

To: Bernie Ortega <Bernie.Ortega@cityofvallejo.net>

Subject: RE: Yoga Mat

Hi Bernie, I will take a pic of it when I get home. More importantly then making a note that it belongs to me is to just verify that I had one here at Travis while you were here on the shift beginning in July and ending 10/11/2019 remember that's when I inadvertently grabbed Mike G's because we both had one here? I will remind Darryl. Ty

Kind Regards,
Ken McKay
Water Treatment Plant Operator 3
202 Fleming Hill Rd
Vallejo CA, 94589
707 553 7252

From: Bernie Ortega
Sent: Monday, March 30, 2020 2:29 PM
To: Kenneth McKay
Subject: Re: Yoga Mat

Ken,
Can you take a snap shot of the yoga mat that belongs to you, and tonight I'll make a note that it belongs to you. Can you please tell Darryl on your turn over, I'll be at Travis later to get some numbers and send off a PDF

From: Kenneth McKay <Kenneth.McKay@cityofvallejo.net>
Date: Monday, March 30, 2020 at 2:26 PM
To: Bernie Ortega <Bernie.Ortega@cityofvallejo.net>
Subject: Yoga Mat

Hi Bernie, will you do me a favor and verify I have brought my Yoga Mat to work while at Travis. Remember the one I had in the instrument closet along with Mike Gosherts. It was in there for my use the whole time I was at Travis. Just a short note saying so. Thanks Bernie.



MA ADELMA SIGUA PUNO MD
1550 Gateway Blvd
Fairfield , CA 94534

04/09/2020

Re: Kenneth McKay
DOB: 10/4/1964

To Whom It May Concern:

This letter is being written at the request of Mr McKay.

Mr. Kenneth McKay is under my medical care. Among his regular medicines is duloxetine which he has been on for a while and has not caused him drowsiness nor any impairment in his daily activities.

If you have any questions, please do not hesitate to call me at our office number above.

Sincerely,

Ma Adelma S Puno, MD

TRAVIS WATER TREATMENT PLANT
OPERATIONS WORK SCHEDULE

12/12/18

PAGE 40

WEEK 2

SHIFT NAME	5-Oct SATURDAY	6-Oct SUNDAY	7-Oct MONDAY	8-Oct TUESDAY	9-Oct WEDNESDAY	10-Oct THURSDAY	11-Oct FRIDAY
A-1 MCKAY				\$ 06 - 18	\$ 06 - 18		
B-1 ORTEGA	\$ 06 - 18	\$ 06 - 18	\$ 06 - 14		\$ 06 - 18	\$ 06 - 18	\$ 06 - 18
C-1 MORRIS				\$ 18 - 06	\$ 18 - 06		
D-1 GOSHERT	\$ 18 - 06	\$ 18 - 06	\$ 22 - 06		\$ 18 - 06	\$ 18 - 06	\$ 18 - 06
			\$ 14 - 22 Rolley				
Supv				07 - 17	07 - 17	07 - 17	07 - 17

Notes: Overtime hours on Saturdays & Sundays (1400 - 1800 and 1800 - 2200) are open shifts normally covered by a relief operator. * = Meal allowance

This entire work schedule is subject to change. Shift assignment and plant reporting location may also change as needed.

Shift Turnover Time: TOT1= 0550-0600, TOT2= 1750-1800. A "\$" symbol indicates early reporting for shift turnover/debriefing.

I was still on day shift, I take my medicine at the same time every day on awakening around 0445 in the morning



Water Facilities Superintendent

Class Code:
00710

CITY OF VALLEJO
Revision Date: Apr 27, 2016

SALARY RANGE

\$49.45 - \$60.11 Hourly
\$3,956.07 - \$4,808.64 Biweekly
\$8,571.49 - \$10,418.72 Monthly
\$102,857.87 - \$125,024.64 Annually

DEFINITION:

DEFINITION

Plans, prioritizes, organizes and supervises the maintenance and repair of all water treatment plants and storage systems, facilities and equipment; supply reservoirs, wells, pump stations, and City-owned watershed property; supervises the work of assigned staff; performs related work as assigned.

SUPERVISION RECEIVED AND EXERCISED

Receives direction from the Water Superintendent.

Exercises direct supervision over maintenance staff.

EXAMPLES OF DUTIES:

EXAMPLES OF IMPORTANT RESPONSIBILITIES AND DUTIES - Important responsibilities and duties may include, but are not limited to, the following:

Plans, organizes, schedules and coordinates the maintenance and repair of mechanical, electrical, instrumentation and control systems and equipment for water treatment plant, pump stations, and storage facilities.

Assigns, supervises, reviews and evaluates the work of plant and watershed maintenance staff; develops and implements work standards and procedures; provides for staff training and development; inspects work performed.

Personally performs skilled installation, maintenance and repair work on plant mechanical, electrical, electronic, hydraulic and related systems and equipment.

Designs and implements a preventative maintenance program; assists in the development and implementation of policies and procedures to ensure compliance with regulatory guidelines and standards.

Provides technical assistance to staff in resolving difficult and complex repair and maintenance problems; reads and interprets plans, specifications, blueprints and schematics.

Estimates labor, material and equipment costs for maintenance programs and activities; assists in budget planning and monitors expenditures; orders and maintains adequate inventories.

Prepares and maintains a wide variety of reports and records related to plant maintenance programs and personnel.

Coordinates repair and maintenance work with other City water system sections and contractors; inspects contract work for compliance with specifications.

Ensures the observation of safe work methods and safety precautions related to the work.

Participate in the preparation and administration of the assigned budget; submit budget recommendations; and, monitor expenditures.

Perform related duties and responsibilities.

KNOWLEDGE AND ABILITIES:

QUALIFICATIONS

Knowledge of:

Operations, services and activities of a water treatment system.

Principles of supervision, training and performance evaluation.

Occupational hazards and standard safety precautions necessary in the work.

Principles and procedures of record keeping and reporting.

Basic principles of municipal budget preparation and control.

Materials, methods, practices and equipment used in maintenance of electrical and electronic equipment, pumps, valves, internal combustion engines, instrumentation, and other mechanical and electrical systems on municipal treatment facilities.

Principles and practices of mechanics, electronics and instrumentation.

Functions and purposes of water treatment systems.

Principles and practices necessary in the operation of water treatment plants including the operation and maintenance of plant machinery.

Ability to:

Supervise, organize, and review the work of maintenance personnel.

Select, supervise, train and evaluate staff.

Interpret and explain City and departmental policies and procedures.

Maintain accurate records and prepare clear and concise reports.

Develop maintenance schedules.

Operate and maintain water treatment system machinery and equipment.

Perform responsible and difficult work involving the use of independent judgment and personal initiative.

Read and understand engineering plans and specifications, blue prints and ladder diagrams.

Make routine repairs and adjustments to telemetry equipment, motors, pumps and other equipment.

Read meters and gauges correctly and to act quickly and competently.

Ensure facility compliance with Federal, State and local rules, laws and regulations.

Communicate clearly and concisely, both orally and in writing.

Establish and maintain effective working relationships with those contacted in the course of work including City officials and the general public.

MINIMUM QUALIFICATIONS:

Experience and Training Guidelines

Experience:

Five years of journey level experience in the operation of water treatment systems, including three years of lead supervisory responsibility.

Training:

A High School Diploma or G.E.D. Satisfactory completion supplemented by specialized training in industrial electronics and mechanics or a related field.

License or Certificate

Possession of, or ability to obtain, an appropriate, valid driver's license.

Possession of, or ability to obtain, a Grade III Water Distribution certificate issued by the State of California.



Utility Mechanic II

Class Code:
02653

CITY OF VALLEJO

Established Date: Nov 10, 2008

Revision Date: Mar 1, 2011

SALARY RANGE

\$28.21 - \$34.29 Hourly
\$2,256.75 - \$2,743.09 Biweekly
\$4,889.62 - \$5,943.36 Monthly
\$58,675.39 - \$71,320.34 Annually

DEFINITION:

To make minor and major repairs to a variety of utility systems and mechanical equipment including pumps, motors, lift stations, and related facilities; and to assist other departments with mechanical systems as required.

DISTINGUISHING CHARACTERISTICS

This is the full journey level class within the Utility Mechanic series. Employees within this class are distinguished from the Utility Mechanic I by the performance of the full range of duties as assigned including all inspection, diagnosing, locating and repairing mechanical difficulties on a variety of electro-mechanical equipment including water pumps, internal combustion engines, generators, chemical feed systems, and pneumatic and regulator-controlled pressure systems; as well as repairing, overhauling, or rebuilding pumps valves, motors, meters, tank and reservoirs, and performing design, welding, fabricating, installation and maintenance duties.

SUPERVISION RECEIVED AND EXERCISED

Receives general supervision from more experienced staff, supervisory and management staff.

May provide technical and functional work direction to less experienced staff.

EXAMPLES OF DUTIES:

In addition to the duties for Utility Mechanic I:

Essential Duties:

Rig and lift heavy and oversized loads.

Design, weld, fabricate, and assemble parts and equipment for City electro-mechanical equipment as required.

Coordinate with other departments for the repair of equipment as required.

KNOWLEDGE AND ABILITIES:

In addition to the knowledge and abilities established for Utility Mechanic I:

Knowledge of:

Principles and procedures of hydraulic systems high-pressure air systems, and high-pressure water systems.

Operating and repair characteristics of a wide variety of electro-mechanical, pumping, and treatment equipment used in water utility systems.

Ability to:

Perform journey level electro-mechanical work including the diagnosing, trouble-shooting, fabricating, and repair of utility equipment.

Diagnose, disassemble, repair, and rebuild electro-mechanical equipment used in water treatment and distribution.

Accurately determine electro-mechanical repair needs and estimate the cost and time of repairs

Perform preventative maintenance on electro-mechanical equipment as required.

Apply good judgment and practical knowledge to resolve unusual or irregular problems in the area of work assigned.

Respond to emergency call outs.

MINIMUM QUALIFICATIONS:

Experience:

Two years of experience performing minor and major equipment repair duties involving maintenance of electro-mechanical equipment equivalent to that of Utility Mechanic I with the City of Vallejo.

Training:

Formal or informal education or training which ensures the ability to read and write at a level necessary for successful job performance including specialized training in maintenance and repair of electro-mechanical equipment.

License or Certificate:

Possess and maintain an appropriate, valid California driver's license and have a safe driving record.

Possess and maintain a Water Distribution Operator Grade D 1 issued by the State Water Quality Control Board throughout employment in this class.

WORKING CONDITIONS:

Travel from site to site; exposure to high voltage and heights; lifting, climbing, and stooping.



Water Department

MISSION

To provide our customers reliable, high quality water services in a fiscally responsible and environmentally sustainable manner.

VALUES

CUSTOMER SERVICE

We provide our customers with excellent service every day.

INTEGRITY and TRUST

We are ethical, honest, trustworthy, and accountable for our actions.

CONTINUOUS IMPROVEMENT

We continuously evaluate and improve our systems and operations and embrace new technology and practices to be better tomorrow than we are today.

TEAMWORK and PROFESSIONALISM

We collaborate, respect, and support each other and act with loyalty towards a shared vision.

EXCEPTIONAL EMPLOYEES

Our employees are our most valuable resource. We develop, enhance, and retain an exceptional, diverse, and professional workforce.

QUALITY COMMUNICATION

We maintain clear, open, direct, and timely communication.

COMMUNITY ENGAGEMENT

By engaging, seeking input, and giving back to our community, we are valued and respected.

PREPAREDNESS

We protect our resources and assets by planning and preparing for future challenges and opportunities.



Water Department

VISION

To be a respected leader in municipal water resources.

STRATEGIC GOALS

PUBLIC TRUST

Build and maintain public confidence and understanding through communication, delivery of quality services, responsive customer service, and compliance with environmental regulations.

INFRASTRUCTURE RELIABILITY

Deliver reliable services through proactively maintaining our infrastructure assets and reducing system vulnerability over the long term at the lowest possible life-cycle cost.

SUSTAINABILITY

Plan for current and future generations by protecting, preserving and enhancing water resources, the environment, and the community.

ORGANIZATIONAL PERFORMANCE

Develop and retain a competent, collaborative, and adaptable workforce in an organization that demands accountability and innovation, and ensures cost-effective operations.

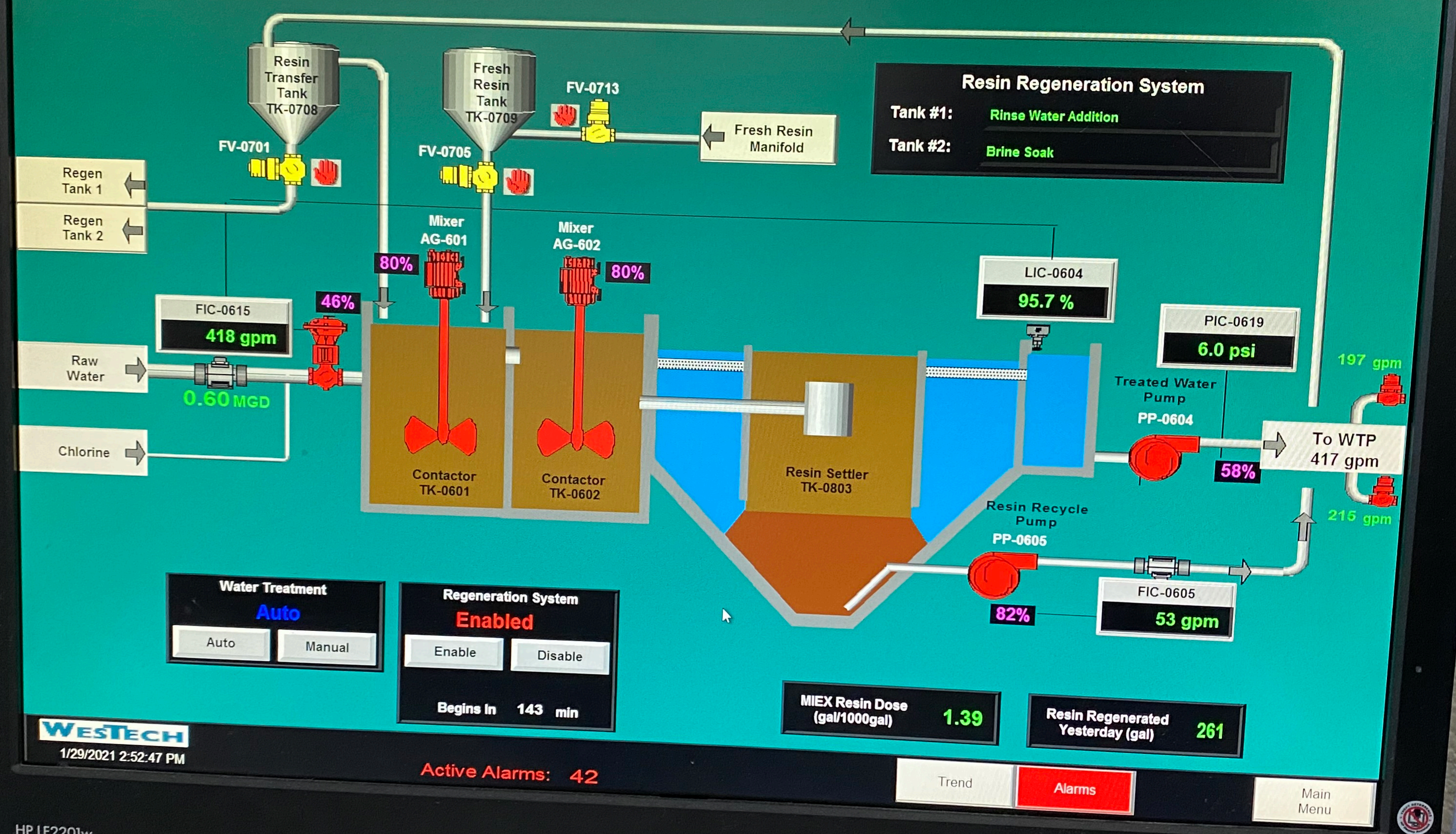
FINANCIAL VIABILITY

Maintain a sustainable financial structure that responsibly invests in infrastructure, ensures full cost recovery and appropriate reserves, and optimizes financial resources.





MIEX System Overview



HP LE2201w



-----Original Appointment-----

From: Doris Papillon-Allen

Sent: Thursday, June 18, 2020 2:30 PM

To: Doris Papillon-Allen; Mark Love; Meera Bhatt; Mike Malone

Subject: HR Matter

When: Thursday, June 18, 2020 4:00 PM-5:00 PM (UTC-08:00) Pacific Time (US & Canada).

Where: Doris will connect the call

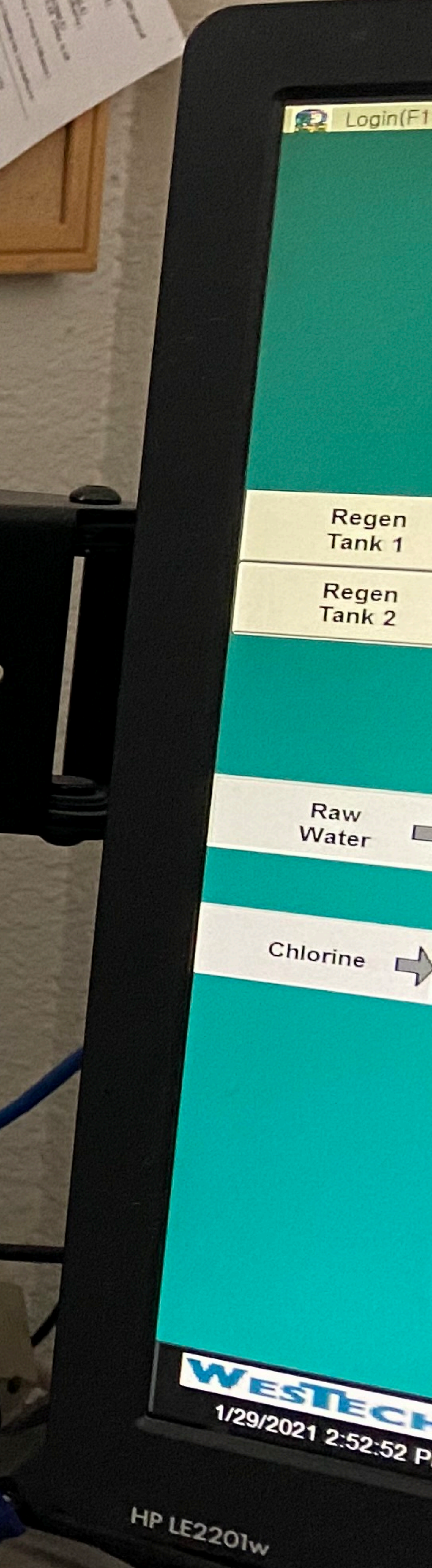
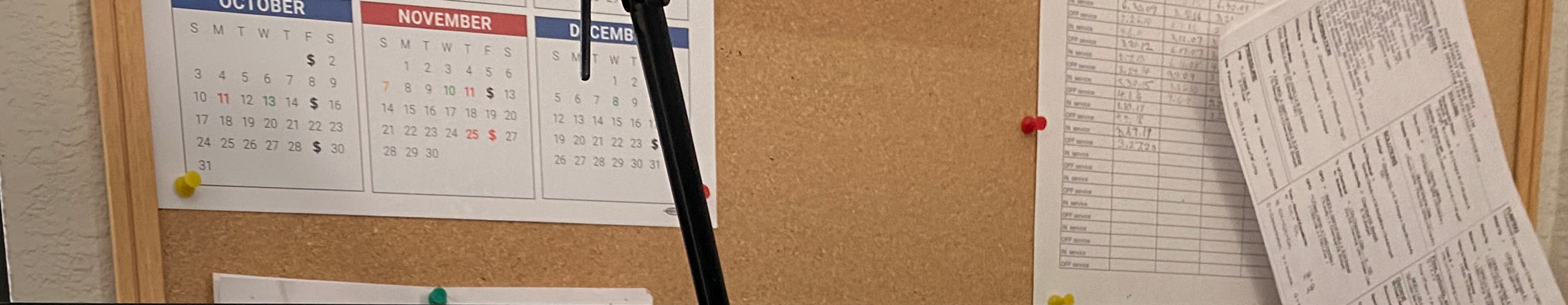
The purpose of this meeting is to discuss discipline for Kenneth McKay.

Please find attached the Intent to Discipline package that includes the investigation into allegations of Water Treatment Plant Operator Kenneth McKay sleeping on the job. Also attached is the Skelly Officer's decision to reduce the discipline from 5 days to 1 day.

Thank you,
Doris Papillon-Allen
510-415-1560



Kenneth McKay - Skelly
Intent to Discipline: 5 days to 1 day
Skelly Officer's Decision: 1 day to 1 day





JO
MENT PLANT

CA EXEMPT
1491667

CITY OF VALLEJO
GREEN VALLEY WATER TREATMENT PLANT







Senior Instrument Technician

Class Code:
02645

CITY OF VALLEJO

Established Date: Feb 11, 2008

Revision Date: Aug 9, 2010

SALARY RANGE

\$33.53 - \$40.76 Hourly
\$2,682.72 - \$3,260.89 Biweekly
\$69,750.78 - \$84,783.17 Annually

DEFINITION:

To lead, oversee, and participate in the more complex and difficult work of staff responsible for performing the maintenance, repair, replacement, design and calibration of programmable logic controllers; process instrumentation; electronic, electrical and mechanical instrumentation; and, equipment employed in the operation of water treatment plants, pumping stations and a hydroelectric power plant; and, other related duties as required.

CLASS CHARACTERISTICS

This is the lead, highly specialized class that performs comprehensive preventive maintenance, modification, calibration, repairs, and installation of all instrument loop and control systems to enhance equipment reliability to meet water purification regulations at various sites and for a wide variety of systems.

SUPERVISION RECEIVED AND EXERCISED

Receives general supervision from the Assistant Water Superintendent/Facilities .

Exercises technical and functional supervision over maintenance staff.

EXAMPLES OF DUTIES:

Important responsibilities and duties may include, but are not limited to, the following:

Provides lead direction, training and work review to assigned staff; schedules and coordinates installation, repair and maintenance work for assigned projects and programs; assists in developing and implementing work standards and procedures; assists in planning and budgeting for instrumentation work.

Installs, maintains, calibrates, and repairs microcomputer-based data acquisition and control systems, including telemeters, programmable logic controllers, monitoring and process control equipment and instrumentation.

Makes inspections and performs periodic preventative maintenance on various control, metering, recording and display equipment; cleans, lubricates, calibrates and/or adjusts equipment as needed.

Troubleshoots and diagnoses electronic, electro-mechanical instrumentation malfunctions; completes component level repairs or advises system contractor(s) of other repair requirements as appropriate.

Uses software diagnostic routines and tests equipment to verify and/or adjust control system equipment according to manufacturer's recommendations.

Installs, maintains and repairs multi-channel system radio and telephone, and calibrates microwave electronic equipment, antennas, battery backup power supplies and grounding systems including connections to existing systems.

Reads and interprets wiring schematics, mechanical drawings and specifications as necessary to install, service and/or repair equipment in accordance with related regulations.

May make estimates of labor, materials and supplies necessary for the performance of specific assignments.

Train assigned employees in their area of work in maintenance and repair methods, techniques and in the set up and use of equipment.

Perform the full range of duties assigned in the assigned area of work.

Verify the work of assigned employees for accuracy, proper work methods, techniques, and compliance with applicable standards and specifications..

Keeps records and makes verbal and written reports of work performed.

May inspect relevant work performed by contractors installing new electronic equipment in City facilities.

Installs, maintains, monitors, overhauls, calibrates and tests a wide variety of electronic recording, indicating, controlling, telemetering and other test instruments including but not limited to programmable logic controllers, communications systems, digital and/or analog instrumentation, printed circuits, magnetic flow meters, differential pressure transducers, multiplex equipment, flow meters, process control equipment, loss-of-head indicators, level indicators, solid state equipment, alarm circuits and systems, pressure and temperature regulators, gauges and recorders, chemical feeder controllers and telemetering receivers and transmitters.

Performs other related duties as assigned.

KNOWLEDGE AND ABILITIES:

Knowledge of: methods, practices and tools used in maintaining, repairing, testing and calibrating electro-mechanical recording and metering instruments, programmable logic controllers, process control equipment, and mechanical linkage and telemetering systems; principles of lead supervision and training; safety practices, precautions and procedures

pertaining to the work; computer based data acquisition and control systems; microwave point to point and point-to-multi-point channel radio data communications equipment; telephone line interface for data communications; software diagnostic routines and test equipment; metering instruments and flow in open channel and closed loop systems; principles, techniques and operations involved in water treatment and distribution; common equipment, tools and materials used in electronic and instrument maintenance and repair, applied principles of electronic and electrical theory, including Ohm's law; basic D.C. circuit analysis; A.C. circuit analysis; and, applicable mathematics including algebra, geometry and trigonometry as related to specific work applications.

Ability to: diagnose mechanical, electrical and electronic difficulties/malfunctions in instrumentation, programmable logic controllers, control and telemetering systems; read and interpret wiring schematics, diagrams, mechanical drawings and specifications; make repairs to electronic, electro mechanical metering and process control instruments; estimate labor and materials to effect repair or replacement as needed; direct the work of other employees; keep accurate records and make oral and written reports; establish and maintain effective working relationships with others; perform skilled maintenance, calibration and repair of a variety of plant, electronic, and electro mechanical instrumentation; lift and carry tools, supplies, and equipment which may exceed 50 pounds; use a variety of tools, including a variety of test equipment as required; to work independently, efficiently, and accountably under general direction; and, to install metal or PVC electrical conduit.

MINIMUM QUALIFICATIONS:

Experience:

Two years of journey-level experience in instrument repair work at a level equivalent to the City's class of Instrument Technician.

Training:

Equivalent to completion of the twelfth grade; two years technical school or college-level course work in a related field.

License, Certificate or Credential:

Must possess a California driver's license and have a satisfactory driving record.

Possession of a California Department of Public Health Distribution Operator D1 certification within twenty-four (24) months of employment.

WORKING CONDITIONS:

Other Requirements:

Must possess physical characteristics to perform the critical and important duties of the class, including sufficient physical agility to work in high or confined spaces. Must be willing to work outdoors in a variety of weather conditions and work overtime as needed.



Human Resources Department .555 Santa Clara Street · Vallejo · CA · 94590

VIA HAND-DELIVERY

November 19, 2020

Kenneth McKay
Water Treatment Plant Operator 3
Water Department

NOTICE TO SUSPEND – FIVE (5) DAYS

Dear Mr. McKay,

On June 10, 2020, a pre-disciplinary Skelly hearing was held in connection with a Notice of Intent to Suspend, that you received on March 3, 2020 for discipline in the form of a suspension for Five (5) Days, based upon you violating:

1. Administrative Rule 18, **Suspension, Fine or Removal**, which provides in pertinent part:

Every person holding a position in the classified service shall be subject to suspension, fine, demotion or removal from office or employment by the person, board, or commission appointing such persons, for misconduct, incompetency, inefficiency, failure to perform the duties or to observe the rules and regulations of such department, office, board or commission, or for failure to cooperate reasonably with the department head or with his/her fellow employees; subject to the right of the employee to appeal to the Civil Service Commission in the manner set forth in the Charter and these Rules.

2. Administrative Rule 2.28, **Alcohol and Drug Abuse Policy**, which provides in pertinent part:

In recognition of the public service responsibilities entrusted to the employees of the City of Vallejo and that drug and alcohol usage can hinder a person's ability to perform duties safely and effectively, the following policy against drug and alcohol abuse is hereby adopted by the City of Vallejo.

IV. Employee Responsibilities:

An employee must:

- Notify his/her supervisor, before beginning work, when taking any medications or drugs, prescription or non-prescription, which may interfere with the safe and effective performance of duties or operation of the City of Vallejo equipment.

I have carefully considered your response to the Notice of Intent to Suspend and the recommendation of Skelly Officer Daryl Arbuthnott, Fire Chief to reduce the discipline. However, based on the preponderance of evidence and the seriousness of your misconduct, I have decided it is appropriate to proceed with the disciplinary action of suspending you from your position of Water Plant Operator for Five (5) Days.

Your suspension is based on the following specific listed grounds and charges, both collectively and individually and need not be based upon your commission of more than one charge.

FACTS SUPPORTING VIOLATION OF ADMINISTRATIVE RULES

On October 8, 2019 PG&E implemented an emergency power outage that impacted the City of Vallejo. As a result, an emergency plan was put in place to monitor the Green Valley Water Treatment Plant. You voluntarily accepted one of the emergency shifts but neglected to notify your supervisor before beginning work that you had consumed a drug that might interfere with the safe and effective performance of your duties.

On November 5, 2019, a month after witnesses observed you sleeping on your shift, you sent Mike Malone an email that included the statement "I am also taking a medication for my back injury that makes me drowsy".

On October 9, 2019, the day of the incident in question, coworker Jacob Parson reported that he noticed a mat rolled up on the Operator Room Floor. Jacob asked if you were planning to sleep on the mat during the night and you responded by asking Jacob if he thought someone would visit the Plant that night and "catch you," or words to that effect. The fact that you inquired if someone might "catch you" in response to a question about whether you planned on sleeping is further evidence that you brought the mat to work in order to sleep while on duty.

On October 9, 2019, 2019 two coworkers witnessed you laying on a mat and pillow covered with a blanket during your shift, on the Operators Room floor with the lights turned off. Your coworkers were in the Operators Room for at least 30 minutes before they left.

During the entire time your coworkers were in the Operators Room, you never got up off the floor or even acknowledged that there were visitors in the Operators Room. This is further evidence that you were indeed asleep while on duty. The Operators Room is a highly secured area where the operating system that monitors dosing of chemicals into the water is located. Both coworkers stated that the operating system was running unattended, on your watch. Given the nature of your duties and the emergency power outage, your violations posed a potential for serious risk to the public.

Therefore, I have decided it is appropriate to proceed with the action of suspending you from your position of Water Plant Operator for Five (5) days.

PREVIOUS DISCIPLINE ISSUED

Your record of employment with the City shows the following discipline:

On May 31, 2016 you received a Written Reprimand for violating the Fleming Hill Water Treatment Plant Standard Operating Procedure 2.38 – Bell Press Start-up & Shutdown.

On October 12, 2016 the City terminated you for making threats of violence against coworkers, intimidating behavior directed towards your coworkers, and failure to professionally and reasonably work with others in the workplace. You were returned to work by the Civil Service Commission.

All materials upon which the recommended disciplinary action is based are attached to this Notice. You may review your personnel file upon reasonable request by contacting Human Resources.

Pursuant to Administrative Rule 2.35-Employee Discipline and Civil Service Commission Rule 18-Suspension, Fine or Removal. I am issuing you a Five (5) days – Suspension for misconduct and failure to observe rules and regulations. You shall serve your Five (5) days suspension on November 28, November 29, November 30, December 3 and December 4.

RIGHT TO APPEAL

Pursuant to Administrative Rule 2.35, you have a right to appeal your suspension. In this case you must file your appeal by close of business November 26, 2020.

Per Civil Service Commission Rule 18.3, if you wish to appeal your suspension, you must do so by 1) submitting a copy of your written statement to the person imposing your discipline during business hours, in this case the person imposing your discipline is myself (Water Director Mike Malone) whose office is located at 202 Fleming Hill Road, Vallejo, CA 94589, with office hours of Monday through Friday, 7:00 a.m. through 4:00 p.m.

Submit your original written statement to the Executive Secretary of the Civil Service Commission during business hours, presently the Executive Secretary of the Civil Service Commission is Stephanie Sifuentes, whose office is located at City Hall Room #102, with office hours of Monday through Friday, 8:30 a.m. through 5:15 p.m.

Alternatively, but not in addition to the Civil Service appeal process mentioned above, you may appeal through the grievance process as defined in Section 6.5 of the Memorandum of Understanding.

WARNING AGAINST RETALIATION

It is illegal and inappropriate to retaliate against any person who has participated in complaining and/or providing information regarding your discipline. You may not contact or in any other manner retaliate against any individual who has provided information to the City regarding your conduct.

Sincerely,



Mike Malone
Water Department Director

Attachments:

- A. Notice of Intent to Discipline, March 3, 2020
- B. Civil Service Rule 18 – Suspension, Fine or Removal

Kenneth McKay
NOTICE TO SUSPEND
November 19, 2020
Page 5

cc: Heather Ruiz, Human Resources Director
Mark Love, Assistant Human Resources Director
Personnel File



555 Santa Clara Street · Vallejo · CA · 94590

VIA HAND-DELIVERY

March 3, 2020

Kenneth McKay
Water Treatment Plant Operator
Water Department

NOTICE OF INTENT TO SUSPEND – FIVE (5) DAYS

Dear Mr. McKay,

Pursuant to Skelly v. State Personnel Board ("Skelly") and the City of Vallejo's ("City") Administrative Rule ("AR") 2.35 – Employee Discipline and Vallejo Civil Service Commission ("CSC") Rule 18 – Suspension, Fine or Removal, I am recommending that the City of Vallejo ("City") suspend you from your position as a Water Treatment Plant Operator for five days.

Based on my review of the information available, good cause exists for your suspension as provided by Civil Service Rule 18 – Suspension, Fine or Removal and Administrative Rule 2.28 – Alcohol and Drug Abuse Policy. This proposed suspension is based on the following grounds:

- Misconduct
- Failure to Perform Duties
- Failure to Observe Rules and Regulations

Factual Basis for Recommended Action:

I concur with the findings in this investigation, which is based on the following conduct, described in detail below. Please note that this intent to suspend is based on any one of the above violations and need not be based upon your commission of more than one violation.

Specifically, on October 9, 2019 during a PG&E Public Safety Power Shutoff (PSPS) event in the City of Vallejo, you brought to work a mat, pillow and blanket with the intention of sleeping while on duty and went to sleep during your shift

At the time you were assigned to the Green Valley facility your task was to operate and physically monitor the plant, as the plant was running on emergency power with a non-functioning remote monitoring due to PG&E's PSPS. By failing to actually monitor the systems, you were unable to:

- Alertly monitor the plant and take effective course of action as needed
- Determine if there was equipment failure that might cause immense repair cost.
- Determine if there was over pressurizing pipes that might cause main line breaks
- Prevent overdosing chemicals that might harm consumers.
- Prevent Under dosing of chemicals that might cause consumer disease outbreaks.
- Effectively perform operating duties.

On October 9, 2019 at or about 10:30 p.m., Instrument Technician Jacob Parson saw your mat rolled up on the floor of the Operations Room at the Green Valley Plant and he asked if you planned on sleeping on the mat and you responded yes and asked if he thought someone would see you.

During the morning of your shift at 3:00 a.m., Instrument Technician Jacob Barlow and Utility Mechanic James Grandrath walked into the Operations Room of the Plant and saw you laying on your mat and pillow, covered with a blanket and sleeping, while the Plant was operating unattended.

Your misconduct was especially egregious because you brought a mat, pillow and blanket to work which is a strong indication that you planned to sleep while on duty.

Your nesting¹ on duty was witnessed by two Water Department employees and it demonstrates a failure to perform the duties as is mentioned in Administrative Rule 18, and in your job description.

When you were questioned about sleeping while on duty, you stated that you did not remember going to sleep, waking up, or that you stated to Instrument Technician Jacob Parson that you planned to sleep on the mat that night. Yet, you made it a point to explain to the investigator that you had not slept that day and had taken your prescription medication that has the side effect of causing drowsiness. It was obvious that you were attempting to establish an alibi for sleeping on duty, while at the same time being dishonest about remembering that you took your shoes off, laid on the mat and covered yourself with a blanket and closed your eyes. Additionally, you claimed not to remember opening your eyes, removing the blanket, standing up, putting on your shoes and rolling the blanket and mat back up.

Mr. McKay, as a Water Treatment Operator, you were responsible for the proper operations and monitoring of the Green Valley Treatment Plant with the expectation of immediately responding to water quality changes and system malfunctions. Because of your action, you disregarded the safety of our consumers and the treatment plant and you put the City in jeopardy of potential violations.

In addition, you did not notify your supervisor before beginning work, that you had consumed a drug that might interfere with the safe and effective performance of your duties. During an interview with the investigator on December 12, 2019, you stated that the day you volunteered for the 6 p.m. shift you had taken a prescription drug that has a known side effect of drowsiness.

On April 17, 2017, you signed an acknowledgement of having received, read and agreed to abide by Administrative Rule 2.28.

¹ According to Brand, Norman and Melissa Biren (2015) *Discipline and Discharge in Arbitration* 3rd Edition Chicago, IL American Bar Association, nesting is defined as making a bed or creating a place conducive to sleeping, often in a secluded area.

Kenneth McKay
NOTICE OF INTENT TO SUSPEND
March 3, 2020
Page 5

Your failure to provide a written response or to request and attend a pre-disciplinary meeting will constitute a waiver of your right to provide a response prior to imposition of discipline, in which case the City's decision to either sustain, modify, or reject this recommendation will be based upon review of this Notice of Intent to suspend and its attachments.

Sincerely,



Mike Malone
Water Department Director

Attachments:

- A. Civil Service Rule 18 – Suspension, Fine or Removal
- B. Administrative Rule 2.28 – Alcohol and Drug Abuse Policy
- C. Job Description – Water Treatment Plant Operator
- D. Notice of Written Reprimand – dated May 31, 2016
- E. Notice of Termination – dated October 12, 2016

cc: Heather Ruiz, Human Resources Director
Mark Love, Assistant Human Resources Director
Personnel File

ATTACHMENT A

RULE 18

SUSPENSION, FINE OR REMOVAL

18.1 Employees Subject To

Every person holding a position in the classified service shall be subject to suspension, fine, demotion or removal from office or employment by the person, board, or commission appointing such persons, for misconduct, incompetency, inefficiency, failure to perform the duties or to observe the rules and regulations of such department, office, board or commission, or for failure to cooperate reasonably with the department head or with his/her fellow employees; subject to the right of the employee to appeal to the Civil Service Commission in the manner set forth in the Charter and these Rules.

18.2 Statement of Reason

Every employee shall be given a written statement of the reason for such suspension, fine, demotion or removal from office or employment at the time of such suspension, fine, demotion or removal. Such statement shall include in itemized form the specific instances in support of such suspension, fine, demotion or removal from office or employment. A copy of such statement shall be delivered to such person or shall be left at his/her last known address.

18.3 Filing of Appeal

Any employee who has been so disciplined shall have five (5) days after service of such written statement within which to file an appeal to the same. A copy of such appeal shall be filed during office hours at the office of the person, board or commission imposing such discipline and the original shall be filed by such employee in the office of the Executive Secretary of the Commission. Should the last day on which an appeal may be filed fall upon a Sunday or holiday the time for filing such appeal shall be extended to include the next following business day.

18.4 Investigation and Hearing Required

The Commission may make, or cause to be made, such investigation as it shall deem necessary and thereafter shall hold a hearing at which time it shall hear evidence for and against such employee. Hearings may be conducted informally and the conclusions shall be made by the Commission within ten (10) days after the matter has been submitted and thereupon the same shall be certified to the official, board or commission from whose order the appeal has been taken. The findings and conclusions of the Commission also may contain such recommendations as said Commission shall deem proper, and shall include the amount of compensation such employee is entitled to receive, if any. Said findings and conclusions of the Commission shall be final.

ATTACHMENT B

CITY OF VALLEJO

ADMINISTRATIVE RULE

SUBJECT: ALCOHOL AND DRUG ABUSE POLICY

AR Number: 2.28

Date Issued: 6/28/95

Date Effective: 7/1/95

Date Revised: 1/2/96

I. PURPOSE

It is the intention of this policy to eliminate substance abuse and its effects in the workplace. While the City of Vallejo has no intention of intruding into the private lives of its employees, involvement with drugs and alcohol on and off the job can take its toll on job performance and employee safety. Our concern is that employees are in a condition to perform their duties safely and efficiently, in the interests of their fellow workers and the public, as well as themselves. The presence of drugs and alcohol on the job, and the influence of these substances on employees during working hours, are inconsistent with this objective of having employees perform their duties safely and efficiently.

Employees who think they may have an alcohol or drug usage problem are urged to voluntarily seek confidential assistance from the Employee Assistance Program. While the City of Vallejo will be supportive of those who seek help voluntarily, the City will be equally firm in identifying and disciplining those who continue to be substance abusers and do not seek help or continue substance abuse even while enrolled in counseling or rehabilitation programs.

Supervisors will be trained to recognize abusers and become involved in this control process. Alcohol or drug abuse will not be tolerated, and disciplinary action, up to and including termination, will be used as necessary to achieve this goal.

This policy provides guidelines for the detection and deterrence of alcohol and drug abuse. It also outlines the responsibilities of City of Vallejo managers and employees. To that end, the City will act to eliminate any substance abuse (alcohol, illegal drugs, prescription drugs or any other substance which could impair an employee's ability to safely and effectively perform the functions of their job) which increases the potential for accidents, absenteeism, substandard performance, poor employee morale or damage to the Agency's reputation. All persons covered by this policy should be aware that violations of the policy may result in discipline, up to and including termination, or in not being hired.

In recognition of the public service responsibilities entrusted to the employees of the City of Vallejo and that drug and alcohol usage can hinder a person's ability to perform duties safely and effectively, the following policy against drug and alcohol abuse is hereby adopted by the City of

Vallejo.

II. APPLICATION

This policy applies to all employees of and to all applicants for positions with City of Vallejo whose use of alcohol could effect workplace safety or performance of requisite job standards, duties or responsibilities. This policy does not apply to employees covered by a collective bargaining agreement containing an alcohol or drug abuse policy where the collective bargaining provision conflicts with this policy. This policy does not apply to employees in or applicants for positions for which the City cannot legally apply this policy. This policy applies to alcohol and drugs, including all substances, drugs, or medications, whether legal or illegal, which could impair an employee's ability to effectively and safely perform the functions of the job.

III. POLICY

It is City of Vallejo policy that employees shall not be under the influence, or in possession, of alcohol or drugs while on City of Vallejo property, at work locations, or while on duty or subject to being called to duty, and that employees shall not sell or provide drugs or alcohol to any other employee or person while on duty or subject to being called to duty as a result of formally being placed on an "on call" or "standby" status by an appropriate management representative.

While use of validly prescribed medications and drugs does not violate this policy per se, failure by an employee to notify his/her supervisor, before beginning work, when taking medications or drugs which could foreseeably interfere with the safe and effective performance of duties, or the operation of City of Vallejo equipment, can result in discipline up to and including termination. In the event there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medications or drugs, clearance from a qualified physician may be required.

City of Vallejo reserves the right to search for alcohol or impairing drugs, without employee consent, in all areas and property in which the City of Vallejo maintains control or joint control with the employee when there is reasonable suspicion of work-related employee misconduct or when the search is necessary for a non-investigatory work-related purpose. Otherwise, the City may notify appropriate law enforcement agencies that an employee may have illegal drugs in his or her possession or in an area not jointly or fully controlled by City of Vallejo.

Refusal to immediately submit to an alcohol and/or drug analysis when requested by City of Vallejo management or law enforcement personnel, or refusal to submit to a search of personal properties if requested by law enforcement personnel, may constitute insubordination and be grounds for discipline up to and including termination.

Employees reasonably believed to be under the influence of alcohol or drugs shall be prevented from engaging in further work and shall be detained for a reasonable period of time until he or she can be safely transported from the work site. Supervisors or managers must arrange for safe transportation of the employee from the work site. Refusal to refrain from engaging in further work or refusal to be detained until safe transportation can be arranged may constitute insubordination and be grounds for discipline up to and including termination. Under no circumstances shall a supervisor or manager allow an employee to transport himself/herself from a work site.

The City of Vallejo is committed to providing reasonable accommodation to those employees whose drug or alcohol problem classifies them as disabled under federal and/or state law.

The City of Vallejo has established a voluntary Employee Assistance Program (EAP) to assist those employees who voluntarily seek help for alcohol or drug problems. Employees should contact their supervisors, the Department of Human Resources, Risk Management or the EAP for additional information. Supervisors are encouraged to refer employees to the EAP at the earliest sign of any problems.

IV. EMPLOYEE RESPONSIBILITIES

An employee must:

- not report to work or be subject to duty while his/her ability to perform job duties is impaired due to on or off duty alcohol or drug use;
- not possess or use alcohol or impairing drugs, including illegal drugs and prescription drugs without a prescription, during working hours or while subject to duty, on breaks, during meal periods or at anytime while on City of Vallejo property;
- not directly or through a third party sell or provide drugs or alcohol to any person, including any employee, while either or both employees are on duty or subject to being called to duty;
- submit immediately to an alcohol and drug test when requested by City of Vallejo management, supervisory or any law enforcement personnel;
- notify his/her supervisor, before beginning work, when taking any medications or drugs, prescription or non-prescription, which may interfere with the safe and effective performance of duties or operation of City of Vallejo equipment; and
- provide, within 24 hours of request, bona fide verification of a current valid prescription for any potentially impairing drug or medication identified when a drug screen/test is positive, The prescription must be in the employee's name.

V. MANAGEMENT RESPONSIBILITIES AND GUIDELINES

- Managers and supervisors are responsible for reasonable enforcement of this policy.
- Managers and supervisors may request that an employee submit to a drug and/or alcohol test when a manager or supervisor has a reasonable suspicion that an employee is intoxicated or under the influence of drugs or alcohol while on the job or subject to being called. If possible, a second supervisor should be present. When requesting a drug or alcohol test, supervisors or managers should notify their Department Head or designee and the Department of Human Resources as soon as is practicable.

'Reasonable suspicion' is a belief based on objective facts sufficient to lead a reasonably prudent supervisor to suspect that an employee is under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is impaired or so that the employee's ability to perform his/her job safely is reduced. The number of reasonable suspicion indicators and the compelling nature of the evidence attached to each indicator needs to be assessed in determining whether there is sufficient reasonable suspicion to require a test.

For example, any of the following, alone or in combination, may constitute reasonable suspicion:

- o Slurred speech;
 - o Alcohol odor on breath;
 - o Unsteady walking and movement;
 - o An accident involving City of Vallejo property, where it appears the employee's conduct is at fault;
 - o Physical altercation;
 - o Verbal altercation;
 - o Unusual behavior;
 - o Possession of alcohol or drugs;
 - o Information obtained from a reliable person with personal knowledge.
- Any manager or supervisor requesting an employee to submit to a drug and/or alcohol analysis should document in writing the facts constituting reasonable suspicion that the employee in question is intoxicated or under the influence of drugs.
 - Any manager or supervisor encountering an employee who refuses an order to submit to a drug and/or alcohol analysis upon request shall remind the employee of the requirements and disciplinary consequences of this policy.
 - Where there is reasonable suspicion that the employee is under the influence of alcohol or drugs, the manager or supervisor should arrange for the employee to be safely transported to the drug and alcohol testing site and from the drug and alcohol testing site to home.

Under no circumstances shall an employee or manager allow an employee who is reasonably believed to be under the influence of alcohol or drugs to transport himself/herself from a work site or from the drug and alcohol testing site.

- Managers and supervisors shall not physically search the person of employees, nor shall they search the personal possessions of employees without the freely given written consent of, and in the presence of, the employee.
- Managers and supervisors shall notify their Department Head or designee and the Department of Human Resources when they have reasonable suspicion to believe that an employee may have illegal drugs in his or her possession or in an area not jointly or fully controlled by City of Vallejo. If the Department Head or designee concurs that there is reasonable suspicion of illegal drug possession, the Department Head shall notify the appropriate law enforcement personnel.

VI. PHYSICAL EXAMINATION AND PROCEDURE

The drug and/or alcohol test may test for any substance which could impair an employee's ability to effectively and safely perform the functions of his/her job, including, but not limited to, prescription medications, alcohol, heroin, cocaine, morphine and its derivatives, P.C.P., methadone, barbiturates, amphetamines, marijuana and other cannabinoids. Attachment "A" describes the method in which the initial test will be conducted, how the sample will be processed after the drug and/or alcohol test is completed, and how a confirmatory test after an initial positive result will be performed.

VII. RESULTS OF DRUG AND/OR ALCOHOL ANALYSIS

A. Pre-Employment Physical

Applicants for positions with the City of Vallejo whose use of drugs and/or alcohol could effect workplace safety or other requisite job standards, duties or responsibilities will be subject to drug and/or alcohol testing as a part of the pre-employment physical examination process. A positive result from a drug and/or alcohol analysis may result in the applicant not being hired.

If a drug screen is positive at the pre-employment physical, the applicant must provide within 24 hours of request bona fide verification of a valid current prescription for the drug identified in the drug screen. If the prescription is not in the applicant's name or the applicant does not provide acceptable verification, or if the drug is one that is likely to impair the applicant's ability to perform the job duties, the applicant may not be hired.

B. During Employment Physical or Alcohol/Drug Tests

A positive result from a drug and/or alcohol analysis may result in disciplinary action, up to and including discharge.

If the drug screen is positive, the employee must provide within 24 hours of request bona fide verification of a valid current prescription for the drug identified in the drug screen. The prescription must be in the employee's name. If the employee does not provide acceptable verification of a valid prescription, or if the prescription is not in the employee's name, or if the employee has not previously notified his or her supervisor, the employee will be subject to disciplinary action up to and including discharge.

If an alcohol or drug test is positive, the City of Vallejo shall conduct an investigation to gather all facts. The decision to discipline or discharge will be carried out in conformance with City of Vallejo disciplinary procedures and Civil Service Rules and Regulations.

VIII. CONFIDENTIALITY

Laboratory reports and test results shall not appear in an employee's general personnel file. Information of this nature will be contained in a separate confidential medical folder that will be securely kept under the control of the Department of Human Resources. The reports or test results may be disclosed to City of Vallejo management on a strictly need-to-know basis and to the tested employee upon request. Disclosures, without patient consent, may also occur when: (1) the information is compelled by law or by judicial or administrative process; (2) the information has been placed at issue in a formal dispute between the employer and employee; (3) the information is to be used in administering an employee benefit plan; and/or (4) the information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure.

Attached: Appendix A


WALTER V. GRAHAM
CITY MANAGER

APPENDIX A
ALCOHOL AND DRUG TESTING PROCEDURES

I. CONTACT

A. Regular Business Hours

When requesting a reasonable suspicion alcohol and/or drug test Monday through Friday during the hours of 8:30 a.m. - 5:15 p.m., supervisors and managers should first contact the Department of Human Resources or Risk Management and their Department Head or designee.

Upon notification of Human Resources and the Department Head, supervisors and managers may contact the number listed below directly to notify the testing site of the need for drug and/or alcohol testing. Supervisors and managers must arrange transportation of the employee to the testing site.

Alcohol and/or drug testing on Monday through Friday during the hours of 8:00 a.m. - 5:00 p.m. will be conducted at **Northbay Health at Work, 1200 B. Gale Wilson Drive #107, Fairfield, CA 94533, (707) 429-7701.**

B. After Hours

When requesting a reasonable suspicion drug test after regular business hours, the supervisor or manager must call Northbay at (707) 429-7701 and leave a message on the recorder. The message should indicate that you are a City of Vallejo supervisor and are requesting a reasonable suspicion drug test as soon as is possible. You should also include your name, job title, and a number where you can be reached immediately. A Northbay technician is on call 24 hours a day and will return your call within thirty minutes. The technician will arrange to meet the supervisor and employee at **Northbay Health at Work, 1200 B. Gale Wilson Drive #107, Fairfield, CA 94533.**

When requesting a reasonable suspicion alcohol test after regular business hours, the supervisor or manager must go immediately to the Northbay Medical Center Emergency

Room at 1200 B. Gale Wilson Drive, Fairfield, CA 94533, (707) 429-7833. The Emergency Room staff will contact the Northbay technician.

On the next regular business day, you must notify Human Resources or Risk Management and your Department Head that you have ordered a reasonable suspicion alcohol and/or drug test.

II. CONTROLLED SUBSTANCES TESTING PROCEDURES

Pre-employment and reasonable suspicion testing shall include, but may not be limited to the following controlled substances: marijuana; cocaine; opiates; amphetamines; and phencyclidine (PCP). Although the specimen will not be analyzed specifically for adulterants, the lab may conduct adulteration checks (PH, specific gravity or creatinine). The test may be canceled if adulterants are detected.

A. Specimen Collection Process

1. The collection shall take place in a secure location to prevent unauthorized access during the collection process.
2. The specimen shall be kept in sight of the employee and the collection site person until it is sealed and ready for shipment.
3. Employees and applicants shall have individual privacy when providing a specimen except when:
 - a) The employee or applicant presents a specimen that is outside the accepted temperature range and he/she refuses to have an oral body temperature measurement, or the body temperature measurement varies more than 10 C OR 1.80 F from the specimen temperature.
 - b) The collector observes the employee or applicant attempting to adulterate or substitute the specimen.
 - c) The employee's last provided specimen was determined to be diluted.
 - d) The employee has previously had a verified positive test.

In a. and b. above, the employee or applicant must provide a specimen under direct observation. In c. and d. above, the employer may require a direct observation collection.

4. The following specific procedures will be followed during the collection process:
 - a) The donor must submit identification to the collector. The collection shall not proceed until a positive identification is made.
 - b) The donor will not be required to undress, or to change into an examination gown. Only outer garments should be removed, i.e., jackets.
 - c) The donor shall be asked to wash his/her hands prior to urination, and shall not have access to any water sources until the specimen has been collected.
 - d) A bluing agent shall be added to the toilet bowl and the donor may flush the toilet only after releasing the specimen to the collector. Chemical toilets and toilets where the water supply has been turned off do not apply.
 - e) The specimen must be at least 45 ml to be acceptable.
 - f) The collector must measure the specimen temperature within four minutes of urination to determine sample acceptability.
5. The specimen shall be divided into two parts. The collector shall pour 30 ml of urine from the specimen bottle into a second specimen bottle, to be used as the primary specimen. The remainder of the urine, at least 15 ml, shall be poured into another container to be used as the "split sample".
6. Both samples shall be shipped in a single shipping container with the appropriate chain of custody forms.
7. The collector and donor must be present together to complete the following process:
 - ◇ Seal and label the specimen bottles.
 - ◇ Donor initials the bottle labels or seals.
 - ◇ The chain of custody forms must be signed and dated.
8. If an employee or applicant refuses to cooperate with the collection process the collector shall notify the employer representative and note the non-cooperation on the custody and control form.

B. Inability to provide an adequate urine sample

If the donor cannot provide a sufficient volume of urine, he/she shall remain at the collection site and be provided not more than twenty-four ounces of fluids to drink. The donor shall have a

period of up to two hours to produce an acceptable sample, using a fresh collection container.

The original insufficient specimen shall be discarded. If the employee is still unable to provide an adequate specimen, the insufficient specimen shall be discarded, testing discontinued, and the employer so notified.

The MRO shall refer the individual for a medical evaluation to develop pertinent information concerning whether the individual's inability to provide a specimen is genuine or constitutes a refusal to test (In pre-employment testing, if the employer does not wish to hire the individual, the MRO is not required to make such a referral.). Upon completion of the examination, the MRO shall report his or her conclusions to the employer in writing.

If the donor is unable to produce a sample without a valid medical reason the employer shall consider the circumstance to be a refusal to test.

C. Split Sample

1. If the test result of the primary specimen is positive, an employee may request that the MRO direct that the split specimen be analyzed.
2. The split sample analysis will be conducted by a laboratory who will analyze the sample for presence of the drug(s) for which a positive result was obtained in the primary sample.
3. If the result of the test of the split sample fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, the MRO shall cancel the test and report the cancellation to The Employer.
4. With all positive drug tests, the MRO will first contact the employee to determine if there is an alternative medical explanation for the positive result. If documentation is provided and the MRO determines that there was a legitimate medical use for the prohibited drug, the test result may be reported to the City as "negative." After the MRO notifies the employee of a positive result for the presence of a drug(s) in the primary sample, the employee has up to seventy-two hours to request analysis of the split sample.

III. ALCOHOL TESTING

A. Testing Procedures

Alcohol testing will be conducted only on a reasonable suspicion basis. Applicants for employment will normally not be required to undergo alcohol testing.

1. The test shall take place in a secure location that affords visual and aural privacy to prevent unauthorized persons from seeing or hearing test results.
2. When an employee enters the testing location, the BAT will require him/her to provide positive identification. The test shall not proceed until positive identification of the employee is made.
3. An individually-sealed mouthpiece shall be opened in view of the employee and then attached to the testing unit.
4. The employee shall be required to blow forcefully into the mouthpiece for at least six seconds or until an adequate amount of breath has been obtained.
5. The employee shall be shown the result both on the testing unit and the recording form. The employee shall verify both results are the same. If a result printed by the testing unit does not match the displayed result, the BAT shall declare the test invalid.
6. If the result of the screening test is less than 0.02 breath alcohol concentration no other testing will be conducted.
7. If the result of the screening test reflects an alcohol concentration of 0.02 or greater, a confirmation test shall be performed.
8. Prior to conducting the confirmation test the employee may not eat, drink, or place anything in his/her mouth. If possible, the employee should not belch during the waiting period. The confirmation test shall be conducted no less than fifteen minutes and no more than twenty minutes from the screening test.
9. The fifteen minutes waiting period is provided for the employee's benefit. This time period allows for the dissipation of any mouth alcohol, thereby helping to prevent an artificially high reading.
10. In the event the screening and the confirmation test results do not match, the confirmation results will be considered the final results.
11. If the employee refuses to sign the breath alcohol testing form or fails to provide an adequate amount of breath without a valid medical reason, the employer may determine the circumstance to be a refusal to test.

B. Inability to Provide Adequate Breath

1. If the employee fails to provide an adequate amount of breath he/she shall provide the employer with an evaluation from a licensed physician, who is acceptable to the employer, concerning the employee's medical ability to provide adequate breath.
2. If the physician determines there is a valid medical reason precluding the employee from providing adequate breath then the employee's failure shall not be deemed a refusal to test.
3. If the physician is unable to determine a valid medical reason, the employee's failure to provide adequate breath shall be considered a refusal to test.

ATTACHMENT C



Water Treatment Plant Operator

Class Code:
02330

CITY OF VALLEJO

Established Date: Jun 8, 2015

Revision Date: Jun 23, 2015

SALARY RANGE

\$39.89 - \$48.49 Hourly
\$3,191.50 - \$3,879.29 Biweekly
\$6,914.91 - \$8,405.13 Monthly
\$82,978.96 - \$100,861.50 Annually

DEFINITION:

To perform a variety of skilled technical duties and semi-skilled labor as shift operator, as regulated by Federal and State potable water treatment guidelines, in the operation and maintenance of the City's drinking water treatment plants, transmission, distribution systems, and appurtenances.

DISTINGUISHING CHARACTERISTICS

This is the full journey level classification in the treatment plant operator series, meeting requirements set by the U.S. Environmental protection Agency under the Safe Drinking Water Act, as well as by the State Water Resources Control Board (SWRCB), under the California Safe Drinking Water Act. The regulations ensure that water treatment facilities are operated and maintained by operators who are certified at the appropriate level, ensuring the protection of public health and safety. Performance expectations at this level include performance of the full range of responsibilities within the function. Individuals in this classification have satisfactorily demonstrated they are capable of operating and maintaining serviceable water supply, according to the City's treatment facility classification consistent with Environmental Protection Agency regulations, through the City's transmission, distribution facilities, water treatment plants and sludge de--watering project on an assigned shift, often without immediate supervision. Incumbents apply board job knowledge to resolve issues/problems of diverse scope where analysis of data requires evaluation of identifiable factors. Work requires independent judgment, initiative, and action within established operational parameters. This classification is distinguished from the Advanced Water Treatment Plant Operator class, as the latter is the challenging responsibilities for which problem-solving frequently requires analysis of unique issue/problems without precedent and/or structure.

AS a condition of continued employment with the City of Vallejo, incumbents are required to adhere to the process for maintaining the Grade T3 Water Treatment Plan Operator certification outlined by the State Water Resources Control Board (SWRCB). If the certification is not maintained, employment will be terminated. Advancement beyond the classification of Water Treatment Plant Operator is not required as a condition of continued employment.

SUPERVISION RECEIVED AND EXERCISED

Receives general supervision from supervisory and management staff such as the Water Treatment Plant Supervisors and the Water Operations Superintendent. May receive lead direction from Advanced Water Treatment Plant Operators.

Exercises functional and technical supervision over, and provides training to Water Treatment Plant Operator Trainee staff.

EXAMPLES OF DUTIES:

EXAMPLES OF IMPORTANT RESPONSIBILITIES AND DUTIES - *Important responsibilities and duties may include, but are not limited to, the following:*

Monitors, adjusts and controls functions at water treatment plants, transmission/distribution system and sludge de-watering facility, using local controls and the Supervisory Control and Data Acquisition System (SCADA).

Operates and adjusts treatment plant pumps, motors, feeders and other equipment to maintain appropriate plant operations; regulate the flow of water through the water treatment plant and distribution system. Correctly regulates waste side-streams and return flows.

Calculates dosages and adjusts chemical feed machines for proper operation and application of chemicals in order to assure finished water quality standards. Arranges, safely receives and records deliveries of process chemicals to ensure adequate supplies.

Performs water quality tests using standardized testing methods in the plant laboratory; mixes and applies process chemicals at various stages in the treatment process.

Assembles updates and maintains plant operations logs and reports; performs and records mathematical calculations related to plant operational activities, process testing and control.

Works with hazardous chemicals related to water treatment and branch laboratory operations; receives training in and assists in spill prevention and response at City facilities.

Schedules, safely receives and records deliveries of process chemicals and monitors inventories to ensure adequate supplies.

Maintains plant, operating equipment and facilities in a clean and orderly condition; performs routine housekeeping inside and outside the plant and conducts regular site safety inspections

Dispatch call-out personnel as required at all hours. May act in a central communications function as follows: taking, relaying, transmitting, and providing information to and from City personnel or outside emergency services as required.

Operate city-owned motor vehicle to a number city facilities; operates licensed, City communication equipment.

Receives, safely unloads and stores materials by hand and by use of motorized and mechanical equipment.

Receives business contact with other city employees, customer inquiries and makes every effort to enhance public relations. Conducts general tours of the facilities.

Provides for safe plant conditions and working environment at all times by exercising a routine of attentiveness and proactive responses to plant safety and security matters.

Provides for safe plant conditions and working environment at all times by exercising a routine of attentiveness and proactive responses to plant safety and security matters.

Participates in accurate and complete shift change turn-overs to discuss vital plant information.

Participates in emergency preparedness training and exercises.

Perform related duties and responsibilities as required.

KNOWLEDGE AND ABILITIES:

QUALIFICATIONS

Knowledge of:

Standard principles of mathematics, biology, chemistry, and hydraulics as applied in the operation of a water treatment facility.

Standard principles, practices of drinking water treatment plant operations, laboratory analysis techniques and current drinking water standards and regulations.

Operating principles of plant equipment such as valves, pumps motors, controls, instrumentation and telemetry.

Operational and safety regulations pertaining to water treatment plant operations and vehicle and equipment usage.

Safety regulations pertaining work practices and use of related equipment.

Regulations, techniques and equipment used in managing mitigation, recovery and reporting of hazardous materials release.

Basic computer (PC) skills in Microsoft Suite software.

Safe vehicle and equipment use.

Ability to:

Logically solve problems and identify hazardous work conditions.

Understand and carry out written and oral instructions.

Operate and maintain water treatment plant equipment.

Diagnose operating problems and take effective courses of action.

Make independent technical decisions within established parameters to maintain proper treatment operations.

Establish and maintain effective working relationships with those contacted in the course of work.

Apply the practices, procedures, techniques, and treatment rules pertaining to the operation of water treatment plants and distribution system into daily practice.

Read and interpret gauges and other recording devices, plant piping and distribution diagrams and other technical documents.

Perform simple repair or maintenance to plant equipment such as pumps, valves, and electronic monitoring devices.

Perform simple to moderately complex tasks while wear Level A personal protective equipment.

Demonstrate the capability to independently operate all of the Water Division's facilities.

Exercise capable operations in all phases of plant operations: start-up, shutdown, reduction or bypass of unit processes, adverse or emergency conditions.

Accurately observe and record operating conditions and furnish verbal reports.

Travel to alternate duty/work locations and offsite meetings.

Work any shift, weekends, and holidays, at any Water Division facility.

Lift 55 pounds and move heavy chemical containers

Wear respiratory protection equipment as required.

Maintain the ability to perform required duties while wearing a Self-Contained Breathing Apparatus (SCBA).

Travel to alternate duty/work locations and offsite meetings.

Work independently without supervision.

MINIMUM QUALIFICATIONS:

Experience:

A minimum of twenty-four (24) months experience in the City of Vallejo classification of Water Treatment Plant Operator II.

OR

A minimum of three (3) years of water treatment operating experience, which includes at least one (1) year functioning as a journey-level operator, while holding Grade T3 Water Treatment Plant Operator certification at a T3 or higher surface water treatment facility. As a condition of continued employment, employees shall successfully complete the Water Treatment Plant Operator Promotional Review Process within twelve (12) months of the date of hire into this classification

Training:

A high school diploma or G.E.D with three (3) years of high school mathematics, including at least two (2) years of algebra.

Completion of the following four (4) California State University, Sacramento "Ken Kerri" Series of Courses: Water Treatment Plant Operation (Vols. 1 & 2); Small Water System Operation and Maintenance; and Water Distribution Operation and Maintenance.

Certification:

Possess and maintain a valid Class C California Driver License.

Possess and maintain a Water Treatment Operator Grad T3 Certification issued by the State Water Resources Control Board (SWRCB). Failure to maintain appropriate certification for classification will result in termination of employment.

Possess and maintain recertification for Hazardous Materials Technician, Confined Space Entry, CPR/First Aid, and Fork Lift Safety as often as set forth by the authority establishing the requirement.

OTHER REQUIREMENTS

Prior to appointment to this classification, the incumbent must have attained Grade T3 Water Treatment Plant Operator certification. Internal candidates must have demonstrated receipt of satisfactory performance reviews within the preceding twenty-four (24) month period, and successful completion of the Water Treatment Plant Operator Promotional Review Process.

Pursuant to California Government Code, Title 1 Division 4, Chapter 8, Section 3100 "all public employees have been declared to be disaster service workers subject to such disaster service activities as may be assigned to them by their superiors or by law."

Must be medically approved for wearing a Self-contained Breathing Apparatus (SCBA), and remain shaven of facial hair at all times as required to wear respiratory protection equipment.

Must maintain the ability to perform required duties while wearing SCBA.

Must be able to work safely while wearing Personal Protective Equipment (PPE).

Work on an unscheduled basis for emergency situations; must be willing to work any day and any shift within a 24-hour period as assigned, including holidays, week

WORKING CONDITIONS:**WORKING CONDITIONS**

Risk of exposure to chemicals; some lifting; machinery noise.

Work in and around confined spaces and elevated structures.

Work in proximity of high voltage and electronic equipment.

Work outdoors in a variety of weather conditions.

Work around complex, moving machinery in a biohazard environment.

ATTACHMENT D



Department of Public Works • 555 Santa Clara Street • Vallejo • CA • 94590

Via Hand-Delivery, First Class Mail and Certified Mail/Return Receipt Requested Mail

May 31, 2016

**Kenneth W. McKay
816 2nd Street
Fairfield, CA 94533**

NOTICE OF WRITTEN REPRIMAND

Dear Mr. McKay:

Pursuant to the City of Vallejo's ("City") Administrative Rule ("AR") 2.35—*Employee Discipline* [Attachment A] you are receiving a Written Reprimand. Your discipline is based upon you violating Fleming Hill Water Treatment Plant ("FHWTP") Standard Operating Procedure ("SOP") 2.38—*Belt Press Start-up & Shutdown*, in relevant part:

- "37. Clean lower half of belt presses, particularly the rollers, wash trays, and wash boxes." [Attachment B]
- "38. Clean until water from Wash Boxes runs clear." [Attachment B]

The aforementioned violations are based on your commission of the following acts or omissions. Please note this Notice of Written Reprimand ("Notice") is based on any one of the above violations and need not be based upon your commission of more than one violation. Facts:

- A. On March 29, 2016, you were the Water Treatment Plan Operator ("WTPO") assigned to the Belt Press at the FHWTP.
- B. Your March 29, 2016¹ logbook entry does not note the Belt Press you inherited at the beginning of your shift was dirty. [Attachment C]
- C. Between your March 29, 2016 shift and Rodney Jeffries', WTPO, April 5, 2016 shift, no other WTPO was responsible for the Belt Press being clean.
- D. On April 5, 2016, at the beginning of his shift, Mr. Jeffries noticed the Belt Press was not properly cleaned. Mr. Jeffries immediately notified Joe Abitong, Plant Operations Supervisor and Stuart Cole, Water Superintendent. Mr. Abitong and Mr. Cole took

¹ Please note, you incorrectly listed the date of your logbook entry as "11-29-16."

photographs of the dirty Belt Press. [Attachment D] Mr. Jeffries also noted in the logbook the Belt Press was dirty at the start of his shift. [Attachment E]

Based upon the facts, it is concluded:

Your failure to properly clean the Belt Press on March 29, 2016 is a violation of the FHWTP's SOP 2.38—*Belt Press Start-up & Shutdown*, in relevant part:

- "37. Clean lower half of belt presses, particularly the rollers, wash trays, and wash boxes." [Attachment B]
- "38. Clean until water from Wash Boxes runs clear." [Attachment B]

Furthermore, to exacerbate your negligence, in your role as a WTPO, you are trusted to "maintain operating equipment and facilities in a clean and orderly condition." [Attachment F] By your neglect, you violated this trust.

The adverse impact of your failure to properly clean the Belt Press is that it can cause a variety of problems, including but not limited to: clogging of the Plant's drains, corrosion of the Plant's equipment, binding of the Plant's belts and producing foul odors.

Kenneth, this Written Reprimand is intended to emphasize to you the seriousness of your negligence in the performance of your duties. You have been a WTPO since December 24, 2013 and are expected to know that you must properly clean the Belt Press. You must make immediate improvements, further incidents of this nature will result in more severe disciplinary action up to and including termination. Please govern yourself accordingly.

It is illegal and inappropriate to retaliate against any person who has participated in complaining or providing information regarding your discipline. You may not contact or in any other manner retaliate against any individual who has provided information to the City regarding your conduct.

Sincerely,



Fiona Gault Strykers
Assistant Public Works Director—Water

cc: Jasmin Loi, Human Resources Director
Janet Thiessen, Human Resources Program Manager
David Kleinschmidt, Public Works Director
Stuart Cole, Assistant Water Superintendent—Treatment
Employee personnel file

Attachments:

- A. AR 2.35—*Employee Discipline*
- B. FHWTP SOP 2.38—*Belt Press Start-up & Shutdown*
- C. Mr. McKay's March 29, 2016 logbook entry
- D. Photographs of dirty Belt Press
- E. Mr. Jeffries' April 5, 2016 logbook entry
- F. WTPO Classification Specification

• Attachment A •

CITY OF VALLEJO
ADMINISTRATIVE RULE

SUBJECT: EMPLOYEE DISCIPLINE

A.R. Number: 2.35
Date Issued: 09/01/99
Date Effective: 09/01/99
Revised: 03/27/07

1. PURPOSE

- 1.1 To establish and maintain appropriate administrative procedures to ensure that prompt action is taken with employees whose performance is unsatisfactory or whose conduct or failure to observe City of Vallejo rules and regulations necessitates action.

2. SCOPE

- 2.1 This policy applies to all locations and all entities of the City of Vallejo and to all employees.

3. POLICY

- 3.1 It is the policy of the City of Vallejo to endeavor to treat all employees equitably and to administer all policies, procedures, rules and regulations consistently. When an employee's performance is unsatisfactory, or when an employee violates the rules and regulations of the City of Vallejo, however, the City may take appropriate disciplinary action.

4. DELEGATION OF AUTHORITY

- 4.1 The City Manager or designee is granted the authority to impose discipline, pursuant to Vallejo Charter Section 500 (a). The City Manager delegates this authority to the department directors and their designees.

5. RESPONSIBILITY

- 5.1 Human Resources Department: The Human Resources Department may be consulted for advice and assistance at all levels of a proposed disciplinary action. The Human Resources Director or designee shall review all proposed disciplinary action involving a suspension, reduction in pay, demotion, or discharge for procedural (due process and just cause) compliance prior to the proposed action being issued. The Human Resources Director or designee shall meet with a representative of the City Attorney's Office and the department director or designee to discuss a proposed disciplinary action prior to the issuance of a notice of proposed

disciplinary action involving a suspension, reduction in pay, demotion, or discharge. The Human Resources Director shall maintain a record of all disciplinary actions by department and type. The Department of Human Resources is authorized to issue procedures regarding implementation and administration of this policy.

5.2 City Attorney's Office: The City Attorney's Office shall be consulted for advice and assistance prior to the issuance of a notice of proposed disciplinary action involving a suspension, reduction in pay, demotion, or discharge. Such consultation shall continue through the due process procedures, and if the employee chooses to appeal the disciplinary decision, through the Civil Service appellant process. A representative of the City Attorney's office, the Director of Human Resources or designee, and the department director or designee shall discuss a proposed disciplinary action prior to the issuance of a notice of proposed disciplinary action involving a suspension, reduction in pay, demotion, or discharge.

5.3 Department Directors: Make certain that all employees of the department understand the rules and regulations which govern their behavior and point out and discuss rule infractions. Document all pertinent facts relating to the misconduct and employee responses to the misconduct. Issue the approved disciplinary action for repeated infractions or a serious offense. Provide copies of disciplinary notices to the Department of Human Resources. Consult with Human Resources and the City Attorney's Office prior to issuing a notice of proposed disciplinary action involving a suspension, reduction in pay, demotion, or discharge prior to the proposed action being issued and follow Pre-Disciplinary Action "Skelly Rights" Procedure (see Attachment A).

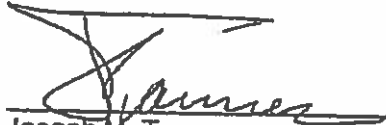
6. DISCIPLINARY POLICY:

6.1 The City of Vallejo may, in its sole discretion, employ a progressive discipline sequence involving some or all of the following steps: counseling, oral reprimand, written reprimand, suspension, reduction in pay, demotion, and discharge. The City may, however, decide to skip one or more of these steps, depending on the circumstances. In addition, the City reserves the right not to employ progressive discipline, and proceed directly to termination where the City deems it appropriate to do so.

6.2 Section 6.1 of this policy applies only to "for cause" employees, and does not apply to "at will" employees, probationary employees, temporary employees, seasonal employees, or any other employees exempt from the Civil Service.

6.3 This policy reaffirms the City of Vallejo's previous disciplinary practice of complying with all requirements regarding administration of discipline for

Fair Labor Standards Act (FLSA) exempt employees. Specifically, it is the policy of the City of Vallejo to suspend FLSA exempt employees without pay only in full day increments and not in partial day increments.



Joseph M. Tanner
City Manager

3-30-07
Date

• Attachment B •

**City of Vallejo Water Division
Fleming Hill Water Treatment Plant**

Section FH #2.38	Standard Operating Procedure #2.38 Belt Press Start-up & Shutdown	Revision No.: 3 Date: 10/15 Page 1 of 5

OVERVIEW

This procedure is necessary to understand how to operate the Belt Press facility downhill from the Fleming Hill Water Treatment Plant. Sludge water in Reclaim Basins or sludge directly from sed basins is sent down to the Belt Press facility by way of gravity feeding to the Gravity Thickener. The Belt press separates as much water from the solids. The dewatered sludge is picked up by Vallejo Recology and sent to the landfill. Decant water is sent back to a Fleming Hill Reclaim basin for further settling, before return to the headworks. This procedure must be performed by a fully trained operator of this facility and hold a minimum of a T2 license.

MAJOR EQUIPMENTS/COMPONENTS

- (2) drying lagoons for overflow
- Gravity Thickener with motorized sludge collector
- (2) Equalization chambers with a mixer each
- (3) sludge pumps
- (2) Ashbrook Belt Presses
- (2) each: poly totes, poly blender units (PBU) , and Poly Mixers (PM) aka aging tanks (holds up to ~4.0 feet of aging poly before overflow)
- (3) poly feed pumps (PFP)
- Screw conveyor with 3 openings (always leave door #3 open, last door)
- (3) sludge bins/ garbage dumpsters
- (3) decant pumps
- (2) drying lagoons for overflow

START-UP PROCEDURE

(In the Control Room)

1. Report to the control room to check for notes left by previous operator. Read last couple of log book entries and check white board for new equipment in or out of service and other misc. notes.
2. Call Vallejo Recology to let them know that the facility is being operated today and ask for bin pick-ups. Ask for bin liners if needed. Also ask for bin swaps following morning to ensure there are empty bins for the next shift (even if shift not scheduled the following day).
3. Check SCADA system and Main Control Panel for any faults. (If computer is locked up, re-boot the system)
4. Check white board for previous equipment configuration and select equipment accordingly.
5. On SCADA: Select and set desired Poly Feed Pumps to Auto
6. On SCADA: Select and set desired Poly Blender unit(s) to Auto
 - a. See note "Step#6"

7. On SCADA: Select and set desired Sludge Pumps to Auto
 - a. see note "Step #7"
8. On MAIN CONTROL PANELS: Set "Mode Select" Switch to Auto
 - a. See note "Step #8"
9. Select desired Garbage bin and Screw Conveyor gate. Make sure bin is lined. Make sure bins are in proper position. You can later align bins with forklift if necessary.
10. On Belt Press Local Control Panel: Select Dewater Switches to ON
11. Press Auto Start button on Main Control Panel.
12. Check Belt speed (some operators speed up during cleaning process)

In the Poly Room

13. Walk through facility checking for any apparent problems.
14. Check for any leaks or overflows in Poly Room.
15. Turn on poly tote mixer for 15 to 30 minutes.
16. Open discharge valves on PBUs (visually check all water valves are open in that corner)
17. Open Poly Tote valves.
18. Turn Poly Blender Units into the AUTO position
 - a. See note "step #6"
19. Turn on Aging Tank Mixers.
20. Open poly influent valves to desired Poly Feed Pumps
21. Check and note the Poly Tote weight

In Control Room

22. Log in start time and Poly Tote weight
 23. Check Sludge Level at Thickener. Log the level
- *Keep track of the number of poly totes you have available; place order in advance.**

Belt Press/ Top Floor

24. Turn on Exhaust Fans (if it is cold the gas heaters will automatically start).
25. Check Belt Presses for any obvious problems (obstructions, etc.)
26. Make sure that Hydraulic valves are in closed position on both presses.
27. Make sure that Chicanes and Scraper Blades are in down position.
28. Adjust Sludge Pumps, Poly Pumps, and Belt speeds to achieve proper process.
 - a. See note "Step #26" for additional information

SHUT-DOWN PROCEDURE

29. Press Auto Stop button on Local Control Panel OR turn "dewater off" for longer cleaning time.
30. Allow cake to clear from top of presses.
31. Lift Chicanes or not, it's your choice; lower them when finished.
32. Hose off sludge from the chicanes, loader box, inlet chute, and all exposed surfaces.
33. Hose off top of pressure wedges.
34. Hose off lower Gravity Grids and rollers.
35. Wait until all sludge has cleared the presses.
36. Open Wash water Box valves, and then close again.
37. Clean lower half of belt presses, particularly the rollers, wash trays, and wash boxes.
38. Clean until water from Wash Boxes runs clear.
39. Hose down decks, walls, stairs, and rails.
40. Allow presses to complete at least 45 minute wash down cycle.

In Poly Room

41. Turn off Aging Tank/Poly Mixers.
42. Close Poly Tote Valves.
43. Close Effluent valve on Poly Blender Units
44. Turn Poly Blender Units to the OFF position
45. Close influent valves to Poly Feed pumps

In the Control Room

46. Log shutdown time and Poly Tote final weight.
47. Calculate and log poly usage (in gallons) and number of bins filled.
48. Update white board on any equipment status changes or equipment configurations.
49. On SCADA: Turn Poly Feed Pumps, Sludge Pumps, and Poly Blender Units to OFF.
50. On MAIN CONTROL PANELS: set "Mode Select Switch" to OFF
51. Turn off Exhaust Fans (Gas heaters should turn off automatically).
52. During summer, leave Air Conditioner ON, set at 75 degrees.
53. Log out.
54. Turn off lights and check/lock all doors.

NOTES FOR PROCEDURE STEPS:

Step #6

Poly Blender Units – Often, it can be helpful to keep in SCADA OFF and go directly to units in Poly Room. *Only continue with this "test" if Aging tank level is less than 4'.

After opening poly tote valves and PBU discharge valves, turn PBU in the manual ON position to ensure and verify proper poly and water flow. Do this for each unit. Turn off immediately upon verification as Aging tanks/Poly Mixers will overflow around 4'. Put units in the "AUTO" position.

Step# 7

Sludge Pumps #3 can be used in place of Sludge pump 1 or 2.

- Open Sludge pump 3 discharge valve to appropriate BFP
- In MCC room: Turn VFD controller for Sludge pump 1 or pump 2 (whichever is being replaced) to off and #3 to Auto

Step #8 (normal operation)

Control Settings

Main Control Panels:

Control Power: ON

Wash water Valve: PLC

Hydraulic Pump: PLC

Belt Drive: PLC

Polymer Type: AGED

Control Select: LOCAL

Mode Select: AUTO

Step# 26 Sludge cake guidelines

Adjust Sludge Pumps, Poly Pumps, and Belt speeds to achieve proper process.

- Check the sludge cake process often, particularly at the beginning of the shift.
- Fewer polymers will be needed for the first 15 to 30 minutes until the poly already in the Aging Tanks is used.
- The sludge at the bottom of the equalization Chambers will be processed after 30 to 60 minutes, and another poly adjustment will be required.
- The process should then remain stable unless the Water Plant begins de-sludging, or the sludge in the thickener is depleted.

a) Too Much Poly:

- Sludge sticks to the belts past the scraper blades.
- Cake accumulates at chicanes or belt press loading box and gets stuck.
- Filtrate water is milky.
- Foam develops on top of cake.
- Water does not drop out (due to belt blinding).
- **Decrease poly flow until proper cake is achieved.

b) Not Enough Poly:

- Sludge does not cake.
- Sludge escapes past seals and into filtrate.
- Sludge oozes out between belts
- Cake is wet and heavy going into bins.
- **Increase poly flow until proper cake is achieved.

c) Low Sludge Solids Content:

- Water does not drop out (excessive water).
- Sludge is thin and almost clear.
- Very low Poly requirement.
- **Lower the sludge flow, poly flow, and belt speed until cake is achieved, or shut down.
- **Equalization Chamber inlets plugged. Clear inlets. Closed the two EQ valves and allow it to lower to 4 feet and reopen valve to clear the channel from any clogging.

GENERAL NOTES:

a) Weekly Facility Maintenance Operations:

Clean The Clarifier:

- Hose down stairs, decks, walkways, and platforms.
- Hose off mud and algae from filtrate spillway and sides of weirs.
- Hose off algae from sides of thickener.

Clear the Equalization Chamber Inlet Pipes:

- Plugged inlet pipes will cause low solids content in chambers.
- With presses running, close the (2) Equalization Chamber Inlet Valves.
- Watch levels of the Chambers.
- Mixers will shut off at 3 feet.
- Re-open inlet valves. Head pressure should clear the pipes.
- If still plugged, repeat this procedure.

Clean the Filtrate Well (weekly) Total Time 2 Hours:

- Contact the Water Plant and have them stop de-sludging a few hours before shutting down the Belt Presses.
- Shut down and clean Belt Presses.
- The Clarifier level should be no higher than one foot from the top of the weirs.
- Turn off the Filtrate Wet Well Low Level Controls at the control panel (Downstairs MCC Room).
- Manually turn on the Filtrate Pump(s) using the SCADA Controls.
- Filtrate Pump(s) will turn off at approximately 2 feet.
- Plug in Filtrate Well Sump Pump (Orange power cord inside Sludge Pump Building).
- Using Fire Hose mix mud inside Filtrate Well into a slurry. Repeat as necessary.
- Pump mud out of Filtrate Well, Hose, and repeat until clean.
- Unplug the Sump Pump.
- Set Belt Press Wash water Pumps to Bypass on Main Control Panel to refill filtrate well.
- When Filtrate Well level reaches 4 feet turn Low Level Controls back on.
- Turn Filtrate pumps to Off and then back to Remote at control panel (Downstairs MCC Room).
- Watch Filtrate Well Level on SCADA. (approx. 40 minutes)
- Filtrate Pumps should turn on when level reaches 6.5 feet.
- If pumps do not turn on, reset pumps again at control panel.
- Set Wash water Pumps back to PLC on Main Control Panel.

General Facility Cleaning:

- Sweep and/or hose down the Bin Loading Area
- Open valves to clean out Conveyor Gates.
- Sweep and/or hose down walls, floors, decks, and stairs on all three levels of Belt press Building.
- Hose out mud in Belt press filtrate drain stalls.
- Sweep out Sludge Pump Building.
- Sweep and clean the Polymer Feed Room
- Sweep out the Electrical Room.
- Knock down spider webs and spray for insects as necessary.
- Sweep sidewalks and pull weeds around buildings as necessary.

b) Troubleshooting:

No Poly/low poly:

Valve closed at Poly Tote or feed line incorrectly valved.

- Check valves to ensure poly flow to blenders.
- Open correct Poly Tote Valve.

Poly feed pumps shut down due to low flow or high Pressure.

- Reset Poly Pump at control in MCC Room
- Adjust Poly Pump speed at Local Control panel
- Speed should be between 20% and 85%

Air in Poly Feed line

- Bleed air out of system

Poly feed line or injector plugged.

- Increase poly pump speed until clog is forced out (90% or more)
- In the poly feed room, open water line to flush out the poly pipes (do this while the belt press is running)

Poly Mixer plugged (No poly in clear blending chamber)

- Bleed air from poly blender with bleed valve on back of blender pump.

REFERENCES:

1. Previous operation and maintenance documents.

• Attachment C •

0-18.000 Seifines

OK

in bling

re-mel

rel 16.1

#1 Bin MT

in 1/3 Full

Filling #

3 Bins &
tched to

manure

all process

Filling
in 1/3 Full
ched whole

whos
operated 1
1st Floor,

along

Floor,

ing paper-

of water

1149

a/l doors

to be pake 4P

3/25/16 1055 Friday
Facility check - all OK

3 Full sludge bins.

Classifier - lots of room for sludge

No alarm

SEA

3/26/16 1215 Saturday
Facility check - all OK

3/27/16 1350

Makey, Facility check OK

3/28/16 1000 hrs

Costa Doing Facility Check, All OK

Checked Forklift Battery, it started OK

1178

11-29-2016

1100

Makey in, Tote start 1148, 3 MT's

END 809

Filled 4 Bins

$33\frac{3}{4} \times 2 = 37\frac{1}{2} = 9 + 31 \text{ hrs}$

Valley of Garbage only come once, asked
for liner, did not bring.

Switched poly tote.

Process ok, not ideal due to it being
mostly Alum

emptied super sacks of old GAC into
recology bins.

Consolidated all waste poly into 2 Totes

1230

Makey to Hill, 12 of mud

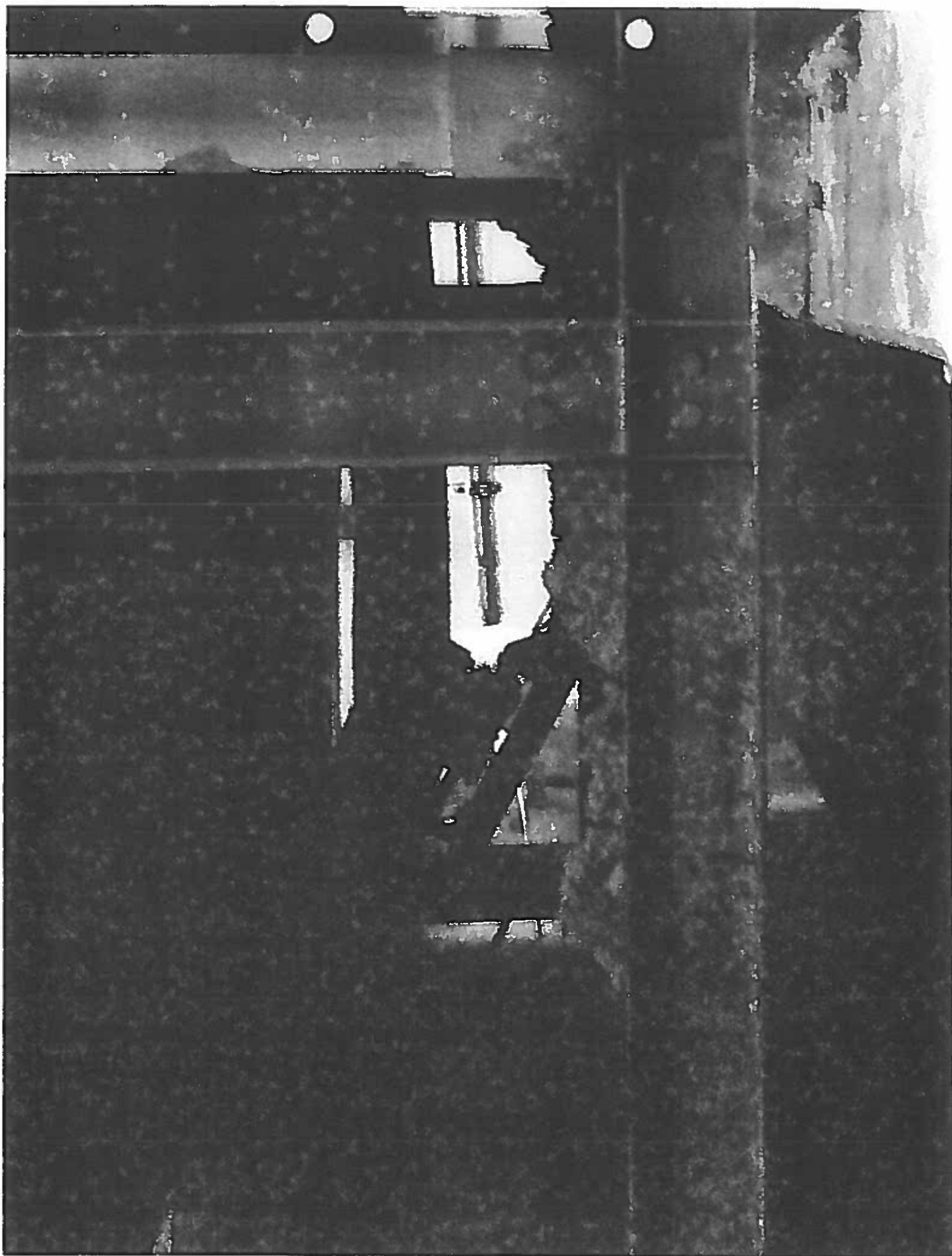
March 31, 2016 Thursday

555

Costa doing Facility Check, all OK

April 1, 2016 Friday

• Attachment D •





• Attachment E •

Two Hilly 14 for check all ok
Saturday 4-2-16

1700 Bernie on-site, checking Building
8' Fireward

1715 Bernie leaving site

4/3/16

0400 Security check OK - HAFF

4/4/16

1205 Security check

April 5, 2016

0745 Jeffries on site / Press check OK

except that lower part of press #12
are dirty large clumps of sludge below
/ Thickening 20' sludge

0815 started press #12 / contacted
Vallejo Garbage has only enough
liner material for 2 Bin left message
to Mike (VG) to get some brought
in.

1030 switch Bins to #2 left second
message to VG again / press #12
doing with an process contacted
F.H.I. to see what can be done
possible Belt Binding of poly

1120 Mike H. Here check Press
say Belt speed to fast and
adjust Poly / called Mike VG again
left message

Process extra
movers
was shutt
extremely wet
more (VG
no liner
cleaned
cleaned / m
hosed Alg
Press Aut.
going to 1
at 1600

4/6/16

1555 Haff in

• Attachment F •



Water Treatment Plant Operator

Bargaining Unit: International Brotherhood
of Electrical Workers

Class Code:
000

CITY OF VALLEJO

Established Date: Jun 8, 2015

Revision Date: Jun 23, 2015

SALARY RANGE

\$38.34 - \$46.61 Hourly
\$3,067.57 - \$3,728.65 Biweekly
\$6,646.40 - \$8,078.74 Monthly
\$79,756.77 - \$96,944.85 Annually

DEFINITION:

To perform a variety of skilled technical duties and semi-skilled labor as shift operator, as regulated by Federal and State potable water treatment guidelines, in the operation and maintenance of the City's drinking water treatment plants, transmission, distribution systems, and appurtenances.

DISTINGUISHING CHARACTERISTICS

This is the full journey level classification in the treatment plant operator series, meeting requirements set by the U.S. Environmental protection Agency under the Safe Drinking Water Act, as well as by the State Water Resources Control Board (SWRCB), under the California Safe Drinking Water Act. The regulations ensure that water treatment facilities are operated and maintained by operators who are certified at the appropriate level, ensuring the protection of public health and safety. Performance expectations at this level include performance of the full range of responsibilities within the function. Individuals in this classification have satisfactorily demonstrated they are capable of operating and maintaining serviceable water supply, according to the City's treatment facility classification consistent with Environmental Protection Agency regulations, through the City's transmission, distribution facilities, water treatment plants and sludge de-watering project on an assigned shift, often without immediate supervision. Incumbents apply board job knowledge to resolve issues/problems of diverse scope where analysis of data requires evaluation of identifiable factors. Work requires independent judgment, initiative, and action within established operational parameters. This classification is distinguished from the Advanced Water Treatment Plant Operator class, as the latter is the challenging responsibilities for which problem-solving frequently requires analysis of unique issue/problems without precedent and/or structure.

AS a condition of continued employment with the City of Vallejo, incumbents are required to adhere to the process for maintaining the Grade T3 Water Treatment Plan Operator certification outlined by the State Water Resources Control Board (SWRCB). If the certification is not maintained, employment will be terminated. Advancement beyond the classification of Water Treatment Plant Operator is not required as a condition of continued employment.

SUPERVISION RECEIVED AND EXERCISED

Receives general supervision from supervisory and management staff such as the Water

Treatment Plant Supervisors and the Water Operations Superintendent. May receive lead direction from Advanced Water Treatment Plant Operators.

Exercises functional and technical supervision over, and provides training to Water Treatment Plant Operator Trainee staff.

EXAMPLES OF DUTIES:

EXAMPLES OF IMPORTANT RESPONSIBILITIES AND DUTIES - *Important responsibilities and duties may include, but are not limited to, the following:*

Monitors, adjusts and controls functions at water treatment plants, transmission/distribution system and sludge de-watering facility, using local controls and the Supervisory Control and Data Acquisition System (SCADA).

Operates and adjusts treatment plant pumps, motors, feeders and other equipment to maintain appropriate plant operations; regulate the flow of water through the water treatment plant and distribution system. Correctly regulates waste side-streams and return flows.

Calculates dosages and adjusts chemical feed machines for proper operation and application of chemicals in order to assure finished water quality standards. Arranges, safely receives and records deliveries of process chemicals to ensure adequate supplies.

Performs water quality tests using standardized testing methods in the plant laboratory; mixes and applies process chemicals at various stages in the treatment process.

Assembles updates and maintains plant operations logs and reports; performs and records mathematical calculations related to plant operational activities, process testing and control.

Works with hazardous chemicals related to water treatment and branch laboratory operations; receives training in and assists in spill prevention and response at City facilities.

Schedules, safely receives and records deliveries of process chemicals and monitors inventories to ensure adequate supplies.

Maintains plant, operating equipment and facilities in a clean and orderly condition; performs routine housekeeping inside and outside the plant and conducts regular site safety inspections

Dispatch call-out personnel as required at all hours. May act in a central communications function as follows: taking, relaying, transmitting, and providing information to and from City personnel or outside emergency services as required.

Operate city-owned motor vehicle to a number city facilities; operates licensed, City communication equipment.

Receives, safely unloads and stores materials by hand and by use of motorized and mechanical equipment.

Receives business contact with other city employees, customer inquiries and makes every effort to enhance public relations. Conducts general tours of the facilities.

Provides for safe plant conditions and working environment at all times by exercising a routine of attentiveness and proactive responses to plant safety and security matters.

Provides for safe plant conditions and working environment at all times by exercising a routine of attentiveness and proactive responses to plant safety and security matters.

Participates in accurate and complete shift change turn-overs to discuss vital plant information.

Participates in emergency preparedness training and exercises.

Perform related duties and responsibilities as required.

KNOWLEDGE AND ABILITIES:
QUALIFICATIONS

Knowledge of:

Standard principles of mathematics, biology, chemistry, and hydraulics as applied in the operation of a water treatment facility.

Standard principles, practices of drinking water treatment plant operations, laboratory analysis techniques and current drinking water standards and regulations.

Operating principles of plant equipment such as valves, pumps motors, controls, instrumentation and telemetry.

Operational and safety regulations pertaining to water treatment plant operations and vehicle and equipment usage.

Safety regulations pertaining work practices and use of related equipment.

Regulations, techniques and equipment used in managing mitigation, recovery and reporting of hazardous materials release.

Basic computer (PC) skills in Microsoft Suite software.

Safe vehicle and equipment use.

Ability to:

Logically solve problems and identify hazardous work conditions.

Understand and carry out written and oral instructions.

Operate and maintain water treatment plant equipment.

Diagnose operating problems and take effective courses of action.

Make independent technical decisions within established parameters to maintain proper treatment operations.

Establish and maintain effective working relationships with those contacted in the course of work.

Apply the practices, procedures, techniques, and treatment rules pertaining to the operation of water treatment plants and distribution system into daily practice.

Read and interpret gauges and other recording devices, plant piping and distribution diagrams and other technical documents.

Perform simple repair or maintenance to plant equipment such as pumps, valves, and electronic monitoring devices.

Perform simple to moderately complex tasks while wear Level A personal protective equipment.

Demonstrate the capability to independently operate all of the Water Division's facilities.

Exercise capable operations in all phases of plant operations: start-up, shutdown, reduction or bypass of unit processes, adverse or emergency conditions.

Accurately observe and record operating conditions and furnish verbal reports.

Travel to alternate duty/work locations and offsite meetings.

Work any shift, weekends, and holidays, at any Water Division facility.

Lift 55 pounds and move heavy chemical containers

Wear respiratory protection equipment as required.

Maintain the ability to perform required duties while wearing a Self-Contained Breathing Apparatus (SCBA).

Travel to alternate duty/work locations and offsite meetings.

Work independently without supervision.

MINIMUM QUALIFICATIONS:

Experience and Training Guidelines

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

A minimum of twenty-four (24) months experience in the City of Vallejo classification of Water Treatment Plant Operator II.

OR

A minimum of three (3) years of water treatment operating experience, which includes at least one (1) year functioning as a journey-level operator, while holding Grade T3 Water Treatment Plant Operator certification at a T3 or higher surface water treatment facility. As a condition of continued employment, employees shall successfully complete the Water Treatment Plant Operator Promotional Review Process within twelve (12) months of the date of hire into this classification

Training:

Equivalent to completion of the twelfth (12th) grade with three (3) years of high school mathematics, including at least two (2) years of algebra.

Completion of the following four (4) California State University, Sacramento "Ken Kerri" Series of Courses: Water Treatment Plant Operation (Vols. 1 & 2); Small Water System Operation and Maintenance; and Water Distribution Operation and Maintenance.

Certification:

Possess and maintain a valid Class C California Driver License.

Possess and maintain a Water Treatment Operator Grad T3 Certification issued by the State Water Resources Control Board (SWRCB). Failure to maintain appropriate certification for classification will result in termination of employment.

Possess and maintain recertification for Hazardous Materials Technician, Confined Space Entry, CPR/First Aid, and Fork Lift Safety as often as set forth by the authority establishing the requirement.

OTHER REQUIREMENTS

Prior to appointment to this classification, the incumbent must have attained Grade T3 Water Treatment Plant Operator certification. Internal candidates must have demonstrated receipt of satisfactory performance reviews within the preceding twenty-four (24) month period, and successful completion of the Water Treatment Plant Operator Promotional Review Process.

Pursuant to California Government Code, Title 1 Division 4, Chapter 8, Section 3100 "all public employees have been declared to be disaster service workers subject to such disaster service activities as may be assigned to them by their superiors or by law."

Must be medically approved for wearing a Self-contained Breathing Apparatus (SCBA), and remain shaven of facial hair at all times as required to wear respiratory protection equipment.

Must maintain the ability to perform required duties while wearing SCBA.

Must be able to work safely while wearing Personal Protective Equipment (PPE).

Work on an unscheduled basis for emergency situations; must be willing to work any day and any shift within a 24-hour period as assigned, including holidays, week

WORKING CONDITIONS:
WORKING CONDITIONS

Risk of exposure to chemicals; some lifting; machinery noise.
Work in and around confined spaces and elevated structures.
Work in proximity of high voltage and electronic equipment.
Work outdoors in a variety of weather conditions.
Work around complex, moving machinery in a biohazard environment.

ATTACHMENT E



Department of Public Works · 555 Santa Clara Street · Vallejo · CA · 94590

Via First Class Mail and Certified/Return Receipt Requested Mail

October 12, 2016

Kenneth W. McKay
2006 Goodman Court
Fairfield, CA 94533

NOTICE OF TERMINATION

Dear Mr. McKay:

You were presented with a *Notice of Intent to Terminate and Investigation Closure* ("Notice"), dated September 15, 2016,¹ based upon your threats of violence against coworkers, intimidating behavior directed towards your coworkers, and failure to professionally and reasonably work with others in the workplace. (Attachment 1)

As you are aware, the City conducted a confidential administrative investigation regarding the complaint William Stockman ("Stockman"), Water Treatment Plant Operator ("WTPO"), brought against you regarding your threatening and inappropriate behavior in the workplace. (Attachment 1, Sub-Attachment D) As you are further aware, based on the information provided from the investigation, the City made the following administrative determinations with regard to the underlying allegations of the complaint against you:

- The allegation that you made threatening comments against supervisor Stuart Cole ("Cole"), Assistant Water Superintendent—Treatment, was sustained, as you stated words to the effect, "Stuart fucked me and I'm going to get him...He promised me and I'm going to get him back," in reference to Mr. Cole declining to give you preferential treatment for a vacant position in the Green Valley Water Treatment Plant's caretaker house.

¹ All dates are 2016 unless otherwise noted.

- The allegation that you made threatening comments against coworker Rodney Jeffries, WTPO, was sustained, as you stated words to the effect that Mr. Jeffries "ratted" you out to management regarding a dirty Belt Press, that Mr. Jeffries should have talked to you directly about the issue, and that you wanted to "beat the fuck out of him."
- In addition, you were found to have engaged in combative and inflammatory acts towards your coworkers on multiple occasions, as you have used profanity or offensive language in response to work-related conversations, slammed papers on the counter, snapped at your coworkers with a raised voice, angry expressions, or aggressive body language despite any provocation, among other contentious acts.

Your *Skelly* meeting was held on October 7. Your *Skelly* officer was Police Captain Lee Horton ("Horton"). In addition to Captain Horton and yourself, also present were your union representatives, Jennifer Gray, IBEW Local 1245 Business Representative and Ray Thomas, IBEW Local 1245 Assistant Business Manager. At your *Skelly* meeting, you denied making threats against your coworkers. In addition, you and your representatives alleged the following:

- Motivation for the *Notice* by the City of Vallejo ("City") was in retaliation for you helping Erin Waid, WTPO, file her Equal Employment Opportunity Commission ("EEOC") charge against the City and for you filing your own EEOC charge against the City.
- Your supervisors failed to act expeditiously over your alleged threats against Mr. Cole and Mr. Jeffries or for your alleged combative and inflammatory acts.
- The City did not interview six additional employees regarding your alleged acts.
- The interviews and investigation by James Peavey, Personnel Analyst II, were biased.

Captain Horton considered the *Notice*, your *Skelly* meeting response, your prior disciplinary record² and your current Annual Performance Assessment.³ Captain Horton is sustaining the recommendation you be terminated from your WTPO position with the City.

² Specifically, on May 31, you were issued a *Written Reprimand for Negligence*, which is found at Attachment 1, Sub-Attachment D.

³ Your most recent Annual Performance Assessment regarding your performance between December 24, 2014 and July 28, 2015 also reveals your ongoing challenges with working constructively with others and treating others in a professional manner, which is found at Attachment 1, Sub-Attachment E. Specifically, you were noted for "demonstrat[ing] combative and inflammatory behavior if he [did] not get his way." You openly displayed "a poor attitude with an angry tone, sharp words, and even, at times, physically threatening demeanor when someone expects him to work with a situation that he disagrees with... The angry outbursts tend to make his co-workers feel threatened." In addition, you "...alienated other coworkers with aggressive behavior, angry outbursts and threatening tone, words, and body language, and problem solving that requires teamwork does not meet expectations..."

Therefore, pursuant to the City's *Administrative Rule ("AR") 2.35—Employee Discipline* (Attachment 1, Sub-Attachment A) and *Civil Service Commission Rule 18—Suspension, Fine or Removal*, (Attachment 1, Sub-Attachment B) I am terminating you from employment as a WTPO with the City, effective 5:15 p.m. on October 12.

Per *Civil Service Commission Rule 19.1—Appeals and Hearings* (Attachment 2), you have the right to appeal your discipline to the Civil Service Commission ("Commission") within five calendar days. Specifically, your written appeal must be received by Jasmin Loi, Executive Secretary of the Commission, by 5:15 p.m. on October 17. Your written appeal must be submitted to one of the following:

- Email: jasmin.loi@cityofvallejo.net
- Facsimile: (707) 648-5292
- Mail or in person: 555 Santa Clara Street, Room 102, Vallejo, CA 94590

It is illegal and inappropriate to retaliate against any person who has participated in complaining or providing information regarding your termination. You may not contact or in any other manner retaliate against any individual who has provided information to the City regarding your misconduct.

Sincerely,



Fiona Gault Strykers
Interim Assistant Public Works Director—Water Division

cc: David Kleinschmidt, Public Works Director
Jasmin Loi, Human Resources Director
Crystal Tobin, Personnel Analyst II
Employee Personnel File

Attachments:

1. *Notice of Intent to Terminate and Investigation Closure*, dated September 15⁴
2. *Civil Service Commission Rule 19.1—Appeals and Hearings*

⁴ On September 15, the City mailed the *Notice* to your mailing address at 816 2nd Street, Fairfield, CA 94533. Since the City had a second mailing address on file for you, in order to ensure proper notice, on September 23, the City sent you an additional copy of the *Notice* to your mailing address at 2008 Goodman Court, Fairfield, CA 94533.



Department of Public Works - 555 Santa Clara Street - Vallejo - CA - 94590

Via First Class Mail and Certified/Return Receipt Requested Mail

September 23, 2016

Kenneth W. McKay
2006 Goodman Court
Fairfield, CA 94533

Re: Additional Copy of Notice of Intent to Terminate and Investigation Closure

Dear Mr. McKay:

On September 15, 2016, the City of Vallejo mailed a Notice of Intent to Terminate and Investigation Closure ("Notice of Intent") to your mailing address at 816 2nd Street, Fairfield, CA 94533.

However, since the City of Vallejo ("City") has located a second mailing address on file for you, in order to ensure proper notice, the City is sending the enclosed Notice of Intent to your mailing address at 2006 Goodman Court, Fairfield, CA 94533.

In order to ensure you are provided with your full due process rights, the City is providing you an extended timeline within which to respond to the enclosed Notice of Intent.

If you wish to submit a written response, it must be received by the City's Department of Human Resources, located at 555 Santa Clara Street, Room 102, Vallejo, CA 94590, by 5:15 p.m., September 30, 2016.

If you wish to have a pre-disciplinary *Skelly* meeting, you must advise the City's Department of Human Resources of that fact by contacting Tanya Starks, Senior Administrative Clerk, at (707) 648-4398 or tanya.starks@cityofvallejo.net, by 5:15 p.m., September 30, 2016.

Sincerely,



Fiona Gault Strykers
Interim Assistant Public Works Director—Water Division

cc: David Kleinschmidt, Public Works Director
Jasmin Loi, Human Resources Director
Employee Personnel File

Enclosure: Notice of Intent to Terminate and Closure of Investigation, dated September 15, 2016



Department of Public Works · 555 Santa Clara Street · Vallejo · CA · 94590

Via First Class Mail and Certified/Return Receipt

September 15, 2016

Kenneth W. McKay
816 2nd Street
Fairfield, CA 94533

NOTICE OF INTENT TO TERMINATE AND INVESTIGATION CLOSURE

Dear Mr. McKay:

Pursuant to *Skelly v. State Personnel Board* (1975) 15 Cal.3d 194 ("Skelly"), the City of Vallejo's ("City") Administrative Rule 2.35, Civil Service Commission Rule 18, and the Collective Bargaining Agreement ("CBA") between the City of Vallejo and International Brotherhood of Electrical Workers Local 2376, AFL-CIO ("IBEW"), I am advising you of my preliminary decision to terminate you from your position as a Water Treatment Plant Operator. If my recommendation remains unchanged following completion of any pre-disciplinary review in this matter, then you will be provided with written notice of your discipline. Your recommended discipline is based upon your threats of violence against coworkers, intimidating behavior directed towards your co-workers, and failure to professionally and reasonably work with others in the workplace.

A. GROUND FOR DISCIPLINE

A classified employee may be suspended, fined, or dismissed, as provided by City Administrative Rule 2.35—Employee Discipline (See Attachment A), and Civil Service Commission Rule 18—Suspension, Fine or Removal (See Attachment B). The recommended discipline is based upon findings that you have committed the following violations of the CBA, Section 7—Safety (See Attachment C):

"It is the policy of the City to comply with all federal, state and local health and safety regulations to provide a work environment as free as practicalbe

from recognized hazards. Employees are expected to comply with all safety and health requirements whether established by the City or by federal, state, or local law....No employee shall be expected to work in the presence of any valid safety or health hazard. Should any employee believe that such conditions exist, the employee should so notify a supervisor to determine the degree of the existing hazard..."

This recommended discipline is also based upon findings that your conduct violated Civil Service Commission Rule 18—Suspension, Fine or Removal (See Attachment B):

"Every person holding a position in the classified service shall be subject to suspension, fine, demotion or removal....for misconduct... or for failure to cooperate reasonably with the department head or with his his/her fellow employees..."

B. FACTUAL BASIS FOR RECOMMENDATION ACTION

1. Investigation

As you are aware, the City conducted a confidential administrative investigation regarding the complaint William Stockman, Water Treatment Plant Operator, brought against you regarding your threatening and inappropriate behavior in the workplace. The City takes allegations of workplace safety seriously and is committed to furnishing a safe and healthful work environment for its employees. The City enlisted James Peavey, Personnel Analyst II with the City's Human Resources Department, to conduct the investigation. Mr. Peavey had full freedom to conduct the investigation as he saw fit and without the City's interference or influence. Mr. Peavey conducted an extensive investigation, including interviews of nine witnesses, including you and several other Treatment Operation team members, and an extensive review of relevant documents. The investigation has concluded.

Based on the information provided from the investigation, the City made the following administrative determinations with regard to the underlying allegations of the complaint against you:

- The allegation that you made threatening comments against supervisor Stuart Cole is SUSTAINED, as you stated words to the effect, "Stuart fucked me and I'm going to get him...He promised me and I'm going to get him back," and in reference to Mr. Cole declining to give you preferential treatment for a vacant position in the Green Valley Water Treatment Plant's caretaker house.
- The allegation that you made threatening comments against coworker Rodney Jeffries is SUSTAINED, as you stated words to the effect that Mr. Jeffries "ratted"

you out to management regarding a dirty Belt Press, that Mr. Jeffries should have talked to you directly about the issue, and that you wanted to "beat the fuck out of him."

2. Proposed Remedial Action

Based on the City's administrative findings and determination set forth above, the City intends to implement remedial policy measures to further assure a safe and healthful work environment for its employees so as to prevent similar instances from occurring in the future.

Based on the City's administrative findings and determination as set forth above, the City makes the recommendation that the discharge of your employment as the appropriate level of disciplinary action based upon your misconduct as detailed below.

Please note, this Notice of Intent to Terminate ("Notice") is based on any one of your acts and need not be based upon your commission of more than one act. The City finds that you made threatening comments about fellow City employees, Stuart Cole, Assistant Water Superintendent—Treatment, and Rodney Jeffries, Water Treatment Plant Operator (See Attachment D):

- In December 2015, during a conversation with William Stockman, Water Treatment Plant Operator, you expressed your displeasure with Stuart Cole, Assistant Water Superintendent—Treatment, for failing to allow you to move into the Green Valley Water Treatment Plant's caretaker house, specifically stating "Stuart [Mr. Cole] fucked me and I'm going to get him [Mr. Cole]" and "He [Mr. Cole] promised me and I'm going to get him [Mr. Cole] back."
- On April 23, 2016, during a conversation with William Stockman, Water Treatment Plant Operator, you expressed your displeasure with Rodney Jeffries, Water Treatment Plant Operator, for reporting to management your failure to properly clean the Fleming Hill Water Treatment Plant's Belt Press, and that Mr. Jeffries should have directly talked to you about it, specifically stating "He [Mr. Jeffries] ratted me out to management" and that you wanted to "Beat the fuck out of him [Mr. Jeffries]."

In addition, you have engaged in combative and inflammatory acts towards your coworkers on multiple occasions, as you have used profanity or offensive language in response to work-related conversations, slammed papers on the counter, snapped at your co-workers with a raised voice, angry expressions, or aggressive body language despite any provocation, among other contentious acts. (See Attachment D).

Your explicit comments about hurting and retaliating against team members as well as your intimidating demeanor towards others have had a disruptive impact on the workplace.

C. LEVEL OF DISCIPLINE

The City has a legal duty pursuant to the California Occupational Safety and Health Act of 1973 ("Cal OSHA") to ensure its workplace is free from violence and threats of violence and to furnish employment and a place of employment that is safe and healthful for the employees therein. (See, Labor Code section 9400). Workplace violence is any act or threat of physical violence, harassment, intimidation, or other threatening disruptive behavior that occurs at the work site.

You have threatened the safety of others in the workplace by making statements of violence against Mr. Cole and Mr. Jeffries, exhibited an aggressive attitude and directed angry outbursts towards fellow Treatment Operations team members on numerous occasions. What is especially concerning is that your escalated reactions were in response to work-related circumstances that were not provoking, demeaning, or antagonizing in any way. Your behavior has caused your coworkers to feel intimidated or reluctant to work with you.

I have also reviewed and considered your entire personnel file in making the aforementioned recommendation. Your most recent Annual Performance Assessment regarding your performance between December 24, 2014 and July 28, 2015 also reveals your ongoing challenges with working constructively with others and treating others in a professional manner. Specifically, you were noted for "demonstrat[ing] combative and inflammatory behavior if he [did] not get his way." You openly displayed "a poor attitude with an angry tone, sharp words, and even, at times, physically threatening demeanor when someone expects him to work with a situation that he disagrees with...The angry outbursts tend to make his co-workers feel threatened." In addition, you "...alienated other coworkers with aggressive behavior, angry outbursts and threatening tone, words, and body language, and problem solving that requires teamwork does not meet expectations..." (See Attachment E) You may review your personnel file upon reasonable request by contacting Tanya Starks, Senior Administrative Clerk, at (707) 648-4398 or tanya.starks@cityofvallejo.net.

The City cannot tolerate your explicit threats of violence or your intimidating demeanor towards City employees. Further, your pattern of belligerent behavior is inappropriate and reflective of your inability to work constructively with your fellow employees in a professional and reasonable way. In addition, I have concluded that lesser discipline will not likely be effective because you were counseled on the very same issues during your last formal evaluation, dated July 28, 2015. Despite having an opportunity to improve, you not only continued to display similar deficient behavior, but more

egregiously, expressed your desire to harm two team members. Therefore, based upon the facts, I have concluded that the highest level of discipline is appropriate and recommend termination from your position as a Water Treatment Plant Operator.

D. RIGHT TO RESPOND

Pursuant to *Skelly*, you may provide a written and/or verbal response to this Notice. Your written response must be received by the Department of Human Resources by 5:15 p.m., September 22, 2016. If you wish to have a pre-disciplinary *Skelly* meeting, you must advise the City of that fact by contacting Ms. Starks at (707) 648-4398 or tanya.starks@cityofvallejo.net, by 5:15 p.m., September 22, 2016. Although the pre-disciplinary meeting is not designed to be a formal evidentiary hearing, legal counsel or another individual of your choice may represent you. Your failure to provide a written response or to attend a pre-disciplinary *Skelly* meeting will constitute a waiver of your right to provide a response. Accordingly, the decision to either sustain, modify or reject this recommendation will be based exclusively upon a review of this Notice and its attachments.

E. NON-RETALIATION

The City prohibits retaliation against those, including you, for participating in the complaint and investigation process. Please immediately report actions, comments, or conduct, if any, that you believe to be retaliation for your participation in this complaint and investigation process.

Sincerely,



Fiona Gault Strykers
Interim Assistant Public Works Director—Water Division

cc: David Kleinschmidt, Public Works Director
Jasmin Loi, Human Resources Director
Employee Personnel File

Attachments:

- A. City of Vallejo's Administrative Rule 2.35
- B. Civil Service Commission Rule 18
- C. CBA between the City of Vallejo and IBEW Local 2376, Section 7
- D. Confidential Administrative Investigation Report, dated September 13, 2016
- E. Annual Performance Assessment, dated July 28, 2016

Attachment A

NOTICE OF INTENT TO TERMINATE AND INVESTIGATION CLOSURE • KENNETH MCKAY

ATTACHMENT A

**CITY OF VALLEJO
ADMINISTRATIVE RULE**

SUBJECT: EMPLOYEE DISCIPLINE

**A.R. Number: 2.35
Date Issued: 09/01/99
Date Effective: 09/01/99
Revised: 03/27/07**

1. PURPOSE

- 1.1 To establish and maintain appropriate administrative procedures to ensure that prompt action is taken with employees whose performance is unsatisfactory or whose conduct or failure to observe City of Vallejo rules and regulations necessitates action.

2. SCOPE

- 2.1 This policy applies to all locations and all entities of the City of Vallejo and to all employees.

3. POLICY

- 3.1 It is the policy of the City of Vallejo to endeavor to treat all employees equitably and to administer all policies, procedures, rules and regulations consistently. When an employee's performance is unsatisfactory, or when an employee violates the rules and regulations of the City of Vallejo, however, the City may take appropriate disciplinary action.

4. DELEGATION OF AUTHORITY

- 4.1 The City Manager or designee is granted the authority to impose discipline, pursuant to Vallejo Charter Section 500 (a). The City Manager delegates this authority to the department directors and their designees.

5. RESPONSIBILITY

- 5.1 Human Resources Department: The Human Resources Department may be consulted for advice and assistance at all levels of a proposed disciplinary action. The Human Resources Director or designee shall review all proposed disciplinary action involving a suspension, reduction in pay, demotion, or discharge for procedural (due process and just cause) compliance prior to the proposed action being issued. The Human Resources Director or designee shall meet with a representative of the City Attorney's Office and the department director or designee to discuss a proposed disciplinary action prior to the issuance of a notice of proposed

disciplinary action involving a suspension, reduction in pay, demotion, or discharge. The Human Resources Director shall maintain a record of all disciplinary actions by department and type. The Department of Human Resources is authorized to issue procedures regarding implementation and administration of this policy.

5.2 City Attorney's Office: The City Attorney's Office shall be consulted for advice and assistance prior to the issuance of a notice of proposed disciplinary action involving a suspension, reduction in pay, demotion, or discharge. Such consultation shall continue through the due process procedures, and if the employee chooses to appeal the disciplinary decision, through the Civil Service appellant process. A representative of the City Attorney's office, the Director of Human Resources or designee, and the department director or designee shall discuss a proposed disciplinary action prior to the issuance of a notice of proposed disciplinary action involving a suspension, reduction in pay, demotion, or discharge.

5.3 Department Directors: Make certain that all employees of the department understand the rules and regulations which govern their behavior and point out and discuss rule infractions. Document all pertinent facts relating to the misconduct and employee responses to the misconduct. Issue the approved disciplinary action for repeated infractions or a serious offense. Provide copies of disciplinary notices to the Department of Human Resources. Consult with Human Resources and the City Attorney's Office prior to issuing a notice of proposed disciplinary action involving a suspension, reduction in pay, demotion, or discharge prior to the proposed action being issued and follow Pre-Disciplinary Action "Skelly Rights" Procedure (see Attachment A).

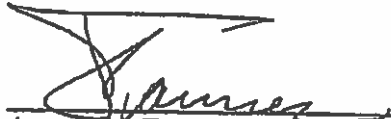
6. DISCIPLINARY POLICY:

6.1 The City of Vallejo may, in its sole discretion, employ a progressive discipline sequence involving some or all of the following steps: counseling, oral reprimand, written reprimand, suspension, reduction in pay, demotion, and discharge. The City may, however, decide to skip one or more of these steps, depending on the circumstances. In addition, the City reserves the right not to employ progressive discipline, and proceed directly to termination where the City deems it appropriate to do so.

6.2 Section 6.1 of this policy applies only to "for cause" employees, and does not apply to "at will" employees, probationary employees, temporary employees, seasonal employees, or any other employees exempt from the Civil Service.

6.3 This policy reaffirms the City of Vallejo's previous disciplinary practice of complying with all requirements regarding administration of discipline for

Fair Labor Standards Act (FLSA) exempt employees. Specifically, it is the policy of the City of Vallejo to suspend FLSA exempt employees without pay only in full day increments and not in partial day increments.



Joseph M. Tanner
City Manager

3-30-07
Date

NOTICE OF INTENT TO TERMINATE AND INVESTIGATION CLOSURE • KENNETH MCKAY

ATTACHMENT B

RULE 18

SUSPENSION, FINE OR REMOVAL

18.1 Employees Subject To

Every person holding a position in the classified service shall be subject to suspension, fine, demotion or removal from office or employment by the person, board, or commission appointing such persons, for misconduct, incompetency, inefficiency, failure to perform the duties or to observe the rules and regulations of such department, office, board or commission, or for failure to cooperate reasonably with the department head or with his/her fellow employees; subject to the right of the employee to appeal to the Civil Service Commission in the manner set forth in the Charter and these Rules.

18.2 Statement of Reason

Every employee shall be given a written statement of the reason for such suspension, fine, demotion or removal from office or employment at the time of such suspension, fine, demotion or removal. Such statement shall include in itemized form the specific instances in support of such suspension, fine, demotion or removal from office or employment. A copy of such statement shall be delivered to such person or shall be left at his/her last known address.

18.3 Filing of Appeal

Any employee who has been so disciplined shall have five (5) days after service of such written statement within which to file an appeal to the same. A copy of such appeal shall be filed during office hours at the office of the person, board or commission imposing such discipline and the original shall be filed by such employee in the office of the Executive Secretary of the Commission. Should the last day on which an appeal may be filed fall upon a Sunday or holiday the time for filing such appeal shall be extended to include the next following business day.

18.4 Investigation and Hearing Required

The Commission may make, or cause to be made, such investigation as it shall deem necessary and thereafter shall hold a hearing at which time it shall hear evidence for and against such employee. Hearings may be conducted informally and the conclusions shall be made by the Commission within ten (10) days after the matter has been submitted and thereupon the same shall be certified to the official, board or commission from whose order the appeal has been taken. The findings and conclusions of the Commission also may contain such recommendations as said Commission shall deem proper, and shall include the amount of compensation such employee is entitled to receive, if any. Said findings and conclusions of the Commission shall be final.

NOTICE OF INTENT TO TERMINATE AND INVESTIGATION CLOSURE • KENNETH MCKAY

ATTACHMENT C

SECTION 7 MISCELLANEOUS

7.1 FILLING OF VACANT POSITIONS

- A. Effective July 23, 2002 the City retains the sole and exclusive right to determine when and if a vacant position will be filled. Such decision shall not be subject to grievance or arbitration.

7.2 SAFETY

- A. It is the policy of the City to comply with all federal, state and local health and safety regulations to provide a work environment as free as practicable from recognized hazards. Employees are expected to comply with all safety and health requirements whether established by the City or by federal, state or local law.
 - 1. No employee shall be expected to work in the presence of any valid safety or health hazard. Should any employee believe that such conditions exist, the employee should so notify a supervisor to determine the degree of the existing hazard.
 - 2. It is the responsibility of management and supervisory personnel to provide suitable safety equipment, training and supervision to each employee and to address known safety hazards.
 - 3. Should an employee or the Union believe that any of the above provisions have been violated, the employee or the Union may enforce such provisions through the California Department of Industrial Relations.
- B. Appropriate safety equipment will be furnished and maintained by the City in a condition suitable for its purpose. Employees are to appropriately maintain City-provided personal protective safety equipment. The City will be responsible for the reasonable replacement cost of such equipment only when the need for such replacement does not arise out of the employee's negligence or carelessness.
- C. The City agrees to allow one (1) employee designated by the Union to accompany an OSHA Inspector and any other persons who may be designated by the City on any appropriate inspection tour of a City facility at which employees in this bargaining unit normally work. Time necessarily lost by the employee from his/her regularly scheduled work shall be compensated at said employee's regular straight-time rate of pay.
- D. The City and the Union shall establish a Joint Safety Committee consisting of three (3) employee representatives appointed by the Union and three (3) City representatives.

1. It shall be the right of the committee members to (a) report and discuss unsafe conditions they may observe or which may be called to their attention, including accidents; (b) assist in the development and dissemination of safety information to the employees; and (c) make recommendations with respect to the adequacy of the safety devices, safety equipment and safety practices within the City's operation.
2. The Joint Safety Committee shall have a regular monthly meeting unless there are no matters to be discussed. A report relative to the discussions at and results of such meeting shall be prepared and sent within five (5) calendar days to the City Manager. Time necessarily lost by the Joint Safety Committee members from their regularly scheduled work shall be compensated at said employees' regular straight-time rate of pay.

The Joint Safety Committee shall not file or handle grievances involving safety.

7.3 TRANSFERS AND ASSIGNMENTS

A. Temporary Transfers/Assignments

1. The City shall have the right to temporarily transfer or assign employees irrespective of their seniority status from one job classification to another to cover for employees who are absent, to fill temporary vacancies, or to take care of unusual conditions or situations which may arise.
 - a. In no case shall a temporarily transferred employee suffer a loss in pay as a result of such transfer.
 - b. When an employee is temporarily transferred or assigned to perform substantially the duties of an employee in a higher classification, such transferred employee shall receive the rate of pay applicable as if the employee were promoted to such position, for each day such work is performed. In no case shall such rate of pay be less than five (5) percent above such transferred employee's regular rate of pay, provided that employees serving in such positions shall not receive a rate of pay above the maximum step of the range of the position in which they are serving in an acting capacity.
2. The commencement and termination of each such temporary transfer or assignment shall be immediately reported by the employee's supervisor on a form designated for that purpose by the

Department of Human Resources. The employee involved shall promptly receive a copy of each such completed form.

3. When an employee is transferred or assigned to a position within a higher pay range, such employee shall have the right to remain in such higher-rated position as long as he or she performs satisfactorily and the need for filling such position on a temporary basis continues to exist.
 - a. In no event, however, shall a temporary assignment or transfer exceed twelve (12) months. Employees who work beyond six months will continue to receive "acting pay" when they are on paid leave.
4. Any employee temporarily transferred or assigned pursuant to this Section shall not acquire any permanent title or right to the position to which such employee is so transferred or assigned, but shall retain his or her seniority in the permanent classification from which such transfer or assignment was made.
5. This Section specifically supersedes and renders null and void any and all Civil Service Commission Rules and Regulations in conflict herewith, and the Civil Service Commission shall be foreclosed from dealing with such matters for positions within the bargaining unit.

B. Permanent Transfers/Assignments

1. Employees who wish to transfer permanently from one position in a classification to another position in the same classification shall so inform the Department of Human Resources, which shall maintain a transfer list of such employees.
2. When a vacancy occurs within the City, the Department of Human Resources shall poll the employees whose names are on the transfer list to determine who is interested in being considered for the vacancy. The Department of Human Resources shall convey the transfer list with appropriate documentation to the appropriate department for consideration; the employees may be interviewed at the discretion of the department involved.

7.4 CERTIFICATION/LICENSE FEES

- A. Employees who are required as a condition of employment or continued employment to obtain state certification or licensing in the field in which they are employed by the City shall be reimbursed by the City for the annual cost of such certificate or license

7.5 TRAINING FOR SUPERVISORY EMPLOYEES

- A. Individuals in supervisory classifications or lead worker positions who are responsible for supervising personnel as part of their daily job duties and functions will receive training within the first year of their appointment into their supervisor/lead-worker position and may request or will be provided additional supervisory and/or leadership training on an annual basis to continue their development of supervisory/leadership skills as deemed appropriate by their Department, Human Resources, or the City Manager. This provision will take effect following ratification of this agreement by IBEW and adoption by the City Council in accordance with the Government Code and Meyers-Millias-Brown Act.**

NOTICE OF INTENT TO TERMINATE AND INVESTIGATION CLOSURE • KENNETH MCKAY

ATTACHMENT D

Attachment D

NOTICE OF INTENT TO TERMINATE AND INVESTIGATION CLOSURE • KENNETH MCKAY

ATTACHMENT D

CONFIDENTIAL ADMINISTRATIVE INVESTIGATION REPORT

Report Concerning Complaints Regarding
Kenneth W. McKay, Water Treatment Plant Operator

CONFIDENTIAL ADMINISTRATIVE INVESTIGATION REPORT • KENNETH W. MCKAY

I. INTRODUCTION

This is a Confidential Administrative Investigation Report ("Report") that contains detailed information, witness accounts, relevant documentation, analyses and findings related to the allegations. It is anticipated this Report will be maintained confidentially by the decision-makers and will not be disseminated except as required or as determined by the decision-makers or applicable law.

On June 9, 2016,¹ William Stockman, Water Treatment Plant Operator, notified Jasmin Loi, Human Resources Director, that he was concerned Kenneth McKay, Water Treatment Plant Operator, made threatening and inappropriate comments about employees at work. Ms. Loi directed the undersigned to investigate.

II. WITNESSES AND DOCUMENTS

A. WITNESSES

Unless otherwise noted, all interviews were held in the Human Resources Office. The undersigned conducted interviews of the following individuals:

<u>Name</u>	<u>Title</u>
William Stockman	Water Treatment Plant Operator
Stuart Cole	Assistant Water Superintendent—Treatment
Roger Kasper	Water Treatment Plant Supervisor
Frank Costa	Advanced Water Treatment Plant Operator
Lynn Schulte	Water Treatment Plant Operator
Rodney Jeffries	Water Treatment Plant Operator
Richard Baker	Water Treatment Plant Operator
Joe Abitong	Water Treatment Plant Supervisor
Erin Wald	Water Treatment Plant Operator
Kenneth McKay	Water Treatment Plant Operator

The undersigned admonished all witnesses that 1) they had a duty to answer every question fully and truthfully, 2) to keep the contents of the interview confidential and 3) not to discuss their interview with others (whether on-duty or off-duty). Furthermore, the undersigned explained to witnesses this Report would be shared with others on a need-to-know basis. In addition, the undersigned informed all witnesses of the City of Vallejo's ("City") policy prohibiting retaliation for either bringing a claim or participation in an investigation and if they were to be retaliated against, they must immediately report this to the undersigned.

Interview summaries in this Report are not verbatim recitation of witnesses' statements. Verbatim statements are cited using quotations.

¹ All dates are 2016 unless otherwise stated.

CONFIDENTIAL ADMINISTRATIVE INVESTIGATION REPORT • KENNETH W. MCKAY

B. DOCUMENTS

The following documents were reviewed and are attached:

Exhibit #	Document
1.	Mr. McKay's Written Reprimand for Negligence, dated May 31.
2.	Mr. McKay's most recent Annual Performance Assessment (for the period of December 24, 2014 to July 28, 2015).
3.	Fleming Hill Water Treatment Plant Operations Work Schedule—April 23.
4.	Mr. McKay's email to Mr. Abitong, dated November 24, 2015.
5.	Mr. Cole's memorandum, memorializing a Verbal Reprimand given to Mr. McKay for 1) not reporting to the correct worksite and 2) failing to inform management that he would not report to work due to illness, dated July 28, 2015.
6.	Mr. McKay's written rebuttal to his Verbal Reprimand for not reporting to the correct worksite, not dated and not signed.
7.	Mr. McKay's written rebuttal to his Verbal Reprimand for failing to report that he would not report to work due to illness (i.e., "call-in sick"), not dated and not signed.
8.	Mr. Stockman's signed written statement memorializing his allegations, dated July 8.
9.	U.S. Department of Labor's definition of "Workplace Violence."
10.	California Labor Code 6400 (a)

III. INTERVIEWS

A. WILLIAM STOCKMAN

Mr. Stockman was interviewed on June 23. He is a Water Treatment Plant Operator. He has worked for the City for 15 years. His direct supervisor is Joe Abitong, who in turn reports to Mr. Cole.

Mr. Stockman said that immediately after a December 2015 union meeting, Mr. McKay approached him and expressed his displeasure with Mr. Cole.² Mr. Stockman said Mr. McKay told him that he was mad at Mr. Cole for reneging on his promise to select Mr. McKay to live at the Green Valley Water Treatment Plant's caretaker house. Mr. Stockman stated Mr. McKay specifically told him "Stuart [Mr. Cole] fucked me and I'm going to get him." Mr. Stockman said he told Mr. McKay that since other employees also requested to live at the Green Valley Water Treatment Plant's caretaker house, the department must have an application process, including interviews. According to Mr. Stockman, Mr. McKay replied "Screw that, he [Mr. Cole] promised me and I'm going to get him back." Mr. Stockman added he did not initially report Mr. McKay's remark because he was very hesitant to

² According to Mr. Stockman, although there were other people milling about, no one was within earshot of his conversation with Mr. McKay.

CONFIDENTIAL ADMINISTRATIVE INVESTIGATION REPORT • KENNETH W. MCKAY

report a fellow union shop steward to management, especially since Mr. McKay made the remark immediately following a union meeting.

Mr. Stockman said that on April 23, during the "turn-over,"³ he was speaking with Mr. McKay in the Fleming Hill Water Treatment Plant's Control Room.⁴ According to Mr. Stockman, Mr. McKay said he was angry with Mr. Jeffries for reporting his failure to clean the Belt Press⁵ to management and Mr. Jeffries should have talked to him about it.⁶ According to Mr. Stockman, Mr. McKay said "He [Mr. Jeffries] ratted me out to management" and he wanted to "Beat the fuck out of him [Mr. Jeffries]." Mr. Stockman explained he "struggled" for several weeks over whether to report Mr. McKay's "threats" to management. Mr. Stockman said he finally chose to alert Mr. Cole, explaining "You hear a lot about workplace violence, and armchair quarterbacking after the fact. When Ken [Mr. McKay] is not upset, he's nice. But he can get mad quickly."⁷ Mr. Stockman added he does not want to see Mr. McKay terminated, but he also wants to ensure a safe work environment.

B. Stuart Cole

Mr. Cole was interviewed on August 5. He is the Assistant Water Superintendent—Treatment. He has worked for the City for nine years. He started as a Water Treatment Plant Operator and was promoted to his current position two years ago. He reports to Fiona Gault Strykers, Interim Assistant Public Works Director—Water Division. Mr. Cole has overall supervision of all Water Treatment Plant Operators.

Regarding the Green Valley Water Treatment Plant's caretaker house, Mr. Cole said at the time when Mr. McKay originally spoke to him about the position, Mr. McKay was the only employee who had expressed interest. Yet, between the time when Mr. McKay originally expressed interest and when the residence was ready for habitation, several other Water Treatment Plant Operators had expressed interest in living there too.⁸ Therefore, in order to ensure fairness, a competitive application process was necessary. Mr. Cole said when he shared this information with Mr. McKay, he became "angry" with him.

Regarding the two Verbal Reprimands issued to Mr. McKay, Mr. Cole said they were given to Mr. McKay for: 1) not reporting to the correct worksite and 2) failing to inform management he would not report to work due to illness (i.e., "call-in sick"). Mr. Cole stated the Verbal Reprimands were not given to

³ Turn-over is the semantical term used to describe the overlapping of the Water Treatment Plant Operators' shifts (i.e., when one Water Treatment Plant Operator "turns-over" the shift to the Water Treatment Plant Operator who is relieving him/her).

⁴ According to Mr. Stockman, he and Mr. McKay were the only two employees in the Control Room.

⁵ During Mr. McKay's shift on March 29.

⁶ Based on information provided by Mr. Jeffries, Mr. McKay received a Written Reprimand for "Negligence", dated May 31, which is found at Exhibit 1.

⁷ On July 8, Mr. Stockman submitted a signed/dated written statement memorializing his allegations.

⁸ Currently, the Green Valley Water Treatment Plant's caretaker house is vacant.

CONFIDENTIAL ADMINISTRATIVE INVESTIGATION REPORT • KENNETH W. MCKAY

Mr. McKay in retaliation for his helping Ms. Waid file an EEOC complaint.⁹ Mr. Cole added he used to be a union shop steward and he is a proponent of employees exercising their union rights.

Mr. Cole denied he had elicited negative comments from coworkers about Mr. McKay. Mr. Cole added if employees made negative comments to him about Mr. McKay, he asked them to submit their negative comments to him in writing.

Mr. Cole added that Mr. McKay's challenges with working constructively with coworkers and treating others in a professional manner was addressed in Mr. McKay's most recent Annual Performance Assessment (for the period of December 24, 2014 to July 28, 2015). Specifically, Mr. McKay was noted for "demonstrat[ing] combative and inflammatory behavior if he [did] not get his way" and he openly displayed "a poor attitude with an angry tone, sharp words, and even, at times, physically threatening demeanor when someone expects him to work with a situation that he disagrees with... The angry outbursts tend to make his co-workers feel threatened." In addition, it was noted that Mr. McKay "...alienated other coworkers with aggressive behavior, angry outbursts and threatening tone, words, and body language, and problem solving that requires teamwork does not meet expectations..." [Exhibit 2]

When asked, Mr. Cole said the following employees had expressed their concerns about Mr. McKay's behavior: Roger Kasper, Water Treatment Plant Supervisor; Frank Costa, Advanced Water Treatment Plant Operator; Lynn Schulte, Water Treatment Plant Operator; Rodney Jeffries, Water Treatment Plant Operator; and Joe Abitong, Water Treatment Plant Supervisor.

During a follow up telephone call on August 15, Mr. Cole said when he was the Acting Assistant Water Superintendent—Treatment, he would volunteer to cover open shifts only when no Water Treatment Plant Operators were able/willing to work the open shift. Mr. Cole approximated that over the course of two years, he only worked four overtime shifts.¹⁰

C. Roger Kasper

Mr. Kasper was interviewed on August 5.¹¹ He is a Water Treatment Plant Supervisor. He normally supervises the Water Treatment Plant Operators at

⁹ On July 14, 2015, Ms. Waid filed a charge of discrimination with the Equal Employment Opportunity Commission (EEOC) against the City alleging she was subjected to wage disparity based on her sex. Information is provided about Ms. Waid's complaint only because Mr. McKay's involvement with it forms the basis for his retaliation claim.

¹⁰ During Ms. Schulte's August 8 interview, she said ever since Mr. Cole's promotion, Mr. McKay has had "it out for Stu [Mr. Cole]." explaining that no matter what Mr. Cole does, Mr. McKay "will spin it to make it look bad for Stu [Mr. Cole]." Ms. Schulte gave as an example when Mr. Cole offered to come into work and get his "hands dirty" when his staff were unwilling or unable to work overtime. Ms. Schulte said she appreciated Mr. Cole's offer since "sometimes I work 18-hour shifts." Ms. Schulte went on to explain that Mr. McKay "turned red in his face" and said Mr. Cole was "stealing overtime."

¹¹ Telephone interview

CONFIDENTIAL ADMINISTRATIVE INVESTIGATION REPORT • KENNETH W. MCKAY

the Travis Air Force Base Water Treatment Plant. He is the back-up supervisor for the Fleming Hill Water Treatment Plant, where he was the supervisor from 1995 through 2005. He reports to Mr. Cole.

Mr. Kasper said Mr. McKay is "intelligent," yet he "angers easily," "holds grudges," "thinks that everyone is out to get him" and is prone to "lose his composure" and provided the following examples of incidents he observed in which he formed this basis:

- In the summer of 2015, when Mr. McKay became aware he would have to compete in a competitive selection process to live in the Green Valley Water Treatment Plant's caretaker house, he blamed Mr. Stuart, telling Mr. Kasper "Stuart [Mr. Cole] turned on me" and "He's [Mr. Cole] out for me."
- In the winter of 2015, Mr. Kasper spoke with Mr. McKay regarding some mistakes in Mr. McKay's monthly report, and Mr. McKay "exploded" at him. Specifically, Mr. McKay raised his voice at Mr. Kasper, and waved his hands at Mr. Kasper in an "aggressive" manner.

During a follow up telephone call on August 16, Mr. Kasper said Mr. Cole did not order him to ask employees if they had ever felt threatened by Mr. McKay. Mr. Kasper denied asking Mr. Baker if he ever felt threatened by Mr. McKay.¹² To the contrary, Mr. Kasper said that it was *Mr. Baker* who broached the topic of hearing rumors about Mr. McKay's angry outbursts. (Emphasis added.) Mr. Kasper said that in response to Mr. Baker's statement, he told Mr. Baker that if in the future, any employee who expressed his/her concern about Mr. McKay's behavior, he should suggest to the employee that he/she speak with Mr. Kasper.

D. Frank Costa

Mr. Costa was interviewed on August 5. He is an Advanced Operator. He normally works at the Fleming Hill Water Treatment Plant and the Green Valley Water Treatment Plant. He began employment with the City in December 2000.

Mr. Costa said Mr. McKay "tends to hold onto things" and "it takes Ken [Mr. McKay] a long time to get over something." Mr. Costa provided the example that even though it had been over half a year since Mr. McKay was told he would not be guaranteed to move into the Green Valley Water Treatment Plant's caretaker house, as of May 2016 he was still ruminating about it.

¹² Mr. Baker was interviewed on August 11. Mr. Baker said that, in October or November 2015, Mr. Kasper asked him if he ever felt threatened by Mr. McKay.

Mr. Costa added "I like Ken as a person, but he's hard to be around because he gets so angry so easily."

E. Lynne Schulte

Ms. Schulte was interviewed on August 8. She is a Water Treatment Plant Operator. She has held this position since June 2010. She directly reports to Joe Abitong.

Ms. Schulte said ever since Mr. Cole was promoted, Mr. McKay has had "it out for Stu [Mr. Cole]," explaining that no matter what Mr. Cole does, Mr. McKay "will spin it to make it look bad for Stu [Mr. Cole]." Ms. Schulte gave as an example when Mr. Cole offered to come into work and get his "hands dirty" when his staff were unwilling or unable to work overtime. Ms. Schulte said she appreciated Mr. Cole's offer since "sometimes I work 18-hour shifts." Ms. Schulte went on to explain that Mr. McKay "turned red in his face" and said Mr. Cole was "stealing overtime."

Ms. Schulte described Mr. McKay's behavior as "erratic," "explosive" and "paranoid" and that he will blow up at people. Ms. Schulte gave an example in the summer of 2015, when—in the presence of Mr. McKay—Mr. Jeffries asked her how a new Water Treatment Plant Operator Trainee (Darryl Potts) was performing. According to Ms. Schulte, she told Mr. Jeffries that Mr. Potts was doing "okay" and in response, Mr. McKay "blew-up" at her—specifically, becoming red in the face, waving his arms and said in a loud, condescending tone, "He's [Mr. Potts] doing better than 'okay'! He's doing 'fine!'" Ms. Schulte said because of Mr. McKay's angry outburst, she no longer felt safe working with him and asked Mr. Abitong to not schedule her to work simultaneously with Mr. McKay.

Ms. Schulte gave another example of an incident at the Fleming Hill Water Treatment Plant that occurred in November or December 2015. Ms. Schulte explained Mr. Jeffries asked Mr. McKay to drain a water a basin and in response, Mr. McKay "screamed" at Mr. Jeffries, and in a scolding, loud manner, said "I know what to do!"

Ms. Schulte said "I don't like people losing their jobs, but I sure as hell don't want him [Mr. McKay] at work. Something is wrong with him [Mr. McKay]. He's [Mr. McKay] dangerous."

F. Rodney Jeffries

Mr. Jeffries was interviewed on August 11. He is a Water Treatment Plant Operator. He has worked for the City for 25 years. His direct supervisors are Mr. Abitong and Mr. Kasper, who in turn report to Mr. Cole.¹³

Asked about the dirty Belt Press matter, Mr. Jeffries said the reason he decided to report it directly to Mr. Abitong (and not to Mr. McKay) is twofold: 1) because Mr. Abitong is his direct supervisor and as such he has an obligation to keep Mr. Abitong informed and 2) in the past he had brought an error to Mr. McKay's attention and Mr. McKay raised his voice at him and he "didn't want to go through that again."¹⁴

Mr. Jeffries said about two weeks after he reported the dirty Belt Press (mid to late April 2016), he was conducting a *turn-over*¹⁵ with Mr. McKay. Mr. Jeffries said Mr. McKay appeared "perturbed" and said, regarding the dirty Belt Press, "Next time let me know. You should have told me."

G. Richard Baker

Mr. Baker was interviewed on August 11. He is a Water Treatment Plant Operator. He has worked for the City for eight years. His direct supervisor is Mr. Kasper, who in turn reports to Mr. Cole.

Mr. Baker said that in October or November 2015, Mr. Kasper asked him if he ever felt threatened by Mr. McKay. Mr. Baker indicated he personally does not have any issues with Mr. McKay.

Mr. Baker said he did not believe Mr. Cole nor anyone else had conspired to retaliate against Mr. McKay.

H. Joe Abitong

Mr. Abitong was interviewed on August 11. He is the Fleming Hill Water Treatment Plant Supervisor. He has worked for the City since 1992. At any one time, he supervises approximately 10 Water Treatment Plant Operators who are assigned to work at the Fleming Hill Water Treatment Plant.¹⁶

¹³ When Mr. Jeffries works at the Travis Water Treatment Plant, his supervisor is Mr. Abitong. When he works at the Fleming Hill Water Treatment Plant, his supervisor is Mr. Kasper.

¹⁴ Mr. Jeffries said that in late November 2015, he noticed Mr. McKay did not complete his Quality Control Report and brought this to Mr. McKay's attention. Mr. Jeffries said that in response, Mr. McKay screamed at him "This is chicken shit of you! Go fuck yourself!"

¹⁵ *Turn-over* is the semantical term used to describe the overlapping of the Water Treatment Plant Operators' shifts (i.e., when one Water Treatment Plant Operator "turns-over" the shift to the Water Treatment Plant Operator who is relieving him/her).

¹⁶ Mr. Abitong said that, generally, Water Treatment Plant Operators rotate through the Fleming Hill Water Treatment plant every three-months.

CONFIDENTIAL ADMINISTRATIVE INVESTIGATION REPORT • KENNETH W. MCKAY

Mr. Abitong expressed that not only has he "heard rumors" about Mr. McKay, Mr. Abitong said he has personally witnessed Mr. McKay "lose his temper" twice. Mr. Abitong explained "sometime in 2015," on two separate occasions, he personally witnessed Mr. McKay "slam," in an aggressive manner, a manual/stack of papers onto a counter in the Fleming Hill Water Treatment Plant's Control Room.

Mr. Abitong said he did not retaliate against Mr. McKay for his assisting Ms. Waid with filing her EEOC charge against the City, and he did not know of anyone else who has retaliated against Mr. McKay.

I. Erin Waid

Ms. Waid was interviewed on August 12. She is a Water Treatment Plant Operator. She has worked for the City for almost four years. Her supervisor is Mr. Abitong, who in turn reports to Mr. Cole.

Ms. Waid said she has never observed Mr. McKay get angry, yet she said he could be "passionate."

Ms. Waid said she felt Mr. Cole was targeting Mr. McKay. She gave as an example Mr. McKay being disciplined for the dirty Belt Press. She said that in the past three months, both Mr. Cole and Dan Ellicock, Water Treatment Plant Operator, had left the Belt Press dirty, yet she believed neither Mr. Cole nor Mr. Ellicock had been disciplined.¹⁷

During a follow up telephone call on August 15, Ms. Waid said she did not report the Belt Press left dirty by Mr. Ellicock because Mr. Abitong had also seen it, and since Mr. Abitong is a Water Treatment Plant Supervisor, she assumed he would deal with it. Regarding the Belt Press left dirty by Mr. Cole, Ms. Waid said she was alone when she saw it, and she did not report it because she did not believe any action would be taken against Mr. Cole since he is the Assistant Water Superintendent—Treatment.

When asked if she knew of a motive for Mr. Stockman to make false accusations against Mr. McKay, Ms. Waid said "Bill [Mr. Stockman] gets his feelings hurt easily. Ken [Mr. McKay] has corrected misstatements that Bill [Mr. Stockman] has made." Ms. Waid explained Mr. Stockman has made many misstatements at union meetings and Mr. McKay has corrected him.

¹⁷ Confidentiality and privacy issues preclude discussing whether any other City employees were disciplined.

CONFIDENTIAL ADMINISTRATIVE INVESTIGATION REPORT • KENNETH W. MCKAY

J. KENNETH MCKAY

Mr. McKay was interviewed on July 18.¹⁸ He is a Water Treatment Plant Operator. He has worked for the City for five years. His direct supervisors are Mr. Abitong and Mr. Kasper, who in turn report to Mr. Cole.¹⁹

Mr. McKay recalled having a conversation with Mr. Stockman after a December 2015 union meeting, in which he expressed his frustration at Mr. Stuart for not allowing him to move into the Green Valley Water Treatment Plant's caretaker house. Mr. McKay denied saying words to the effect of "Stuart [Mr. Cole] fucked me and I'm going to get him," stating "Never, never. I don't do retaliation. It's not my thing." When asked why Mr. Stockman would falsely accuse him, Mr. McKay said Mr. Stockman had admitted to being a "management 'shill'"²⁰ who was "planted" in the union to "pit members against each other."

Mr. McKay did not recall working with Mr. Stockman on April 23.²¹ However, when asked if he ever discussed with Mr. Stockman his displeasure with Mr. Jeffries for reporting the dirty Belt Press matter to management,²² Mr. McKay answered he "probably did" on April 23, explaining he was "irritated" with Mr. Jeffries and said "It was Rodney's [Mr. Jeffries'] duty to come to me about it [the dirty Belt Press]." When asked when he became aware Mr. Jeffries had reported his dirty Belt Press to management, Mr. McKay answered "soon afterwards."²³ Mr. McKay added the Belt Press "wasn't really as dirty as Rodney [Mr. Jeffries] made it out to be."

Mr. McKay denied he told Mr. Stockman he wanted to "beat the fuck out of him [Mr. Jeffries]" stating "Never, never. I don't hold grudges. I believe in the Buddhist saying that anger is like a hot piece of coal, the longer you hold onto it the more it hurts you." When asked why Mr. Stockman would falsely accuse him, Mr. McKay answered "Again, because of union issues."

Mr. McKay added "I believe this is a complete retaliation. I believe they are retaliating against me for filing an equal pay act for Erin Waid." Mr. McKay explained he believes he is being retaliated against because he assisted Ms. Waid in filing an EEOC charge in which Ms. Waid alleged pay disparity in violation of the Equal Pay Act and Title VII. When asked to specify who he

¹⁸ Ray Thomas, IBEW Local 1245 Assistant Business Manager, represented Mr. McKay at his investigatory interview.

¹⁹ When Mr. McKay works at the Travis Water Treatment Plant, his supervisor is Mr. Abitong. When Mr. McKay works at the Fleming Hill Water Treatment Plant, his supervisor is Mr. Kasper.

²⁰ Merriam-Webster defines "shill" as "to act as a spokesperson or promoter."

²¹ Records show that Mr. McKay and Mr. Stockman shared a turn-over on April 23, and are found at Exhibit 3.

²² On May 31, Mr. McKay was issued a Written Reprimand for "Negligence," based on his failure to properly clean the Belt Press during his shift on March 29.

²³ On April 5, Mr. Jeffries reported the dirty Belt Press to management.

CONFIDENTIAL ADMINISTRATIVE INVESTIGATION REPORT • KENNETH W. MCKAY

believes are retaliating against him, Mr. McKay identified Mr. Stockman, Mr. Stuart and Mr. Jeffries.²⁴

In support of his claim coworkers conspired against him, Mr. McKay presented the following documentation:

1. An email he sent to Mr. Abitong, in which he asks Mr. Abitong to stop coworkers from retaliating against him, dated November 24, 2015.²⁵ [Exhibit 4]
2. Mr. Cole's memorandum, memorializing a Verbal Reprimand given to Mr. McKay for: 1) not reporting to the correct worksite and 2) failing to inform management he would not report to work due to illness (i.e., "call-in sick"), dated July 28, 2015.²⁶ [Exhibit 5]
3. Mr. McKay's written rebuttal to his Verbal Reprimand for not reporting to the correct worksite, not dated and not signed.²⁷ [Exhibit 6]
4. Mr. McKay's written rebuttal to his Verbal Reprimand for failing to inform management he would not report to work due to illness (i.e., "call-in sick"). [Exhibit 7]²⁸

When asked, Mr. McKay said Mr. Baker and Ms. Wade would be able to provide information to support his claims of retaliation.

IV. CREDIBILITY ASSESSMENT, FINDINGS AND DISCUSSION

The undersigned analyzed the facts to determine whether Mr. Stockman's allegations were with or without merit under a "preponderance of the evidence standard" that for purposes of the Report is defined as the evidence on one side outweighs (i.e., more than) the evidence on the other side.²⁹ The undersigned drew the conclusions in the Report from the totality of the evidence, an exhaustive analysis of the facts and—where needed—made credibility determinations. The undersigned considered and gave appropriate weight to information that might be considered hearsay in legal proceedings. Finally, while much time was spent reviewing documents and interviewing witnesses, the Report does not purport to include every detail as described by the witnesses and found in the documents. Rather, the Report assesses the important facts as they pertain to the alleged conduct.

²⁴ When asked what was Mr. Jeffries' motivation to falsely accuse him of not properly cleaning the Belt Press (which led to Mr. McKay being disciplined) Mr. McKay answered "I don't know. It's conjecture."

²⁵ Mr. McKay explained that during a November 12, 2015 "safety test," Mr. Baker told him Mr. Kasper had asked employees if they had ever felt threatened or intimidated by Mr. McKay. Mr. McKay said Mr. Kasper was doing this at the behest of Mr. Cole in order to elicit statements from co-workers portraying Mr. McKay as aggressive. When asked on what basis he made this connection between Mr. Cole and Mr. Kasper, Mr. McKay answered "It's conjecture."

²⁶ Mr. McKay said the Verbal Reprimands were without merit and were issued by Mr. Cole in retaliation for his assisting Ms. Waid file the EEOC claim against the City.

²⁷ Mr. McKay could not recall when he originally submitted the rebuttal.

²⁸ Mr. McKay could not recall when he originally submitted the rebuttal.

²⁹ This is a qualitative standard (i.e., not a quantitative standard).

CONFIDENTIAL ADMINISTRATIVE INVESTIGATION REPORT • KENNETH W. MCKAY

Mr. Stockman's account was verified or corroborated by other witnesses. For example, based on the statements of Mr. Cole, Mr. Kasper, Mr. Costa, Ms. Schulte and Mr. Stockman, Mr. McKay was angry with Mr. Cole for not allowing him to move into the Green Valley Water Treatment Plant's caretaker house. Clearly, Mr. McKay was upset with Mr. Cole.

In addition, contrary to Mr. McKay's assertions, based on the statements of Mr. Cole, Mr. Kasper, Mr. Costa, Ms. Schulte and Mr. Stockman, Mr. McKay tends to hold grudges against coworkers and has difficulty controlling his temper at work (e.g., Mr. Cole said when he told Mr. McKay he was not guaranteed to live at the Green Valley Water Treatment Plant's caretaker house he became "angry" with him; Mr. Kasper said when he spoke with Mr. McKay regarding some mistakes in Mr. McKay's monthly report, Mr. McKay "exploded" at him—raised his voice and waved his hands in an "aggressive" manner; Mr. Costa said Mr. McKay "tends to hold onto things" and "it takes Ken [Mr. McKay] a long time to get over something." Mr. Costa provided the example that even though it had been over half a year since Mr. McKay was told he would not be guaranteed to move into the Green Valley Water Treatment Plant's caretaker house, as of May 2016 he was still ruminating about it; Ms. Schulte gave an example of an incident at the Fleming Hill Water Treatment Plant that occurred in November or December 2015, in which Mr. Jeffries asked Mr. McKay to drain a water basin, and in response, Mr. McKay "screamed" at Mr. Jeffries, and in a scolding, loud manner, said "I know what to do!"; and Mr. Stockman, said Mr. McKay told him "He [Mr. Jeffries] ratted me out to management" and he wanted to "Beat the fuck out of him [Mr. Jeffries]").

Additionally, Mr. McKay's challenges with working constructively with coworkers and treating others in a professional manner was addressed in Mr. McKay's most recent Annual Performance Assessment (for the period of December 24, 2014 to July 28, 2015) Specifically, Mr. McKay was noted for "demonstrat[ing] combative and inflammatory behavior if he [did] not get his way" and he openly displayed "a poor attitude with an angry tone, sharp words, and even, at times, physically threatening demeanor when someone expects him to work with a situation that he disagrees with...The angry outbursts tend to make his co-workers feel threatened." In addition, it was noted that Mr. McKay "...alienated other coworkers with aggressive behavior, angry outbursts and threatening tone, words, and body language, and problem solving that requires teamwork does not meet expectations..."

Furthermore, there is no evidence to conclude Mr. Cole, Mr. Kasper, Mr. Costa, Ms. Schulte and/or Mr. Stockman conspired to make false

statements about Mr. McKay.³⁰ What is more persuasive is that even a witnesses which Mr. McKay suggested to be interviewed (Mr. Baker) also refuted his conspiracy theory. Additionally, Mr. McKay's credibility regarding his accusation of such a conspiracy is diminished by his failure to provide a motivation for Mr. Jeffries to falsely accuse him of not cleaning the Belt Press, stating his belief was based on "conjecture."

In summary, taking into the totality of the evidence, Mr. Stockman's statements are plausible and his version of events were likely to occur based on other employees observations of Mr. McKay's pattern of aggressive behavior and demeanor.

2. Did Mr. McKay make a threatening comment about Mr. Jeffries?

Sustained. The weight of the evidence supports a finding Mr. McKay made a threatening comment targeting Mr. Jeffries.

Mr. Stockman said that on April 23, he was speaking with Mr. McKay in the Fleming Hill Water Treatment Plant's Control Room—they were the only two people in the room. According to Mr. Stockman, Mr. McKay said he was angry with Mr. Jeffries, for reporting to management his failure to properly clean the Belt Press and Mr. Jeffries should have directly talked to him about it. According to Mr. Stockman, Mr. McKay said "He [Mr. Jeffries] rattled me out to management" and Mr. McKay wanted to "Beat the fuck out of him [Mr. Jeffries]." Because Mr. McKay denied making this statement and there were no third-party witnesses, this finding is based on the credibility determination of who is telling the truth.

Mr. Stockman's account makes the most sense. For example, Mr. McKay had motive to be angry with Mr. Jeffries—specifically, for reporting his failure to properly clean the Belt Press (during his March 29 shift³¹) which led to him receiving a Written Reprimand (on May 31).

In addition, contrary to Mr. McKay's assertions, based on the statements of multiple interviewees, he tends to holds grudges and has difficulty controlling his temper. Furthermore, what is more telling are Mr. McKay's own words that seem to further support Mr. Stockman's allegations. For example, when asked to describe his April 23 conversation with Mr. Stockman, Mr. McKay said, "It was Rodney's [Mr. Jeffries'] duty to come to me about it." This demonstrates Mr. McKay holds grudges because—after nearly three-weeks since he became aware Mr. Jeffries had reported the dirty Belt Press—he was still "irritated" with Mr. Jeffries.

³⁰ In fact, Ms. Schulte and Mr. Stockman both said they did not want Mr. McKay to lose his job. In addition, Mr. Costa said "I like Ken as a person, but he's hard to be around because he gets so angry so easily." Furthermore, Mr. Kasper said Mr. McKay is "intelligent."

³¹ On April 5, Mr. Jeffries reported the dirty Belt Press to management.

CONFIDENTIAL ADMINISTRATIVE INVESTIGATION REPORT • KENNETH W. MCKAY

What is more persuasive is the temporal proximity between the time Mr. McKay became aware of Mr. Jeffries reporting the dirty Belt Press (on or about April 5) and when Mr. McKay made the threatening statements towards Mr. Jeffries (April 23).

In summary, taking into the totality of the evidence, Mr. Stockman's statements are plausible and his version of events were likely to occur based on other employees observations of Mr. McKay's pattern of aggressive behavior and demeanor.³²

V. CONCLUSION:

Workplace violence is defined as any act or threat of physical violence, harassment, intimidation, or other threatening disruptive behavior that occurs at the work site.³³

Clearly, Mr. McKay committed workplace violence by making threats of violence against coworkers by stating "Stuart [Mr. Cole] fucked me and I'm going to get him [Mr. Cole]," "He [Mr. Cole] promised me and I'm going to get him [Mr. Cole] back," and he wanted to "...beat the fuck out of him [Mr. Jeffries]."

RESPECTFULLY SUBMITTED BY:


James E. Peavey, Personnel Analyst II

09-13-16
date

³² The credibility assessment behind this finding is identical to that of the previous finding.

³³ As defined by the U.S. Department of Labor, which is found at Exhibit 9. Furthermore, California Labor Code 6400 (a), mandates the City ensure its workplace is free from violence and threats of violence, stating "Every employer shall furnish employment and a place of employment that is safe and healthful for the employees therein," which is found at Exhibit 10.

ATTACHMENT F

INTRODUCTION

This is a Confidential Administrative Investigation Report ("Report") containing detailed information, witness accounts, relevant documentation, analyses and findings related to the allegations. It is anticipated this Report will be maintained confidentially by the decision-makers and will not be disseminated except as required or as determined by the decision-makers or applicable law.

On October 11, 2019, City of Vallejo ("City") Water Department Director Mike Malone ("Malone") forwarded to me an email string that included statements from two Water Maintenance employees who allegedly observed Water Treatment Plant Operator (WTPO) Kenneth McKay ("Mr. McKay") sleeping in the Green Valley Operators Control Room while he was on duty.

Once the scope of the investigation was determined and agreed upon, the investigator operated with complete independence as to witness identification, interview content, and preparation of findings.

WITNESSES

The undersigned conducted interviews of the following individuals:

Name	Title	Date
Jacob Parsons	Instrument Technician I	11/13/2019
Jacob Barlow	Instrument Technician I	11/13/2019
James Grandrath	Utility Mechanic	11/13/2019
Nick Rolley	Water Treatment Plant Operator	12/11/2019
Ken McKay	Water Treatment Plant Operator	12/12/2019

Unless otherwise noted, all interviews were held in the Human Resources Office. The undersigned admonished all witnesses 1) they had a duty to answer every question fully and truthfully, 2) to keep the contents of the interview confidential and 3) to not discuss their interview with others (whether on-duty or off-duty), apart from their protected activity. Furthermore, the undersigned explained to witnesses this Report would be shared with others on a need-to-know basis. In addition, the undersigned informed all witnesses of the City policy prohibiting retaliation for either bringing a claim or participation in an investigation and if they were to be retaliated against, they must immediately report this to the undersigned.

Interview summaries in this Report are not verbatim recitation of witnesses' statements. Verbatim statements are cited using quotations.

DOCUMENTS

The following documents were reviewed and are attached:

Exhibit #	Documents
1	Administrative Rule – 18 Suspension, Fine or Removal
2	Administrative Rule – 2.28 Alcohol And Drug Abuse Policy
3	Jacob Parson's – Written Statement
4	Jacob Barlow's – Written Statement
5	James Grandrath – Written Statement
6	Ken McKay's email to Joe Abitong
7	Pictures provided by Mr. McKay of exercise mat he brought to work

RELEVANT POLICIES

Administrative Rule 18, **Suspension, Fine or Removal** provides in pertinent part:

Every person holding a position in the classified service shall be subject to suspension, fine, demotion or removal from office or employment by the person, board, or commission appointing such persons, for misconduct, incompetency, inefficiency, failure to perform the duties or to observe the rules and regulations of such department, office, board or commission, or for failure to cooperate reasonably with the department head or with his/her fellow employees; subject to the right of the employee to appeal to the Civil Service Commission in the manner set forth in the Charter and these Rules.

Administrative Rule 2.28, **Alcohol and Drug Abuse Policy** provides in pertinent part:

In recognition of the public service responsibilities entrusted to the employees of the City of Vallejo and that drug and alcohol usage can hinder a person's ability to perform duties safely and effectively, the following policy against drug and alcohol abuse is hereby adopted by the City of Vallejo.

While use of validly prescribed medications and drugs does not violate this policy per se, failure by an employee to notify his/her supervisor, before beginning work, when taking medications or drugs which could foreseeably interfere with the safe and effective performance of duties, or the operation of City of Vallejo equipment, can result in discipline up to and including termination.

In the event there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medications or drugs, clearance from a qualified physician may be required.

IV. Employee Responsibilities:

An employee must:

- Notify his/her supervisor, before beginning work, when taking any medications or drugs, prescription or non-prescription, which may interfere with the safe and effective performance of duties or operation of the City of Vallejo equipment.

FACTUAL BACKGROUND

On October 8, 2019, PG&E informed the City of Vallejo of its intent to implement its Public Safety Power Shutoff (PSPS) program in Vallejo due to forecasted extreme weather conditions. As a result, the Vallejo Water Department took proactive actions that included scheduling 24-hour staffing with 12 hour shifts at the City's water treatment plants.

The City's Green Valley Water Treatment Plant is a public facility located on Green Valley Road in Solano County and is responsible for treating up to one million gallons of sewer wastewater and solid waste to insure clean water for human consumption. Under normal circumstances the Green Valley plant's operation is monitored from the Fleming Hill plant, via a monitoring screen connected by a T1 line. During the PSPS the Green Valley plant was running on emergency power and was in full operating mode with a non-functioning remote monitor. As such, physical on-site monitoring was required.

On October 9, 2019, at or around 3 p.m. Mr. McKay received a phone call from on duty WTPO Winifredo Cruz ("Mr. Cruz") asking if he could work the 6:00 p.m. to 6 a.m. shift at the Green Valley Plant. Mr. McKay informed Mr. Cruz that he could not come at 6:00 p.m. but can make it for 8:00 p.m. It was not mandatory that Mr. McKay agree to work the shift, as all overtime is voluntary. The expectation, however, is that the employee who volunteers is able and willing to take on the responsibilities of working the shift.

According to Water Operations Superintendent Joe Abitong ("Abitong") who is Mr. McKay's manager, Mr. McKay's responsibilities included operating and monitoring the Supervisory Control and Data Acquisition program (SCADA). Mr. McKay was also responsible for reporting any malfunctions, perform operational adjustments for various operational malfunctions and respond to water quality changes and system malfunctions immediately.

On the date in question at 3:00 a.m. Mr. McKay was found sleeping on duty and the water treatment plant was running unattended. Two witnesses, Instrument Technician Jacob Barlow ("Mr. Barlow") and Utility Mechanic James Grandrath ("Mr. Grandrath") provided written statements describing Mr. McKay sleeping on a mat with a pillow and blanket and his shoes were under the desk and the lights were turned off.

INTERVIEW SUMMARIES

Jacob Parsons

Jacob Parsons ("Mr. Parsons") was interviewed on November 13, 2019.

He is an Instrument Technician for the Water Department. He has worked for the City for two years and he reports to Water Facilities Superintendent John Palesi.

Mr. Parsons said that on October 9, 2019 he went to the Green Valley Plant between 10:30 p.m. and 11:00 p.m. to do inspections. Mr. McKay was sitting at the Operators desk and the plant was operating normally. According to Mr. Parsons there was a black mat rolled up on the Operation Room floor. Mr. Parson said he asked Mr. McKay if he was planning to sleep on the mat during the night. Mr. McKay replied that he was and jokingly asked if anyone would see him sleeping if they visited the plant during the night. Mr. Parsons replied yes and he proceeded to check out the generators and fuel tanks and then he left.

Jacob Barlow

Mr. Barlow was interviewed on November 13, 2019. He is an Instrument Technician for the Water Department. He has worked for the City for ten years and he reports to Water Facilities Superintendent John Palesi.

Mr. Barlow stated that at or around 3:00 a.m. on October 10, 2019 he and Mr. Grandrath visited the Green Valley water treatment plant to check on the generator. According to Mr. Barlow, he and Mr. Grandrath first checked the pump station and then headed up to the plant. Mr. Barlow stated that he noticed the plant door was locked and the control room lights were off. He unlocked the door and entered to find Mr. McKay asleep on a black mat, and a white standard pillow with a blanket over him and his shoes were under the table.

Mr. Barlow said he proceeded to bring in Mr. Grandrath to witness Mr. McKay sleeping. According to Mr. Barlow, he and Mr. Grandrath did not attempt to be quiet and in fact spoke and walked as normal and Mr. McKay never woke up. After being at the plant for 30 minutes Mr. Barlow and Mr. Grandrath proceeded to leave and locked the door.

Mr. Barlow expressed concern that the SCADA was not being monitored for alarms and there was no way to remotely monitor the plant for potential problems because the T1 line was down.

Mr. Barlow stated that the Water Department would have had no clue of a main break or other major issues. After Mr. Barlow and Mr. Grandrath's shift was over at 6:00 a.m. they immediately reported the incident.

During a follow up email conversation on December 16, 2019, Mr. Barlow confirmed that the pictures Mr. McKay emailed to the undersigned of his exercise mat is the same as the one he observed Mr. McKay sleeping on (attached). Additionally, Mr. Barlow confirmed that Mr. McKay had a blanket covering him when he was sleeping on the mat.

James Grandrath

Mr. Grandrath was interviewed on November 13, 2019. He is a Utility Mechanic for the Water Department. He has worked for the City for ten years and he reports to Water Facilities Superintendent John Palesi.

According to Mr. Grandrath he and Mr. Barlow arrived at the Green Valley plant at 3:00 a.m. to check on the fuel level and the rest of the plant. While doing so, they pulled up next to the Operations window. When they got out of the truck they noticed the light was off and the front door was locked. Mr. Barlow proceeded to unlock the door, and they walked in and looked into the Operations room and saw Mr. McKay sleeping on a mat with a pillow and blanket and his shoes were under the table next to the door. They proceeded to go into the wet lab to check the readings. They then left the inside of the plant locking the door behind them.

Mr. Grandrath said they got back into the truck, closing the doors and backing up with the backup alarms sounding as they drove away from the plant. They noticed at that point that there was still no movement of any kind as they drove around to the reclaim basins.

During a follow up email conversation on December 16, 2019, Mr. Grandrath confirmed that the pictures Mr. McKay emailed to the undersigned of his exercise mat is the same mat he observed Mr. McKay sleeping on. Additionally, Mr. Grandrath confirmed that Mr. McKay had a blanket covering him when he was sleeping on the mat and pillow. Mr. Grandrath stated that he has worked with Mr. McKay roughly 12 times and never heard of him bringing an exercise mat to work.

Nick Rolley

Mr. Rolley was interviewed on November 13, 2019. He is a Utility Mechanic for the Water Department. He has worked for the City for 10 years and he reports to Water Operations Superintendent Joe Abitong.

Mr. Rolley has worked on the same shift with Mr. McKay for the last 10 years. Mr. Rolley was interviewed to help establish whether or not Mr. McKay usually brings his exercise mat to work as he stated when interviewed by the undersigned. Mr. Rolley stated that he has partnered with Mr. McKay on shifts at the Fleming Hill plant since 2010 and he has never seen Mr. McKay bring a mat to work or do any type of exercise.

Additionally, according to Mr. Rolley, Mr. McKay, unlike other WTPO has a preference for the lights to be on because of his vision problems.

When asked what he knew about a sleeping incident that allegedly occurred during the PSPS, Mr. Rolley responded he had not heard anything about a sleeping incident during the PSPS.

Ken McKay

Mr. McKay was interviewed on December 12, 2019. He is a Water Treatment Plant Operator. He has worked for the City for ten years and he reports to Water Operations Superintendent Joe Abitong.

Mr. McKay stated that he received a call on his day off and was asked if he could come in and work the 6 p.m. to 6 a.m. shift at the Green Valley Plant. Mr. McKay said he replied yes to the request. Mr. McKay explained that the Green Valley plant usually runs by itself but because the T1 line was down there was a need to have operators on duty. When asked what he understood his responsibilities to be for that shift, Mr. McKay responded listening for alarms and watching the screen for different processes.

When asked if he went to sleep during his shift, Mr. McKay responded "I do not remember falling asleep or waking up". When asked if he told Mr. Parsons that he was planning on sleeping on the mat, Mr. McKay responded "I do not recall saying that".

Mr. McKay's explanation for having the mat at work was that he regularly brought a yoga mat to work for stretching and that it was an ADA accommodation granted to him as a result of a workplace accident 3 years ago. Additionally, Mr. McKay stated that he had not slept that day at all and was drowsy from taking his prescription medication.

FINDINGS AND DISCUSSION

On October 9, 2019 as the Water Treatment Plant Operator on duty, Mr. McKay demonstrated negligence and willful misconduct by sleeping on duty which directly interfered with his ability to perform the essential functions of the WTPO position.

Furthermore, Mr. McKay going to sleep and leaving the plant unattended could have led to immense harmful implications to water quality and serious detrimental legal implications to the City, such as:

- Equipment failure that might cause the City to violate California Code of Regulation ("CCR") Title 22 (attached).
- Equipment failure that might cause immense repair costs.
- Over-pressurizing pipes that might cause main-line breaks.

- Over-dosing chemicals that might cause the poisoning of consumers.
- Under-dosing of chemicals: that might cause consumer disease outbreaks such as dysentery and giardia.

Sleeping on duty in and of itself while the waste treatment plant is running demonstrates misconduct and failure to perform duties. More significantly, this was not just a simple matter of Mr. McKay nodding off momentarily. Instead, Mr. McKay's misconduct was especially egregious because it is obvious that the sleeping on duty was intentional and planned as is evident by him bringing the mat, pillow and blanket to work on October 9, 2019.

Other aggravating factors include Mr. McKay turned off the lights and locked the door of the plant this is telling of (nesting). Nesting is making a bed or creating a place conducive to sleeping often in a secluded area. Nesting is a deliberate neglect of job duties.

Additionally, Mr. McKay's personnel file contains a signed acknowledgement of Administrative Rule 2.28, **Alcohol and Drug Abuse Policy** (attached). That states employees must:

- Not report to work or be subject to duty while his/her ability to perform job duties is impaired due to on or off duty alcohol or drug use;
- Notify his/her supervisor, before beginning work, when taking any Medications or drugs, prescription or non-prescription, which may interfere with the safe and effective performance of duties or operation of City of Vallejo equipment.

By his own admission, Mr. McKay violated Administrative Rule 2.28 when he knowingly accepted a shift at the Water Treatment Plant while impaired and neglected to notify his supervisor before beginning work that he had taken prescription medication that has the potential side effect of drowsiness.

Mr. McKay was not obligated to accept the shift because overtime is voluntary. However, Mr. McKay chose to volunteer for a shift at the Green Valley Water Treatment Plant that treats sewage water for the purpose of human consumption when he was impaired.

FINDINGS

1. Did Mr. McKay go to sleep while on duty and as a result left the Green Valley Treatment Plant running unattended?

Sustained. The weight of the evidence supports a finding that Mr. McKay did go to sleep while on duty and the Green Valley Treatment Plant was running unattended.

Mr. McKay stated that he does not recall falling asleep or waking up. Which was an indirect response to a direct question, calling into question the credibility of that response.

Furthermore, what is more telling are Mr. McKay's own words that seem to further support the sleeping on duty allegations. For example, Mr. McKay said "I did not sleep all day and I was drowsy from medication". Which is an indication that he was attempting to establish an alibi for sleeping while on duty.

Additionally, witnesses Mr. Barlow and Mr. Grandrath statements were consistent with each other and corroborated that Mr. McKay was asleep and the plant was running unattended.

Did Mr. McKay violate Administrative Rule 2.28 (Alcohol and Drug Abuse Policy)?

Sustained. The weight of the evidence supports a finding that Mr. McKay did violate Administrative Rule 2.28

Mr. McKay volunteered that he was feeling drowsy while on duty as a result of taking his medication. Furthermore, Mr. McKay signed the acknowledgment of having received, understand and agree to abide by Administrative Rule 2.28 that clearly states employees must not report to work or be subject to duty while his/her ability to perform job duties is impaired due to on or off duty alcohol or drug use.

Additionally, Administrative Rule 2.28 states that employees must notify their supervisor, before beginning work, when taking any medications or drugs.

Mr. McKay, did not inform his supervisor that he was feeling drowsy or that he had taken medications that would make him drowsy and therefore unable to safely and effectively operate the Green Valley water treatment plant.

CONCLUSION

Clearly Mr. McKay demonstrated blatant misconduct when he intentional went to sleep and left the plant running unattended. Additionally, Mr. McKay failed to notify his supervisor before beginning work, that he had taken medications that has a side effect of causing drowsiness.

Finally, Mr. McKay deliberately and with premeditation as proved by his making advance arrangements for sleeping and nesting, exposed the plant and residences of Vallejo to a potentially serious safety hazard when he neglected his duties.

RESPECTFULLY SUBMITTED BY:

Doris Papillon-Allen

Doris Papillon-Allen, MHROD
Personnel Analyst II

February 11, 2020

Date

EXHIBIT # 1

RULE 18

SUSPENSION, FINE OR REMOVAL

18.1 Employees Subject To

Every person holding a position in the classified service shall be subject to suspension, fine, demotion or removal from office or employment by the person, board, or commission appointing such persons, for misconduct, incompetency, inefficiency, failure to perform the duties or to observe the rules and regulations of such department, office, board or commission, or for failure to cooperate reasonably with the department head or with his/her fellow employees; subject to the right of the employee to appeal to the Civil Service Commission in the manner set forth in the Charter and these Rules.

18.2 Statement of Reason

Every employee shall be given a written statement of the reason for such suspension, fine, demotion or removal from office or employment at the time of such suspension, fine, demotion or removal. Such statement shall include in itemized form the specific instances in support of such suspension, fine, demotion or removal from office or employment. A copy of such statement shall be delivered to such person or shall be left at his/her last known address.

18.3 Filing of Appeal

Any employee who has been so disciplined shall have five (5) days after service of such written statement within which to file an appeal to the same. A copy of such appeal shall be filed during office hours at the office of the person, board or commission imposing such discipline and the original shall be filed by such employee in the office of the Executive Secretary of the Commission. Should the last day on which an appeal may be filed fall upon a Sunday or holiday the time for filing such appeal shall be extended to include the next following business day.

18.4 Investigation and Hearing Required

The Commission may make, or cause to be made, such investigation as it shall deem necessary and thereafter shall hold a hearing at which time it shall hear evidence for and against such employee. Hearings may be conducted informally and the conclusions shall be made by the Commission within ten (10) days after the matter has been submitted and thereupon the same shall be certified to the official, board or commission from whose order the appeal has been taken. The findings and conclusions of the Commission also may contain such recommendations as said Commission shall deem proper, and shall include the amount of compensation such employee is entitled to receive, if any. Said findings and conclusions of the Commission shall be final.

EXHIBIT # 2

CITY OF VALLEJO
ADMINISTRATIVE RULE

SUBJECT: ALCOHOL AND DRUG ABUSE POLICY

AR Number: 2.28
Date Issued: 6/28/95
Date Effective: 7/1/95
Date Revised: 1/2/96

I. PURPOSE

It is the intention of this policy to eliminate substance abuse and its effects in the workplace. While the City of Vallejo has no intention of intruding into the private lives of its employees, involvement with drugs and alcohol on and off the job can take its toll on job performance and employee safety. Our concern is that employees are in a condition to perform their duties safely and efficiently, in the interests of their fellow workers and the public, as well as themselves. The presence of drugs and alcohol on the job, and the influence of these substances on employees during working hours, are inconsistent with this objective of having employees perform their duties safely and efficiently.

Employees who think they may have an alcohol or drug usage problem are urged to voluntarily seek confidential assistance from the Employee Assistance Program. While the City of Vallejo will be supportive of those who seek help voluntarily, the City will be equally firm in identifying and disciplining those who continue to be substance abusers and do not seek help or continue substance abuse even while enrolled in counseling or rehabilitation programs.

Supervisors will be trained to recognize abusers and become involved in this control process. Alcohol or drug abuse will not be tolerated, and disciplinary action, up to and including termination, will be used as necessary to achieve this goal.

This policy provides guidelines for the detection and deterrence of alcohol and drug abuse. It also outlines the responsibilities of City of Vallejo managers and employees. To that end, the City will act to eliminate any substance abuse (alcohol, illegal drugs, prescription drugs or any other substance which could impair an employee's ability to safely and effectively perform the functions of their job) which increases the potential for accidents, absenteeism, substandard performance, poor employee morale or damage to the Agency's reputation. All persons covered by this policy should be aware that violations of the policy may result in discipline, up to and including termination, or in not being hired.

In recognition of the public service responsibilities entrusted to the employees of the City of Vallejo and that drug and alcohol usage can hinder a person's ability to perform duties safely and effectively, the following policy against drug and alcohol abuse is hereby adopted by the City of

Vallejo.

II. APPLICATION

This policy applies to all employees of and to all applicants for positions with City of Vallejo whose use of alcohol could effect workplace safety or performance of requisite job standards, duties or responsibilities. This policy does not apply to employees covered by a collective bargaining agreement containing an alcohol or drug abuse policy where the collective bargaining provision conflicts with this policy. This policy does not apply to employees in or applicants for positions for which the City cannot legally apply this policy. This policy applies to alcohol and drugs, including all substances, drugs, or medications, whether legal or illegal, which could impair an employee's ability to effectively and safely perform the functions of the job.

III. POLICY

It is City of Vallejo policy that employees shall not be under the influence, or in possession, of alcohol or drugs while on City of Vallejo property, at work locations, or while on duty or subject to being called to duty, and that employees shall not sell or provide drugs or alcohol to any other employee or person while on duty or subject to being called to duty as a result of formally being placed on an "on call" or "standby" status by an appropriate management representative.

While use of validly prescribed medications and drugs does not violate this policy per se, failure by an employee to notify his/her supervisor, before beginning work, when taking medications or drugs which could foreseeably interfere with the safe and effective performance of duties, or the operation of City of Vallejo equipment, can result in discipline up to and including termination. In the event there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medications or drugs, clearance from a qualified physician may be required.

City of Vallejo reserves the right to search for alcohol or impairing drugs, without employee consent, in all areas and property in which the City of Vallejo maintains control or joint control with the employee when there is reasonable suspicion of work-related employee misconduct or when the search is necessary for a non-investigatory work-related purpose. Otherwise, the City may notify appropriate law enforcement agencies that an employee may have illegal drugs in his or her possession or in an area not jointly or fully controlled by City of Vallejo.

Refusal to immediately submit to an alcohol and/or drug analysis when requested by City of Vallejo management or law enforcement personnel, or refusal to submit to a search of personal properties if requested by law enforcement personnel, may constitute insubordination and be grounds for discipline up to and including termination.

Employees reasonably believed to be under the influence of alcohol or drugs shall be prevented from engaging in further work and shall be detained for a reasonable period of time until he or she can be safely transported from the work site. Supervisors or managers must arrange for safe transportation of the employee from the work site. Refusal to refrain from engaging in further work or refusal to be detained until safe transportation can be arranged may constitute insubordination and be grounds for discipline up to and including termination. Under no circumstances shall a supervisor or manager allow an employee to transport himself/herself from a work site.

The City of Vallejo is committed to providing reasonable accommodation to those employees whose drug or alcohol problem classifies them as disabled under federal and/or state law.

The City of Vallejo has established a voluntary Employee Assistance Program (EAP) to assist those employees who voluntarily seek help for alcohol or drug problems. Employees should contact their supervisors, the Department of Human Resources, Risk Management or the EAP for additional information. Supervisors are encouraged to refer employees to the EAP at the earliest sign of any problems.

IV. EMPLOYEE RESPONSIBILITIES

An employee must:

- not report to work or be subject to duty while his/her ability to perform job duties is impaired due to on or off duty alcohol or drug use;
- not possess or use alcohol or impairing drugs, including illegal drugs and prescription drugs without a prescription, during working hours or while subject to duty, on breaks, during meal periods or at anytime while on City of Vallejo property;
- not directly or through a third party sell or provide drugs or alcohol to any person, including any employee, while either or both employees are on duty or subject to being called to duty;
- submit immediately to an alcohol and drug test when requested by City of Vallejo management, supervisory or any law enforcement personnel;
- notify his/her supervisor, before beginning work, when taking any medications or drugs, prescription or non-prescription, which may interfere with the safe and effective performance of duties or operation of City of Vallejo equipment; and
- provide, within 24 hours of request, bona fide verification of a current valid prescription for any potentially impairing drug or medication identified when a drug screen/test is positive, The prescription must be in the employee's name.

V. MANAGEMENT RESPONSIBILITIES AND GUIDELINES

- Managers and supervisors are responsible for reasonable enforcement of this policy.
- Managers and supervisors may request that an employee submit to a drug and/or alcohol test when a manager or supervisor has a reasonable suspicion that an employee is intoxicated or under the influence of drugs or alcohol while on the job or subject to being called. If possible, a second supervisor should be present. When requesting a drug or alcohol test, supervisors or managers should notify their Department Head or designee and the Department of Human Resources as soon as is practicable.

'Reasonable suspicion' is a belief based on objective facts sufficient to lead a reasonably prudent supervisor to suspect that an employee is under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is impaired or so that the employee's ability to perform his/her job safely is reduced. The number of reasonable suspicion indicators and the compelling nature of the evidence attached to each indicator needs to be assessed in determining whether there is sufficient reasonable suspicion to require a test.

For example, any of the following, alone or in combination, may constitute reasonable suspicion:

- o Slurred speech;
 - o Alcohol odor on breath;
 - o Unsteady walking and movement;
 - o An accident involving City of Vallejo property, where it appears the employee's conduct is at fault;
 - o Physical altercation;
 - o Verbal altercation;
 - o Unusual behavior;
 - o Possession of alcohol or drugs;
 - o Information obtained from a reliable person with personal knowledge.
- Any manager or supervisor requesting an employee to submit to a drug and/or alcohol analysis should document in writing the facts constituting reasonable suspicion that the employee in question is intoxicated or under the influence of drugs.
 - Any manager or supervisor encountering an employee who refuses an order to submit to a drug and/or alcohol analysis upon request shall remind the employee of the requirements and disciplinary consequences of this policy.
 - Where there is reasonable suspicion that the employee is under the influence of alcohol or drugs, the manager or supervisor should arrange for the employee to be safely transported to the drug and alcohol testing site and from the drug and alcohol testing site to home.

Under no circumstances shall an employee or manager allow an employee who is reasonably believed to be under the influence of alcohol or drugs to transport himself/herself from a work site or from the drug and alcohol testing site.

- Managers and supervisors shall not physically search the person of employees, nor shall they search the personal possessions of employees without the freely given written consent of, and in the presence of, the employee.
- Managers and supervisors shall notify their Department Head or designee and the Department of Human Resources when they have reasonable suspicion to believe that an employee may have illegal drugs in his or her possession or in an area not jointly or fully controlled by City of Vallejo. If the Department Head or designee concurs that there is reasonable suspicion of illegal drug possession, the Department Head shall notify the appropriate law enforcement personnel.

VI. PHYSICAL EXAMINATION AND PROCEDURE

The drug and/or alcohol test may test for any substance which could impair an employee's ability to effectively and safely perform the functions of his/her job, including, but not limited to, prescription medications, alcohol, heroin, cocaine, morphine and its derivatives, P.C.P., methadone, barbiturates, amphetamines, marijuana and other cannabinoids. Attachment "A" describes the method in which the initial test will be conducted, how the sample will be processed after the drug and/or alcohol test is completed, and how a confirmatory test after an initial positive result will be performed.

VII. RESULTS OF DRUG AND/OR ALCOHOL ANALYSIS

A. Pre-Employment Physical

Applicants for positions with the City of Vallejo whose use of drugs and/or alcohol could effect workplace safety or other requisite job standards, duties or responsibilities will be subject to drug and/or alcohol testing as a part of the pre-employment physical examination process. A positive result from a drug and/or alcohol analysis may result in the applicant not being hired.

If a drug screen is positive at the pre-employment physical, the applicant must provide within 24 hours of request bona fide verification of a valid current prescription for the drug identified in the drug screen. If the prescription is not in the applicant's name or the applicant does not provide acceptable verification, or if the drug is one that is likely to impair the applicant's ability to perform the job duties, the applicant may not be hired.

B. During Employment Physical or Alcohol/Drug Tests

A positive result from a drug and/or alcohol analysis may result in disciplinary action, up to and including discharge.

If the drug screen is positive, the employee must provide within 24 hours of request bona fide verification of a valid current prescription for the drug identified in the drug screen. The prescription must be in the employee's name. If the employee does not provide acceptable verification of a valid prescription, or if the prescription is not in the employee's name, or if the employee has not previously notified his or her supervisor, the employee will be subject to disciplinary action up to and including discharge.

If an alcohol or drug test is positive, the City of Vallejo shall conduct an investigation to gather all facts. The decision to discipline or discharge will be carried out in conformance with City of Vallejo disciplinary procedures and Civil Service Rules and Regulations.

VIII. CONFIDENTIALITY

Laboratory reports and test results shall not appear in an employee's general personnel file. Information of this nature will be contained in a separate confidential medical folder that will be securely kept under the control of the Department of Human Resources. The reports or test results may be disclosed to City of Vallejo management on a strictly need-to-know basis and to the tested employee upon request. Disclosures, without patient consent, may also occur when: (1) the information is compelled by law or by judicial or administrative process; (2) the information has been placed at issue in a formal dispute between the employer and employee; (3) the information is to be used in administering an employee benefit plan; and/or (4) the information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure.

Attached: Appendix A


WALTER V. GRAHAM
CITY MANAGER

APPENDIX A

ALCOHOL AND DRUG TESTING PROCEDURES

I. CONTACT

A. Regular Business Hours

When requesting a reasonable suspicion alcohol and/or drug test Monday through Friday during the hours of 8:30 a.m. - 5:15 p.m., supervisors and managers should first contact the Department of Human Resources or Risk Management and their Department Head or designee.

Upon notification of Human Resources and the Department Head, supervisors and managers may contact the number listed below directly to notify the testing site of the need for drug and/or alcohol testing. Supervisors and managers must arrange transportation of the employee to the testing site.

Alcohol and/or drug testing on Monday through Friday during the hours of 8:00 a.m. - 5:00 p.m. will be conducted at Northbay Health at Work, 1200 B. Gale Wilson Drive #107, Fairfield, CA 94533, (707) 429-7701.

B. After Hours

When requesting a reasonable suspicion drug test after regular business hours, the supervisor or manager must call Northbay at (707) 429-7701 and leave a message on the recorder. The message should indicate that you are a City of Vallejo supervisor and are requesting a reasonable suspicion drug test as soon as is possible. You should also include your name, job title, and a number where you can be reached immediately. A Northbay technician is on call 24 hours a day and will return your call within thirty minutes. The technician will arrange to meet the supervisor and employee at Northbay Health at Work, 1200 B. Gale Wilson Drive #107, Fairfield, CA 94533.

When requesting a reasonable suspicion alcohol test after regular business hours, the supervisor or manager must go immediately to the Northbay Medical Center Emergency

Room at 1200 B. Gale Wilson Drive, Fairfield, CA 94533, (707) 429-7833. The Emergency Room staff will contact the Northbay technician.

On the next regular business day, you must notify Human Resources or Risk Management and your Department Head that you have ordered a reasonable suspicion alcohol and/or drug test.

II. CONTROLLED SUBSTANCES TESTING PROCEDURES

Pre-employment and reasonable suspicion testing shall include, but may not be limited to the following controlled substances: marijuana; cocaine; opiates; amphetamines; and phencyclidine (PCP). Although the specimen will not be analyzed specifically for adulterants, the lab may conduct adulteration checks (PH, specific gravity or creatinine). The test may be canceled if adulterants are detected.

A. Specimen Collection Process

1. The collection shall take place in a secure location to prevent unauthorized access during the collection process.
2. The specimen shall be kept in sight of the employee and the collection site person until it is sealed and ready for shipment.
3. Employees and applicants shall have individual privacy when providing a specimen except when:
 - a) The employee or applicant presents a specimen that is outside the accepted temperature range and he/she refuses to have an oral body temperature measurement, or the body temperature measurement varies more than 1.0 C OR 1.80 F from the specimen temperature.
 - b) The collector observes the employee or applicant attempting to adulterate or substitute the specimen.
 - c) The employee's last provided specimen was determined to be diluted.
 - d) The employee has previously had a verified positive test.

In a. and b. above, the employee or applicant must provide a specimen under direct observation. In c. and d. above, the employer may require a direct observation collection.

4. The following specific procedures will be followed during the collection process:
 - a) The donor must submit identification to the collector. The collection shall not proceed until a positive identification is made.
 - b) The donor will not be required to undress, or to change into an examination gown. Only outer garments should be removed, i.e., jackets.
 - c) The donor shall be asked to wash his/her hands prior to urination, and shall not have access to any water sources until the specimen has been collected.
 - d) A bluing agent shall be added to the toilet bowl and the donor may flush the toilet only after releasing the specimen to the collector. Chemical toilets and toilets where the water supply has been turned off do not apply.
 - e) The specimen must be at least 45 ml to be acceptable.
 - f) The collector must measure the specimen temperature within four minutes of urination to determine sample acceptability.
5. The specimen shall be divided into two parts. The collector shall pour 30 ml of urine from the specimen bottle into a second specimen bottle, to be used as the primary specimen. The remainder of the urine, at least 15 ml, shall be poured into another container to be used as the "split sample".
6. Both samples shall be shipped in a single shipping container with the appropriate chain of custody forms.
7. The collector and donor must be present together to complete the following process:
 - ◇ Seal and label the specimen bottles.
 - ◇ Donor initials the bottle labels or seals.
 - ◇ The chain of custody forms must be signed and dated.
8. If an employee or applicant refuses to cooperate with the collection process the collector shall notify the employer representative and note the non-cooperation on the custody and control form.

B. Inability to provide an adequate urine sample

If the donor cannot provide a sufficient volume of urine, he/she shall remain at the collection site and be provided not more than twenty-four ounces of fluids to drink. The donor shall have a

period of up to two hours to produce an acceptable sample, using a fresh collection container.

The original insufficient specimen shall be discarded. If the employee is still unable to provide an adequate specimen, the insufficient specimen shall be discarded, testing discontinued, and the employer so notified.

The MRO shall refer the individual for a medical evaluation to develop pertinent information concerning whether the individual's inability to provide a specimen is genuine or constitutes a refusal to test (In pre-employment testing, if the employer does not wish to hire the individual, the MRO is not required to make such a referral.). Upon completion of the examination, the MRO shall report his or her conclusions to the employer in writing.

If the donor is unable to produce a sample without a valid medical reason the employer shall consider the circumstance to be a refusal to test.

C. Split Sample

1. If the test result of the primary specimen is positive, an employee may request that the MRO direct that the split specimen be analyzed.
2. The split sample analysis will be conducted by a laboratory who will analyze the sample for presence of the drug(s) for which a positive result was obtained in the primary sample.
3. If the result of the test of the split sample fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, the MRO shall cancel the test and report the cancellation to The Employer.
4. With all positive drug tests, the MRO will first contact the employee to determine if there is an alternative medical explanation for the positive result. If documentation is provided and the MRO determines that there was a legitimate medical use for the prohibited drug, the test result may be reported to the City as "negative." After the MRO notifies the employee of a positive result for the presence of a drug(s) in the primary sample, the employee has up to seventy-two hours to request analysis of the split sample.

III. ALCOHOL TESTING

A. Testing Procedures

Alcohol testing will be conducted only on a reasonable suspicion basis. Applicants for employment will normally not be required to undergo alcohol testing.

1. The test shall take place in a secure location that affords visual and aural privacy to prevent unauthorized persons from seeing or hearing test results.
2. When an employee enters the testing location, the BAT will require him/her to provide positive identification. The test shall not proceed until positive identification of the employee is made.
3. An individually-sealed mouthpiece shall be opened in view of the employee and then attached to the testing unit.
4. The employee shall be required to blow forcefully into the mouthpiece for at least six seconds or until an adequate amount of breath has been obtained.
5. The employee shall be shown the result both on the testing unit and the recording form. The employee shall verify both results are the same. If a result printed by the testing unit does not match the displayed result, the BAT shall declare the test invalid.
6. If the result of the screening test is less than 0.02 breath alcohol concentration no other testing will be conducted.
7. If the result of the screening test reflects an alcohol concentration of 0.02 or greater, a confirmation test shall be performed.
8. Prior to conducting the confirmation test the employee may not eat, drink, or place anything in his/her mouth. If possible, the employee should not belch during the waiting period. The confirmation test shall be conducted no less than fifteen minutes and no more than twenty minutes from the screening test.
9. The fifteen minutes waiting period is provided for the employee's benefit. This time period allows for the dissipation of any mouth alcohol, thereby helping to prevent an artificially high reading.
10. In the event the screening and the confirmation test results do not match, the confirmation results will be considered the final results.
11. If the employee refuses to sign the breath alcohol testing form or fails to provide an adequate amount of breath without a valid medical reason, the employer may determine the circumstance to be a refusal to test.

B. Inability to Provide Adequate Breath

1. If the employee fails to provide an adequate amount of breath he/she shall provide the employer with an evaluation from a licensed physician, who is acceptable to the employer, concerning the employee's medical ability to provide adequate breath.
2. If the physician determines there is a valid medical reason precluding the employee from providing adequate breath then the employee's failure shall not be deemed a refusal to test.
3. If the physician is unable to determine a valid medical reason, the employee's failure to provide adequate breath shall be considered a refusal to test.

EXHIBIT # 3

Doris Papillon-Allen

From: Mike Malone
Sent: Tuesday, October 15, 2019 4:56 PM
To: Doris Papillon-Allen
Subject: FW: 10/9/19 PSPS Green Valley Plant

From: Joe Abitong
Sent: Tuesday, October 15, 2019 4:55 PM
To: Mike Malone <Mike.Malone@cityofvallejo.net>
Subject: Fwd: 10/9/19 PSPS Green Valley Plant

Sent via the Samsung Galaxy S8, an AT&T 5G Evolution capable smartphone

----- Original message -----

From: Jacob Parsons <Jacob.Parsons@cityofvallejo.net>
Date: 10/15/19 4:24 PM (GMT-08:00)
To: Joe Abitong <Joe.Abitong@cityofvallejo.net>
Cc: John Palesi <John.Palesi@cityofvallejo.net>, Jacob Barlow <Jacob.Barlow@cityofvallejo.net>
Subject: 10/9/19 PSPS Green Valley Plant

Good afternoon Joe.

I am giving you my account of what I saw at the Green Valley Treatment Plant Thursday night during the PSPS.

I went to the Green Valley Plant around 10:30-11PM 10/9. Ken was sitting at the operations desk and the plant was operating normally. He had a sleeping mat and pillow on the floor in the operations room. I asked him if he was planning to sleep on that during the night. He replied that he would, and jokingly asked me if anyone would see him sleeping if someone visited the plant during the night. I said yes, checked out the generator and fuel tank, then left.

If you have any more questions, don't hesitate to ask.

Jacob Parsons
Instrument Technician I
City of Vallejo | Water Department
(707) 315-2512 | Jacob.Parsons@cityofvallejo.net



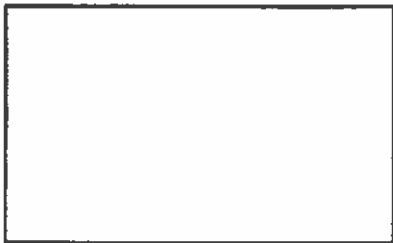
Jacob Parsons 11/13/19

EXHIBIT # 4

On 10/9 while making inspection rounds, Jacob Parsons visited GWWTP at approximately 22:30. He noted that Ken McKay the operator at the plant had a mattress and pillow on the floor of the control room. McKay was awake and operating the plant with no issues.

Later on at approximately 03:00 on 10/10 James Grandrath and myself visited GWWTP. We first checked at the SID pump station and then headed up to the plant. I noticed the door was locked and the control room lights were off. I unlocked the door and entered to find Ken McKay sleeping on the floor while the plant was operating. I proceeded to bring in James to witness it. I wasn't quiet and he never awoke, I didn't enter the control room. I proceeded to go outside and lock the door.

Not only did this bother me because the plant was operating, but the T1 line was down at this point and there was no way to remotely monitor the plant or distribution. We would have had no clue of a main break or other major issue.



Jacob Barlow

Acting Senior Instrument Technician

202 Fleming Hill Rd.

Vallejo, CA 94589

City of Vallejo | Water Department

(707) 648-4307 | (707) 333-0465 jacob.barlow@cityofvallejo.net

EXHIBIT # 5

Doris Papillon-Allen

From: Mike Malone
Sent: Tuesday, October 15, 2019 4:55 PM
To: Doris Papillon-Allen
Subject: FW: GVTP 10/8/19

From: Joe Abitong
Sent: Tuesday, October 15, 2019 4:54 PM
To: Mike Malone <Mike.Malone@cityofvallejo.net>
Subject: Fwd: GVTP 10/8/19

Sent via the Samsung Galaxy S8, an AT&T 5G Evolution capable smartphone

----- Original message -----

From: James Grandrath <James.Grandrath@cityofvallejo.net>
Date: 10/15/19 3:41 PM (GMT-08:00)
To: Joe Abitong <Joe.Abitong@cityofvallejo.net>, "Kevin J. Brown" <Kevin.Brown2@cityofvallejo.net>
Cc: John Palesi <John.Palesi@cityofvallejo.net>
Subject: GVTP 10/8/19

This email is in regards to what was seen as the Green Valley Water Treatment Plant on October 8, 2019.

The first thing that was seen by Jacob Parsons around 10:30 pm was a bed roll and a pillow on the floor in the Operations area. Ken was asked if he was planning on using them overnight and he answered yes and then asked if someone was going to come up later and see him sleeping on it.

Around 3 am Jacob Barlow and myself went to go check on the fuel level and the rest of the plant. While doing so, we pulled up next to the Operations window. Getting out of the truck and closing the doors of the truck we noticed the light was off and the front door was locked. Jacob Barlow proceeded to unlock the door and we walked in and we looked in to the Operations room and saw Ken sleeping on his bed roll and his shoes were sitting under the table next to the door. We proceeded to go into the wet lab and check the readings. We then left the inside of the plant locking the door. We got back into the truck, closing the doors and backing up, with the backup alarms sounding, leaving the plant. We noticed at that point that there was still no movement of any kind as we went around to the reclaim basins.

Sent via the Samsung Galaxy S7, an AT&T 4G LTE smartphone



1 11. 13-19

EXHIBIT # 6

Doris Papillon-Allen

Subject: FW: Green Valley.

From: Kenneth McKay [<mailto:Kenneth.McKay@cityofvallejo.net>]

Sent: Tuesday, November 05, 2019 11:16 PM

To: Joe Abitong <Joe.Abitong@cityofvallejo.net>; Kevin J. Brown <Kevin.Brown2@cityofvallejo.net>

Cc: kennethwmckay@gmail.com

Subject: Green Valley.

I found out today, that while I was at Green Valley on 10/11 ? during the power outage someone came by at 0300

and reported I was sleeping,I dont recall anyone coming by nor do I recall sleeping.

If I dozed off,I dont know why I wasn't woken up, I don't know why it required an administrative investigation .

If I did doze off I do apologize and will not let it happen again I will try and keep our image in operations good.

There are some mitigating circumstances, I was still on the day shift and did not sleep that day, and as I recall I didn't get the call to come in until late afternoon.

I am also taking a medication for my back injury that makes me drowsy.I will talk to my doctor and see if any adjustments in meds need to be made.

As my job that night was only to monitor the plant it is possible that I did get drowsy and doze off next time I will make busy work to keep from getting drowsy, however like I said I dont recall falling a sleep nor was it my intention to sleep.I do find it worrisome that this was forwarded to HR for an investigation,and not to my Supervisors to clear up.

Once again I do apologize if I did doze off and will do better next time.I will also do my best too keep the image of operations high.

Kind Regards,

Ken McKay

Water Treatment Plant Operator 3

202 Fleming Hill Rd

Vallejo CA,94589

707 553 7252

EXHIBIT # 7

Business Rep
Local 1245, IBEW
#D201743
(707)761-1948

CONFIDENTIALITY NOTICE: This e-mail may contain privileged information including confidential information that was shared in the course of seeking contractual advice. If you have received this message by mistake, please notify us immediately by replying to this message or telephoning us at the above number. Do not review, disclose or distribute the message. Thank you (hlvs)

From: Kenneth McKay <Kenneth.McKay@cityofvallejo.net>
Sent: Thursday, December 12, 2019 9:01 PM
To: Doris Papillon-Allen <Doris.Allen@cityofvallejo.net>
Cc: Aaron Cano <Aaron.Cano@cityofvallejo.net>; Macor, Janval <JVM6@IBEW1245.com>
Subject: RE: Photos of yoga mats

Here's my black trifold mat.





Kind Regards,
Ken McKay
Water Treatment Plant Operator 3
202 Fleming Hill Rd
Vallejo CA, 94589
707 553 7252

RULE 18

SUSPENSION, FINE OR REMOVAL

18.1 Employees Subject To

Every person holding a position in the classified service shall be subject to suspension, fine, demotion or removal from office or employment by the person, board, or commission appointing such persons, for misconduct, incompetency, inefficiency, failure to perform the duties or to observe the rules and regulations of such department, office, board or commission, or for failure to cooperate reasonably with the department head or with his/her fellow employees; subject to the right of the employee to appeal to the Civil Service Commission in the manner set forth in the Charter and these Rules.

18.2 Statement of Reason

Every employee shall be given a written statement of the reason for such suspension, fine, demotion or removal from office or employment at the time of such suspension, fine, demotion or removal. Such statement shall include in itemized form the specific instances in support of such suspension, fine, demotion or removal from office or employment. A copy of such statement shall be delivered to such person or shall be left at his/her last known address.

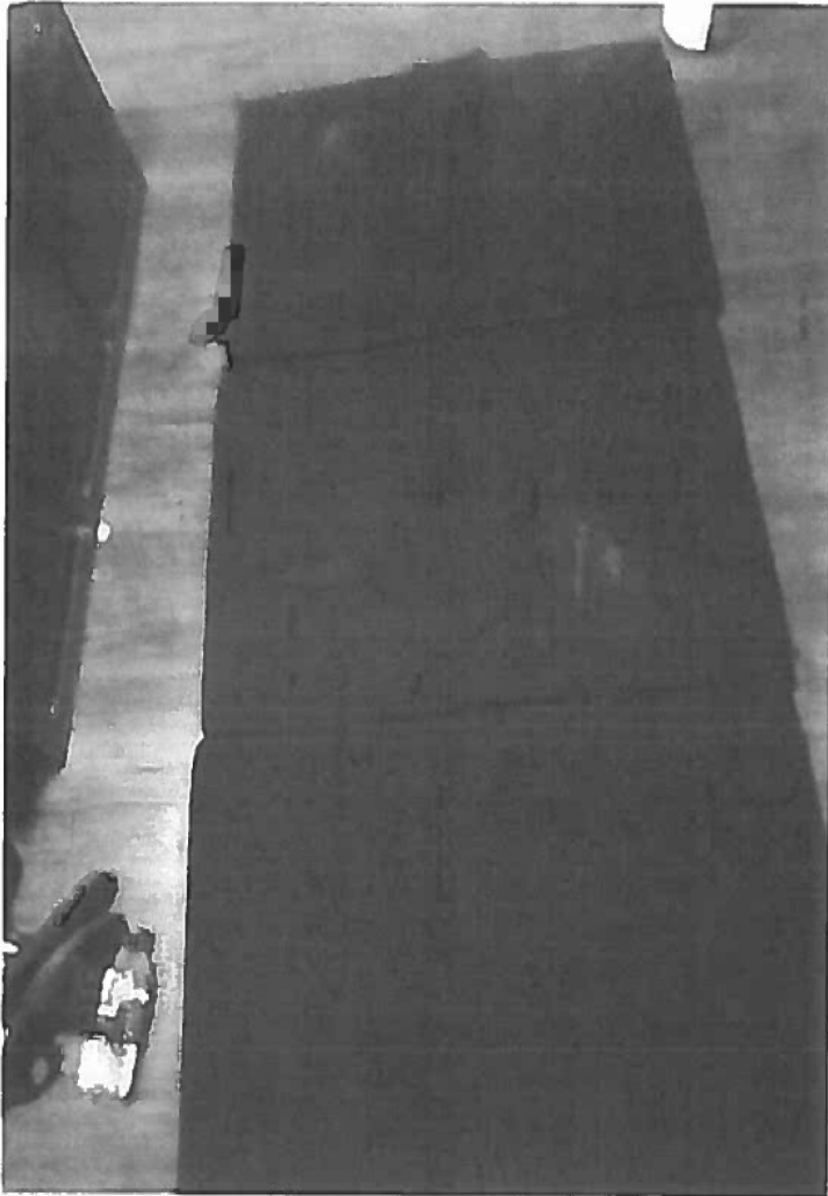
18.3 Filing of Appeal

Any employee who has been so disciplined shall have five (5) days after service of such written statement within which to file an appeal to the same. A copy of such appeal shall be filed during office hours at the office of the person, board or commission imposing such discipline and the original shall be filed by such employee in the office of the Executive Secretary of the Commission. Should the last day on which an appeal may be filed fall upon a Sunday or holiday the time for filing such appeal shall be extended to include the next following business day.

18.4 Investigation and Hearing Required

The Commission may make, or cause to be made, such investigation as it shall deem necessary and thereafter shall hold a hearing at which time it shall hear evidence for and against such employee. Hearings may be conducted informally and the conclusions shall be made by the Commission within ten (10) days after the matter has been submitted and thereupon the same shall be certified to the official, board or commission from whose order the appeal has been taken. The findings and conclusions of the Commission also may contain such recommendations as said Commission shall deem proper, and shall include the amount of compensation such employee is entitled to receive, if any. Said findings and conclusions of the Commission shall be final.





[How to register for a COVID-19 vaccine in every Bay Area county](#)

WATCH

64°

LOG IN

Vallejo mayor says 1st floor of City Hall uninhabitable after break-in, fire

By Melanie Woodrow

Tuesday, June 2, 2020

SHARE

TWEET

EMAIL



00:00



00:00



EMBED <>

MORE VIDEOS

Vallejo Mayor Bob Sampayan said Tuesday that someone broke into City Hall in the early morning and set fire

into City Hall in the early morning and set fire to the first floor HR department.

RELATED: Officer-involved shooting in Vallejo during reported looting

The fire then set off sprinklers, doing significant damage. Mayor Sampayan said the first floor is now uninhabitable.

Recent Stories from ABC7



"I'm dismayed," he said.



Melanie Woodrow 
@MelanieWoodrow



Breaking: Vallejo Mayor Bob Sampayan tells me someone broke into City Hall in early am, set fire to 1st floor HR department, which set off sprinklers doing significant

department, which set off sprinklers doing significant damage. Says 1st floor is uninhabitable. "I'm dismayed." He had no information about overnight [#VallejoPD](#) OIS

11:34 AM · Jun 2, 2020



15 13 [Copy link to Tweet](#)

Mayor Sampayan is holding a press conference at 1 p.m. to make a statement.

An officer-involved shooting followed looting reported at a Walgreens in Vallejo at 12:30 a.m. Tuesday. That led to a confrontation with another person who rammed into a patrol car and then led officers on a high-speed chase, police said.

The mayor initially said Tuesday he had no information about the shooting.

An 8 p.m. curfew is in effect nightly in Solano County until further notice.

Report a correction or typo

RELATED TOPICS:

[vallejo](#)

[crime](#)

[break in](#)

[fire](#)

[vandalism](#)

SHARE

TWEET

EMAIL

Copyright © 2021 KGO-TV. All Rights Reserved.

CCPA Notice

Hero Wars For Free. No install

Hero Wars | Sponsored

Long Beach,California Launches New Policy For Cars Used Less Than 49 Miles/Day

★★★★★

Comparisons.org | Sponsored

Learn More

Long Beach Luxury Rehab Centers You Have To See To Believe

Sponsored Listings | Sponsored

Many failed before. Will you complete the trial?

Hero Wars | Sponsored

California Drivers With No DUIs Getting a Pay Day On Wednesday

★★★★★

Comparisons.org | Sponsored

Learn More

California Launches New Policy For Cars Used Less Than 50 Miles/Day

Insure My Car | Sponsored

Learn More

New Senior Apartments Coming to Long Beach Are Turning Heads

Senior Living | Search Ads | Sponsored

California Launches New Policy For Cars Used Less Than 49 Miles/Day

★★★★★

Comparisons.org | Sponsored

Learn More

California Drivers With No DUI's Are Getting a Big Pay Day in February

Insure My Car | Sponsored

Learn More

Rapper Nicki Minaj's father killed by hit-and-run driver, police say

ABC7 San Francisco

Oakland mother loses second son in 19 days

ABC7 San Francisco

Tommy Chong: The Eerie Truth About CBD

Tommy Chong's CBD | Sponsored

Seniors Under 86 Years Of Age Get Up To \$50000 In Life Ins for \$15/Mth

National Family Assurance | Sponsored

Learn More

Randy Jackson: This 3 Minute Routine Transformed My Health

Unify Health Labs | Sponsored

EXCLUSIVE: Video shows 4 suspects attacking woman in brazen Oakland theft

ABC7 San Francisco

From the Web

Hero Wars For Free. No install

Hero Wars

New Senior Apartments Coming to Long Beach Are Turning Heads

Senior Living | Search Ads

Randy Jackson: This 3 Minute Routine Transformed My Health

Unify Health Labs

Long Beach Luxury Rehab Centers You Have To See To Believe

Sponsored Listings

What Rice Does to Human Body

Gundry MD Total Restore Supplement

These Cars Are So Loaded It's Hard to Believe They're So Cheap

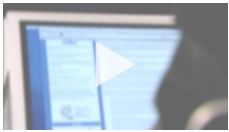
Luxury SUVs | Search Ads

Sponsored Links by Taboola

MORE VIDEOS

AZ: POLICE-MAN FAKED KIDNAPPING TO GET OUT OF WORK

Crime/Justice



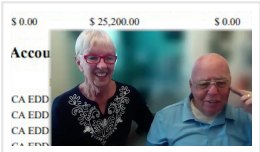
< >

From CNN Newsource affiliates

TOP STORIES



Damaging wind gusts possible across Bay Area
Updated 23 minutes ago



Bay Area couple finds \$25K in stolen EDD money, gets tax bill



UCSF doctors detect shocking increase of CA variant cases in study

Updated 6 minutes ago

Tiger Woods is awake, recovering from 'significant injuries'

Updated 3 hours ago

COVID-19 updates: San Francisco expands vaccine eligibility

Fry's Electronics permanently closing all stores

Updated 2 hours ago

Young Bay Area man projects COVID deaths better than experts

[SHOW MORE](#)

[Home](#)

[AccuWeather](#)

[Traffic](#)

[Local News](#)

[Categories](#)

[Station Info](#)

[Shows](#)

[Apps](#)



Follow Us:

[Privacy Policy](#) [Do Not Sell My Info](#) [Children's Privacy Policy](#)

[Your California Privacy Rights](#) [Terms of Use](#) [Interest-Based Ads](#)

[Public Inspection File](#)

Copyright © 2021 ABC, Inc., KGO-TV San Francisco. All Rights Reserved.



Name:	Cell Phone #	Job Title	Location/Task	Start Time*	End Time	Generators deployed/location	Generators on Standby	Fuel capacity/ Max usage @ full load	DEF required	Max Run time between refueling
Facilities										
John Palesi		Water Facilities Supt.	DOC/Float	630am	500pm	Mankis-	25 KVA-	Capacity= 41.7 Gallons /Max fuel burn rate = 1.62 GPH	N/A	25 HRS
		Instrument Tech	Inst/Elec. support	630am	500pm	Rockville PS-	36 KVA-	Capacity= 67 Gallons /Max fuel burn rate= 2.31 GPH	N/A	29 HRS
		Utility Mechanic	Support	630am	500pm	Siebe PS- (coms only)	45 KVA-	Capacity= 79 Gallons /Max fuel burn rate= 3.29 GPH	N/A	24 HRS
		Water Maint. Worker	Refueling	630am	500pm	Burnham PS-	45 KVA-	Capacity= 79 Gallons /Max fuel burn rate= 3.29 GPH	N/A	24 HRS
		Water Maint. Worker	Refueling/System monitoring	630am	500pm	Capital PS-	70 KVA-	Capacity= 103 Gallons /Max fuel burn rate= 4.29 GPH	7.4 Gallons	24 HRS
						Carter PS-	70 KVA-	Capacity= 103 Gallons /Max fuel burn rate= 4.29 GPH	7.4 Gallons	24 HRS
		Utility Mechanic	System monitoring	600am	600pm	Terminal-	125 KVA-	Capacity= 169 Gallons /Max fuel burn rate= 7.04 GPH	7.4 Gallons	24 HRS
		Instrument Tech	Inst/Elec. support	600am	600pm	Green Valley Raw-	150 KVA-	Capacity= 319 Gallons /Max fuel burn rate= 13.29 GPH	29 Gallons	24 HRS
							220 KVA-	Capacity= 319 Gallons /Max fuel burn rate= 13.29 GPH	29 Gallons	24 HRS
								Total fuel capacity- 1279.7 Gallons		
Water Dist Staff							Honda 1000 OPS	Capacity= 0.6 Gallons /Max fuel burn rate= 0.08 GPH		7.5 HRS
		Water Dist. Tech	System monitoring/ Site security	515pm	630am		Honda 2000 FH	Capacity= 0.9 Gallons /Max fuel burn rate= 0.08 GPH		11.25 HRS
		Water Dist. Tech	System monitoring/ Site security	515 pm	630am		Honda 2000 FH	Capacity= 0.9 Gallons /Max fuel burn rate= 0.08 GPH		11.25 HRS
		Water Dist. Tech	System monitoring/ Site security	515 pm	630am		Honda 2200 FH	Capacity= 0.95 Gallons /Max fuel burn rate= 0.12 GPH		7.9 HRS
		Water Dist. Tech	System monitoring/ Site security	515 pm	630am		Honda 2200 FH	Capacity= 0.95 Gallons /Max fuel burn rate= 0.12 GPH		7.9 HRS
		Water Dist. Tech	System monitoring/ Site security	515 pm	630am		Honda 2200 FH	Capacity= 0.95 Gallons /Max fuel burn rate= 0.12 GPH		7.9 HRS
Security Officers				TBD	TBD		Honda 2200 FH	Capacity= 0.95 Gallons /Max fuel burn rate= 0.12 GPH		7.9 HRS
				TBD	TBD		Honda 3000 Confined space trailer	Capacity= 3.4 Gallons /Max fuel burn rate= 0.492 GPH		6.9 HRS
				TBD	TBD					
				TBD	TBD					
				TBD	TBD					
				TBD	TBD					
				TBD	TBD					
				TBD	TBD					
Water Treatment Ops.										
		Operator	Fleming Hill (Normal shift)	6am	6pm					
		Operator	Fleming Hill (Normal shift)	6am	6pm		Stationary Generators	Fuel capacity/ Max usage @ full load	DEF required	Max Run time between refueling
		Operator	Fleming Hill (PSPS coverage)	6am	6pm					
		Operator	Fleming Hill (Normal shift)	6pm	6am		Fleming Hill- 1 Mega Watt	Capacity= 2,450 Gallons /Max fuel burn rate= 78.7 gph	N/A	31.13 HRS
		Operator	Fleming Hill (Normal shift)	6pm	6am		Travis- 350kW	Capacity= 1000 Gallons /Max fuel burn rate= 27.2 gph	N/A	36.76 HRS
		Operator	Travis WTP (Normal shift)	6am	6pm		Green Valley- 200kW	Capacity= 1000 Gallons /Max fuel burn rate= 14.5 gph	N/A	68.96 HRS
		Operator	Green Valley WTP (4 hr. OT PSPS coverage)	6am	6pm		Shadowridge- 200kW	Capacity= 250 Gallons /Max fuel burn rate= 16.5 gph	N/A	15.15 HRS
		Operator	Green Valley WTP (PSPS coverage)	6pm	6am		Cordelia complex Rental-1.75 MW 2500 KVA transfor	Capacity=1250 Gallons/Max fuel burn rate= 168 gph	N/A	7.44 HRS
		Operator	Travis WTP (Normal shift)	6pm	6am		Approx 5,000 gallons of red dye is available in the Convault tank at the Cordelia complex, should the need arise.			
Admin							Fuel Supplier= Hunt and Sons 707-747-9500			
Brooke O'Leary		Executive Secretary	Fleming Hill	8am						
Rosalia F. Navarro		Accounting Clerk	Fleming Hill	8am			Green Valley T1 circuit ID# 348CQS364973-001PT			
Beth Schoenberger		Operations Manager								

Day Shift

Facilities Staff	
John Palesi	Facilities Superintendent- 9 / Truck 505
Jacob Barlow	SR Instrument Tech- 6 / Truck 587
Vacant	SR Utility Mechanic- / Truck 417
James Grandrath	Utility Mechanic- 1 / Truck 420
Josh Dozier	Utility Mechanic- / Truck 419
Carl Cade	Utility Mechanic- Truck 582
Lonnie Kutil	Utility Mechanic- / Truck 588
Vacant	Utility Mechanic-
Vacant	Instrument Tech- Van 403
Terry Duncan	Instrument Tech- Van 438
Vacant	Instrument Tech- Van/ 585
Robert Ljuba	Water Maint Worker- Truck 446
Stephen Runner	Water Maint Worker- / Truck 414
Vacant	Water Maint Worker-
Vacant	Water Maint Worker-
Tim Lindermann	Reservoir Keeper- Truck 432
Mark Witherspoon	Reservoir Keeper- / Truck 435

Stand by Truck- 450
Pool Truck 470

From: [City of Vallejo](#)
To: [Joe Abitong](#)
Subject: 10-09-2019 - Press Release - City of Vallejo Not Impacted by PG&E Public Safety Power Shutoff, Water Department Aids Impacted Areas
Date: Wednesday, October 9, 2019 12:47:23 PM

Having trouble viewing this email? [Click here](#)



City of Vallejo

October 9, 2019

For more information:

Alyssa Lane, Administrative Analyst, Alyssa.Lane@cityofvallejo.net, (707) 648-4577

CITY OF VALLEJO NOT IMPACTED BY PG&E PUBLIC SAFETY POWER SHUTOFF, WATER DEPARTMENT AIDS IMPACTED AREAS

VALLEJO, CA -The City of Vallejo has not been impacted by the Public Safety Power Shutoff implemented by Pacific Gas & Electric (PG&E) on October 9, 2019. It is anticipated that Vallejo will not be impacted by the second wave of power shutoffs today at noon.

For a map of current outages and customers affected, please visit click [here](#).

City staff continue to be in direct communication with Solano County Office of Emergency Services, as well as PG&E. California Department of Forestry and Fire Protection (CAL FIRE) have pre-positioned fire response teams in Solano County to quickly respond in case of a major fire incident.

At this time, PG&E expects to begin restoring power to affected areas at noon tomorrow, Thursday, October 10. At this time, it is unknown how PG&E will roll-out the restoration or in what order.

Water Department Update

PG&E shut off power to the Green Valley Water Treatment Plant. The facility will operate normally on backup power until PG&E resumes service. The pump station delivering raw water to the Green Valley Water Treatment plant is running on backup power. Generators will be fueled approximately every 12 hours and have ability to provide power supply until the anticipated conclusion of PG&E's projected shutoff. Staff remains on site for security and monitoring.

Rockville Pump Station is running on power from the back-up generator. Staff remains on site for security and monitoring. The Siebe Pump Station remains running on PG&E power. The station is on PG&E's list of sites for planned shut-off, and staff will continue to monitor.

The Water Department has opened its Department Operations Center (DOC) at Fleming Hill Offices during the PG&E outage period.

In an effort to support our neighbors, the City of Vallejo is currently supplying water to American Canyon through the City's intertie, as their backup generator has failed.

In anticipation for PG&E's planned shutoffs, the Water Department took proactive actions to ensure that the water supply would not be compromised. Initiatives included securing backup generators, obtaining adequate fuel, ensuring that water storage facilities were filled to capacity, and scheduling staff to monitoring the water facilities during the length of the planned shutoff.

Though Vallejo did not lose power, power outages in other areas affect the City's ability to supply water, and the City thanks the Water Department for their preparations.

Additional updates will be provided as needed on the City's [social media channels](#). To read the previous press release, click [here](#). For updates from PG&E, visit their Twitter page, <https://twitter.com/PGE4Me>.

< END >

Link to City of Vallejo [Press Release and Public Notices](#)

Link to City of Vallejo [Website](#)

To report issues with this e-mail, please follow the [Contact Us](#) link located on the City of Vallejo's [website](#). Thank you.



City of Vallejo, 555 Santa Clara Street, Vallejo, CA 94590

[SafeUnsubscribe™ joe.abitong@cityofvallejo.net](#)

[Forward this email](#) | [Update Profile](#) | [About our service provider](#)

Sent by alyssa.lane@cityofvallejo.net in collaboration with

Constant Contact



Try email marketing for free today!

***** This is an EXTERNAL EMAIL. Stop and think before clicking links or opening attachments. *****

From: [Joe Abitong](#)
To: [Doris Papillon-Allen](#)
Subject: RE: Question
Date: Thursday, February 6, 2020 9:48:00 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)

Hi Doris,

It was the desk operator on duty, Winifredo Cruz who made the call. He said he called few individual and Mr. McKay volunteered first. It was in the afternoon on Oct 9.

Even though there was no entry on the logbook that he was contacted, the desk operator on duty normally make the phone call, and it was Mr. Cruz.

All overtime are voluntary and the expectation is the individual is able and willing to take the duties if he/she volunteers.

Thank you.

Joe

From: Doris Papillon-Allen
Sent: Wednesday, February 05, 2020 5:25 PM
To: Joe Abitong <Joe.Abitong@cityofvallejo.net>
Subject: Question

Hi Joe,

Did you by chance find out who made the phone call to Ken McKay asking if he would work the 12 hour shift on the day he went to sleep?

Thank you,

Doris Papillon-Allen

Doris Papillon-Allen, MHROD
Personnel Analyst II
City of Vallejo | Human Resources Department
555 Santa Clara Street, First Floor
Vallejo, CA 94590
Phone: (707) 649-3589 doris.allen@cityofvallejo.net



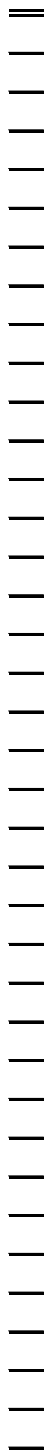
GVTP Alarms

B3:50/12	Backwash Flow	Low Alarm			F.H. important alarms		
B3:51/1	Backwash Flow	High Alarm			F.H. optional alarms		
B3:53/2	Backwash Flow Valve	Position	Transducer Fail	Alarm	GV alarms		
B3:53/4	Backwash Flow Valve	Position	Low Alarm				
B3:53/9	Backwash Flow Valve	Position	High Alarm				
B3:12/10	Clearwell	Chlorine Residual	Low Alarm				
B3:12/11	Clearwell	Chlorine Residual	Low Alarm	Shutdown			
B3:12/15	Clearwell	Chlorine Residual	High Alarm				
B3:12/8	Clearwell	Chlorine Residual	Transducer Fail	Alarm			
B3:13/1	Clearwell	Chlorine Residual	High Alarm	Shutdown			
B3:14/13	Clearwell	Flow	High Alarm				
B3:14/6	Clearwell	Flow	Transducer Fail	Alarm			
B3:14/8	Clearwell	Flow	Low Alarm				
B3:13/11	Clearwell pH	High Alarm	Shutdown				
B3:13/2	Clearwell pH	Transducer Fail	Alarm				
B3:13/4	Clearwell pH	Low Alarm					
B3:13/5	Clearwell pH	Low Alarm	Shutdown				
B3:13/9	Clearwell pH	High Alarm					
B3:53/12	Effluent (Clearwell)	Turbidity	Transducer Fail	Alarm			
B3:53/14	Effluent (Clearwell)	Turbidity	Low Alarm				
B3:54/3	Effluent (Clearwell)	Turbidity	High Alarm				
B3:54/5	Effluent (Clearwell)	Turbidity	High Alarm	Shutdown			
B3:43/12	Filter 1	Headloss DP	Transducer Fail	Alarm			
B3:43/14	Filter 1	Headloss DP	Low Alarm				
B3:44/1	Filter 1	Headloss DP	Rate of Change Alarm				
B3:44/13	Filter 1	Turbidity	High Alarm				
B3:44/3	Filter 1	Headloss DP	High Alarm				
B3:44/6	Filter 1	Turbidity	Transducer Fail	Alarm			
B3:44/8	Filter 1	Turbidity	Low Alarm				
B3:45/0	Filter 1	Effluent	Valve Position	Transducer Fail	Alarm		
B3:45/2	Filter 1	Effluent Valve	Position	Low Alarm			
B3:45/7	Filter 1	Effluent Valve	Position	High Alarm			
B3:51/11	Filter 1	Effluent Flow	High Alarm				
B3:51/13	Filter 1	Effluent Flow	Range Alarm	Shutdown			
B3:51/4	Filter 1	Effluent Flow	Transducer Fail	Alarm			
B3:51/6	Filter 1	Effluent Flow	Low Alarm				
B3:51/9	Filter 1	Effluent Flow	Range Alarm				

B3:56/11	Filter 1 Manual	Valve Position	Command	High Alarm	
B3:56/4	Filter 1 Manual	Valve Position	Command Transducer	Fail Alarm	
B3:56/6	Filter 1 Manual	Valve Position	Command	Low Alarm	
B3:45/10	Filter 2	Headloss DP	Transducer Fail	Alarm	
B3:45/12	Filter 2	Headloss DP	Low Alarm		
B3:45/15	Filter 2	Headloss DP	Rate of Change Alarm		
B3:46/1	Filter 2	Headloss DP	High Alarm		
B3:46/11	Filter 2	Turbidity	High Alarm		
B3:46/14	Filter 2	Effluent Valve	Position	Transducer Fail	Alarm
B3:46/4	Filter 2	Turbidity	Transducer Fail	Alarm	
B3:46/6	Filter 2	Turbidity	Low Alarm		
B3:47/0	Filter 2	Effluent Valve	Position	Low Alarm	
B3:47/5	Filter 2	Effluent Valve	Position	High Alarm	
B3:51/14	Filter 2	Effluent Flow	Transducer Fail	Alarm	
B3:52/0	Filter 2	Effluent Flow	Low Alarm		
B3:52/3	Filter 2	Effluent Flow	Range Alarm		
B3:52/5	Filter 2	Effluent Flow	High Alarm		
B3:52/7	Filter 2	Effluent Flow	Range Alarm	Shutdown	
B3:56/14	Filter 2 Manual	Valve Position	Command	Transducer Fail	Alarm
B3:57/0	Filter 2 Manual	Valve Position	Command	Low Alarm	
B3:57/5	Filter 2 Manual	Valve Position	Command	High Alarm	
B3:47/10	Filter 3	Headloss DP	Low Alarm		
B3:47/13	Filter 3	Headloss DP	Rate of Change Alarm		
B3:47/15	Filter 3	Headloss DP	High Alarm		
B3:47/8	Filter 3	Headloss DP	Transducer Fail	Alarm	
B3:48/2	Filter 3	Turbidity	Transducer Fail	Alarm	
B3:48/4	Filter 3	Turbidity	Low Alarm		
B3:48/9	Filter 3	Turbidity	High Alarm		
B3:50/0	Filter 3	Effluent Valve	Position	Transducer Fail	Alarm
B3:50/2	Filter 3	Effluent Valve	Position	Low Alarm	
B3:50/7	Filter 3	Effluent Valve	Position	High Alarm	
B3:52/10	Filter 3	Effluent Flow	Low Alarm		
B3:52/13	Filter 3	Effluent Flow	Range Alarm		
B3:52/15	Filter 3	Effluent Flow	High Alarm		
B3:52/8	Filter 3	Effluent Flow	Transducer Fail	Alarm	
B3:53/1	Filter 3	Effluent Flow	Range Alarm	Shutdown	
B3:57/10	Filter 3 Manual	Valve Position	Command	Low Alarm	
B3:57/15	Filter 3 Manual	Valve Position	Command	High Alarm	
B3:57/8	Filter 3 Manual	Valve Position	Command	Transducer Fail	Alarm

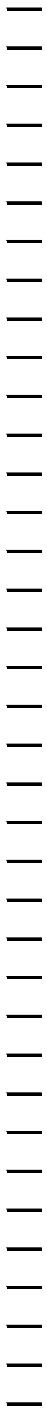
B3:58/12	Filter Effluent	Chlorine Residual	Transducer Fail	Alarm
B3:58/14	Filter Effluent	Chlorine Residual	Low Alarm	
B3:58/15	Filter Effluent	Chlorine Residual	Low Alarm	Shutdown
B3:59/3	Filter Effluent	Chlorine Residual	High Alarm	
B3:59/4	Filter Effluent	Chlorine Residual	High Alarm	Shutdown
B3:33/2	Flocculation Basin 1	Flow	Transducer Fail	Alarm
B3:33/4	Flocculation Basin 1	Flow	Low Alarm	
B3:33/9	Flocculation Basin 1	Flow	High Alarm	
B3:34/11	Flocculation Basin 1	Level Range Alarm		
B3:34/13	Flocculation Basin 1	Level	High Alarm	
B3:34/15	Flocculation Basin 1	Level Range Alarm	Shutdown	
B3:34/6	Flocculation Basin 1	Level	Transducer Fail	Alarm
B3:34/8	Flocculation Basin 1	Level	Low Alarm	
B3:35/0	Flocculation Basin 1	Valve Position	Transducer Fail	Alarm
B3:35/2	Flocculation Basin 1	Valve Position	Low Alarm	
B3:35/7	Flocculation Basin 1	Valve Position	High Alarm	
B3:33/12	Flocculation Basin 2	Flow	Transducer Fail	Alarm
B3:33/14	Flocculation Basin 2	Flow	Low Alarm	
B3:34/3	Flocculation Basin 2	Flow	High Alarm	
B3:35/10	Flocculation Basin 2	Level	Transducer Fail	Alarm
B3:35/12	Flocculation Basin 2	Level	Low Alarm	
B3:35/15	Flocculation Basin 2	Level Range Alarm		
B3:36/1	Flocculation Basin 2	Level	High Alarm	
B3:36/3	Flocculation Basin 2	Level Range Alarm	Shutdown	
B3:37/10	Flocculation Basin 2	Valve Position	Low Alarm	
B3:37/15	Flocculation Basin 2	Valve Position	High Alarm	
B3:37/8	Flocculation Basin 2	Valve Position	Transducer Fail	Alarm
B3:18/12	Hypochlorite Tank	Level	Transducer	Fail Alarm
B3:18/14	Hypochlorite Tank	Level	Low Alarm	
B3:19/3	Hypochlorite Tank	Level	High Alarm	
B3:58/2	Main Backwash Manual		Valve Position	Transducer Fail Alarm
B3:58/4	Main Backwash Manual		Valve Position	Low Alarm
B3:58/9	Main Backwash Manual		Valve Position	High Alarm
B3:20/10	Metering Pump 14	Speed Feedback	Transducer Fail	Alarm
B3:21/4	Metering Pump 15	Speed Feedback	Transducer Fail	Alarm
B3:0/7	Mixing Pump 7	Low Flow Lockout	Alarm	
B3:22/8	POST-CL2	Discharge Flow	Transducer Fail	Alarm
B3:21/14	PRE-CL2	Discharge Flow	Transducer Fail	Alarm
B3:0/5	Primary Coagulant	Low Flow Alarm		

B3:0/6	Primary Coagulant	Low Flow Lockout	Alarm		
B3:0/9	Primary Coagulant	Low Flow Alarm	Shutdown		
B3:32/10	PRS	Streaming Current	Low Alarm		
B3:32/15	PRS	Streaming Current	High Alarm		
B3:32/8	PRS	Streaming Current	Transducer Fail	Alarm	
B3:31/14	PRS Flow	Transducer Fail	Alarm		
B3:32/0	PRS Flow	Low Alarm			
B3:32/5	PRS Flow	High Alarm			
B3:31/11	PRS pH	High Alarm			
B3:31/13	PRS pH	High Alarm	Shutdown		
B3:31/4	PRS pH	Transducer Fail	Alarm		
B3:31/6	PRS pH	Low Alarm			
B3:31/7	PRS pH	Low Alarm	Shutdown		
B3:31/9	PRS pH	Rate of Change Alarm			
B3:15/10	Recycle/Decant Flow	Transducer Fail	Alarm		
B3:15/12	Recycle/Decant Flow	Low Alarm			
B3:16/1	Recycle/Decant Flow	High Alarm			
B3:15/0	Reservoir Level	Transducer Fail	Alarm		
B3:15/2	Reservoir Level	Low Alarm			
B3:15/7	Reservoir Level	High Alarm			
B3:15/8	Reservoir Level	Hi-Hi Alarm			
B3:15/9	Reservoir Level	High Alarm	Shutdown		
B3:62/7	SCADA Communication	Failure One Shot			
B3:1/15	SCADA Shutdown	warning Bit			
B3:41/14	Settled Water	Turbidity	Transducer Fail	Alarm	
B3:42/0	Settled Water	Turbidity	Low Alarm		
B3:42/5	Settled Water	Turbidity	High Alarm		
B3:42/7	Settled Water	Turbidity	High Alarm	Shutdown	
B3:16/11	TOC Analyzer	Stream 1	Clearwell Influent	High Alarm	
B3:16/4	TOC Analyzer	Stream 1	Multi-Point Signal	Transducer Fail	Alarm
B3:16/6	TOC Analyzer	Stream 1	Raw Water Influent	High Alarm	
B3:16/7	TOC Analyzer	Stream 1	Combined Filter	Effluent	High Alarm
B3:16/2	TOC Analyzer AIT-313	Stream 1 Selected	Purge Complete		
B3:16/3	TOC Analyzer AIT-313	Stream 2 Selected	Purge Complete		
B3:16/14	TOC Analyzer Signal	Stream 2 Post MIEX	Transducer Fail	Alarm	
B3:17/5	TOC Analyzer Signal	Stream 2	AIT-313B	Post MIEX	High Alarm









From: [Pacheco, Marco@Waterboards](mailto:Pacheco.Marco@Waterboards)
Subject: Public Safety Power Shutoff (PSPS) Alert - Public Water Systems in DDW-SF District
Date: Tuesday, October 8, 2019 10:57:06 AM
Attachments: [PSPS options.pdf](#)

This message is being sent to administrative and operator contacts (bcc'd) of potentially affected community water systems within areas of Alameda, Contra Costa, and Solano County identified in Pacific Gas & Electric's (PG&E) Public Safety Power Shutoff (PSPS) Potential to De-energize Alert, issued yesterday, October 7th, 2019. Some of you may already be in contact with PG&E, receiving updates and alerts regarding potential outages at your critical facilities. It is not necessary to respond to this email, however, if you have questions or concerns regarding this email, please feel free to contact the Division of Drinking Water - San Francisco District Office.

PG&E remains at PSPS Stage, Activating PSPS Protocols/Potential to De-energize, due to a threatening fire weather conditions throughout Northern California, including portions of Alameda, Contra Costa, Napa, San Mateo, Santa Clara, Solano, and Sonoma Counties. The projected timing of the weather event and potential de-energization is forecasted by PG&E to begin **early Wednesday morning, 10/09/19 into Thursday midday, 10/10/19**. Updated information and maps regarding PG&E's PSPS alert can be found on the PG&E website at https://www.pge.com/en_US/safety/emergency-preparedness/natural-disaster/wildfires/public-safety-event.page

As preparation for the PSPS, water systems can:

- Top-off their reservoirs so to maintain service with gravity throughout the PSPS, if it should occur.
- Configure their distribution system to be able to serve with gravity (turn on/off strategic valves).
- Ascertain necessary interconnections and interties.
- Acquire and position/preposition emergency generators where needed.
- Contact their utility partners and networks for awareness and ascertain availability of assistance if needed (e.g., CalWARN and CUEA).
- Issue conservation notices to their customers so to reduce unnecessary demand and maintain supply storage.
- Ascertain contacts with the local and County emergency management services (EOC) to report situation status and resources needs if needed.
- Ascertain to contact the District Engineer to report situation status and resources needs if needed.
- Ascertain contact with the power utility (account manager).
- Use the Water Quality Emergency Notification Plan when needed.
- Prepare and have ready the public notifications, e.g., boil water notices to use as needed.
- Ascertain contacts with assistants for public notification, e.g., public information officer, media, County EOC public information officer, etc.

A "PSPS Options" document containing useful resources for wildfire and PSPS preparation/response is attached.

If your public water system is significantly impacted by de-energization of the electrical grid or by wildfire in the coming days, please contact the DDW-San Francisco District Office at your earliest convenience to provide an update on the loss of critical facilities and/or pressure in your system(s). The District Office can provide assistance and additional resources to help you restore a safe drinking water supply for your affected customers. Please refer to your emergency notification plan for additional contact information.

A Lyris email blast to all public water systems statewide will likely be sent out later today with additional information regarding the PSPS. Please continue to stay informed and be safe.

Sincerely,

Marco Pacheco, P.E.

Senior Water Resource Control Engineer
San Francisco District
Division of Drinking Water
State Water Resources Control Board
850 Marina Bay Parkway, Bldg. P-2nd Fl.
Richmond, CA 94804

Phone: (510) 620-3454

Fax: (510) 620-3455

E-mail: marco.pacheco@waterboards.ca.gov



***** This is an EXTERNAL EMAIL. Stop and think before clicking links or opening attachments.

From: [John Palesi](#)
To: [Beth Schoenberger](#)
Cc: [Mike Malone](#); [Jacob Barlow](#); [Roger Judy](#); [Joe Abitong](#); [Brooke OLeary](#); [Angela Mendoza](#); [Martine Stephenson](#); [Oscar Alcantar](#); [Kevin J. Brown](#); [Frederick Mayo](#); [Mark Quady](#); [Danielle Bonham](#); [Christopher Bazzanella](#); [Rosalia Navarro](#); [Aaron Cano](#); [Cherlyn Turnil](#); [Kevin J. Brown](#); [Jacob Barlow](#)
Subject: RE: Info for Water Dept Power Outage Press Release
Date: Wednesday, October 9, 2019 7:33:58 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)

Good Morning, Current status of Lakes System

- Mankis Pump Station on Standby power and operating normally. Staff onsite monitoring system and generator
- Rockville Pump Station on Standby power and operating normally. Staff onsite monitoring system and generator
- Green Valley WTP- on standby power, plant scheduled to be placed online by 0900 (Normal routine)
- Green Valley Raw Pump Station- Stand by power in place and ready once plant is placed online
- Siebe PS currently off line, System is fed from Siebe tank- Tank level currently 5.5' (Approx. 2 days of normal reserves) Plan is in place to refill the tank via the distribution system this late morning/Early afternoon
- Terminal Pump station (SID Raw source)- Crews in route with Stand by generator, to get at least 1 pump operational should the Vallejo system need the raw source.

Staff start times 10/9

Jacob Barlow- 0100

James Grandrath- 0100

Robert Ljuba-0400

Carl Cade- 0400

Mike Falley- 0630

Steven McDonnell-0630

Jacob Parsons- 0630

Stephen Runner-0630

John Palesi

Water Facilities Superintendent

City of Vallejo | Water Department

(707) 648-4519 | john.palesi@cityofvallejo.net



From: Beth Schoenberger

Sent: Wednesday, October 9, 2019 6:09 AM

To: Greg Nyhoff <Greg.Nyhoff@cityofvallejo.net>; Mayor Bob Sampayan

<Bob.Sampayan@cityofvallejo.net>; Anne Cardwell <Anne.Cardwell@cityofvallejo.net>; Joanna Altman <Joanna.Altman@cityofvallejo.net>; Alyssa Lane <Alyssa.Lane@cityofvallejo.net>

Cc: Mike Malone <Mike.Malone@cityofvallejo.net>; John Palesi <John.Palesi@cityofvallejo.net>; Jacob Barlow <Jacob.Barlow@cityofvallejo.net>; Roger Judy <Roger.Judy@cityofvallejo.net>; Joe Abitong <Joe.Abitong@cityofvallejo.net>; Brooke OLeary <Brooke.OLeary@cityofvallejo.net>; Angela Mendoza <Angela.Mendoza@cityofvallejo.net>; Martine Stephenson <Martine.Stephenson@cityofvallejo.net>; Oscar Alcantar <Oscar.Alcantar@cityofvallejo.net>; Kevin J. Brown <Kevin.Brown2@cityofvallejo.net>; Frederick Mayo <Frederick.Mayo@cityofvallejo.net>; Mark Quady <Mark.Quady@cityofvallejo.net>; Danielle Bonham <Danielle.Bonham@cityofvallejo.net>; Christopher Bazzanella <Christopher.Bazzanella@cityofvallejo.net>; Rosalia Navarro <Rosalia.Navarro@cityofvallejo.net>; Aaron Cano <Aaron.Cano@cityofvallejo.net>; Cherlyn Turnil <Cherlyn.Turnil@cityofvallejo.net>; Kevin J. Brown <Kevin.Brown2@cityofvallejo.net>; Jacob Barlow <Jacob.Barlow@cityofvallejo.net>
Subject: Re: Info for Water Dept Power Outage Press Release

Good Morning.

The Water Department will update the City Manager's office and our website (VallejoWater.org) every six hours unless a reason arises to update more frequently.

-There are no known Water-related outages within the Vallejo city limits.

In the Lakes Water System (LWS):

-The Public Safety Power Shut-Offs (PSPS) in the LWS started just after midnight.

-Water Department staff from the Facilities Division (electrical, instrumentation, mechanical team) have been deployed to the Lakes Water System to handle impacts of the power shut-offs.

-Mankas Pump Station is running on back-up generator power. Staff remains onsite to secure the portable generator, ensure it continues to run, and to handle refueling.

-Staff is in the process of switching Rockville Pump Station to standby power. Steps were taken to ensure the tank was at max capacity prior to the PSPS.

-Siebe Pump Station is currently being checked. Steps were taken to ensure the tank was at max capacity prior to the PSPS. If needed, a back-up generator is available to be deployed to Siebe Pump Station/tank.

We will provide another update at noon, unless it's necessary to update again sooner.

If you have any questions feel free to call or text Mike or me.

Beth Mobile: (510) 333-2873

Mike mobile: (916) 997-0133

Thanks,

Beth

Beth Schoenberger

Water Operations Manager

City of Vallejo | Water Department

(707) 648-5439 | office

beth.schoenberger@cityofvallejo.net



From: Beth Schoenberger <Beth.Schoenberger@cityofvallejo.net>

Sent: Tuesday, October 8, 2019 6:15 PM

To: Alyssa Lane <Alyssa.Lane@cityofvallejo.net>; Joanna Altman <Joanna.Altman@cityofvallejo.net>; Anne Cardwell <Anne.Cardwell@cityofvallejo.net>; Greg Nyhoff <Greg.Nyhoff@cityofvallejo.net>; Mayor Bob Sampayan <Bob.Sampayan@cityofvallejo.net>; Joanna Altman <Joanna.Altman@cityofvallejo.net>

Cc: Mike Malone <Mike.Malone@cityofvallejo.net>; Roger Judy <Roger.Judy@cityofvallejo.net>; Brooke OLeary <Brooke.OLeary@cityofvallejo.net>; Angela Mendoza <Angela.Mendoza@cityofvallejo.net>; Martine Stephenson <Martine.Stephenson@cityofvallejo.net>; Joe Abitong <Joe.Abitong@cityofvallejo.net>; Oscar Alcantar <Oscar.Alcantar@cityofvallejo.net>; Frederick Mayo <Frederick.Mayo@cityofvallejo.net>; John Palesi <John.Palesi@cityofvallejo.net>; Mark Quady <Mark.Quady@cityofvallejo.net>; Danielle Bonham <Danielle.Bonham@cityofvallejo.net>; Christopher Bazzanella <Christopher.Bazzanella@cityofvallejo.net>; Rosalia Navarro <Rosalia.Navarro@cityofvallejo.net>; Cherlyn Turnil <Cherlyn.Turnil@cityofvallejo.net>

Subject: Re: Info for Water Dept Power Outage Press Release

Additional info for press release re scenario of power outages within city limits:

PG&E has not scheduled power outages within the city limits. However, if outages were to occur within the city limits, the City's raw water supply is ensured with back-up generators provided by the State Department of Water Resources. In addition, the Water Department has back-up power at Fleming Hill Treatment Plant, Travis Air Force Base Treatment Plant, and Shadow Ridge Tank (hydropneumatic fire flow).

Today staff re-confirmed that Solano County Office of Emergency Services is prepared to provide the Water Department two additional generators if needed. Agreements are also in place for the Water Department to have access to Vallejo Flood and Wastewater District's generator if they do not need it, or to alternate use with VFWD as necessary. The Public Works Department's emergency generator would be available if needed. The generators scheduled to address the planned outages in the Lakes Water System can also be deployed in the city limits if necessary.

Thanks,
Beth

Beth Schoenberger
Water Operations Manager
City of Vallejo | Water Department
(707) 648-5439 | office
beth.schoenberger@cityofvallejo.net



From: Beth Schoenberger
Sent: Tuesday, October 8, 2019 5:11 PM
To: Alyssa Lane <Alyssa.Lane@cityofvallejo.net>; Joanna Altman <Joanna.Altman@cityofvallejo.net>; Anne Cardwell <Anne.Cardwell@cityofvallejo.net>; Greg Nyhoff <Greg.Nyhoff@cityofvallejo.net>; Mayor Bob Sampayan <Bob.Sampayan@cityofvallejo.net>; Joanna Altman <Joanna.Altman@cityofvallejo.net>
Cc: Mike Malone <Mike.Malone@cityofvallejo.net>; Roger Judy <Roger.Judy@cityofvallejo.net>; Brooke OLeary <Brooke.OLeary@cityofvallejo.net>; Angela Mendoza <Angela.Mendoza@cityofvallejo.net>; Martine Stephenson <Martine.Stephenson@cityofvallejo.net>; Joe Abitong <Joe.Abitong@cityofvallejo.net>; Oscar Alcantar <Oscar.Alcantar@cityofvallejo.net>; Frederick Mayo <Frederick.Mayo@cityofvallejo.net>; John Palesi <John.Palesi@cityofvallejo.net>; Mark Quady <Mark.Quady@cityofvallejo.net>; Danielle Bonham <Danielle.Bonham@cityofvallejo.net>; Christopher Bazzanella <Christopher.Bazzanella@cityofvallejo.net>; Rosalia Navarro <Rosalia.Navarro@cityofvallejo.net>; Cherlyn Turnil <Cherlyn.Turnil@cityofvallejo.net>
Subject: Info for Water Dept Power Outage Press Release

The City of Vallejo Water Department is prepared for the PG&E Power Shut offs. Currently PG&E has not indicated any shutoffs within city limits, but PG&E has warned of power outages scheduled in the Lakes Water System. If power outages should occur in the Lakes Water System the City is fully prepared with back up generators to address outages at City owned treatment and distribution facilities which includes pump stations and the Green Valley Water Treatment Plant. Steps have been taken to ensure that water storage facilities are filled to capacity.

As a reminder, any customer who has a privately owned booster pump would be impacted if their power goes out.

More information on power outages is available on PG&E's website.

During regular business hours, direct water related questions to (707) 648-4304. For after hours **emergencies only** call (707) 553-7252.

Thanks,
Beth

Beth Schoenberger
Water Operations Manager
City of Vallejo | Water Department
(707) 648-5439 | office
beth.schoenberger@cityofvallejo.net



(SECT. NO.) OPERATOR EMERGENCY RESPONSE PROCEDURES

- **Contaminant Spill in the Raw Water Source(s)**
- **High Raw Water Turbidity/TOC ¹**
- **High Filtered Water Turbidity ¹**
- **Sedimentation Basins Upset**
- **Filtration Upset ¹**
- **Low Post Chlorine Residual (e.g., 0.5 mg/L, or less)
& (*Disinfection Emergency Plan Title 22 CFE ss64660.c.2*)**
- **Pre Ozone failure**
- **Chemical Feed Pump Failure**
- **Power Failure**
- **Spill at Treatment Facilities, or off-site Water Department Property.**
- **Chlorine Release**
- **Watershed Emergency**
- **Earthquake Response**

¹In any event of adverse source water quality the termination of plant operation should always be an option in a solo-duty operator's response plan should the process quality become unmanageable. Loss of coagulation, extensive filter media breakthrough, loss of adequate disinfection should each be considered major trouble – and, if otherwise occurring together, or in close succession, these would become game-enders. Shutdown the plant, inform a supervisor, the Base Utilities Shop; and organize a recovery plan -- if needed, call in back-up.

TABLE X-1
OPERATOR EMERGENCY RESPONSE PROCEDURES (ERPs) Updated January 2018

ERP NUMBER	DESCRIPTION
1. Contaminant Spill in the Raw Water Source(s)	- Consult SECTION 4 in the Water Department EMERGENCY RESPONSE PLAN (WD ERP), and the HAZARDOUS MATERIALS SPILL RESPONSE CHART; at rear of SECTION 6. Watch for extreme pH swings which indicate contaminants. - Perform Notifications as required by scenario (e.g.: Supervisor, Laboratory staff, Division Management, etc. (<i>reference EMERGENCY RESPONSE PLAN</i> Appendix D for telephone number listings). Cal OES (916) 845-8788 - If contamination event has entered plant inlet, or disrupted process, prepare operation for shutdown & assess recovery.
2. High Raw Water Turbidity/TOC	- Reducing plant flow will increase time to perform assessments, jar tests to determine optimum dose for coagulants (SOP T 1.06*); monitor filters closely. - Check reclaim return flow turbidity for spikes, or other abnormalities. Prepare Sludge Dry Beds to receive sed. basin diversions if necessary. When possible check with neighboring facilities using the same source re: their WQ & treatment information. (<i>*prepare fresh solution stocks before proceeding.</i>)
3. High Filtered Water Turbidity	- If turbidity exceeds 0.15 NTUs, reduce flow and monitor results. Isolate problem filter if turbidity continues to deteriorate. - If combined filter effluent (CFE) turbidity continues to increase over 0.2 NTUs, reduce flow. At 0.3 ntu cease plant operations and begin to assess the cause. Prepare to stop plant. <i>Never exceed 1.0 NTU</i> at the combined filter effluent. - Notify Supervisor/Management in all cases of exceeding CFE and individual filter turbidity limits.
4. Sedimentation Basins Upset	- If filter applied water turbidity exceeds 2.0 NTU, this is often attributable to <i>hydraulic shock loads</i> (abrupt plant flow change), or <i>Flow Short-Circuiting</i> which can occur several ways: thermodynamic turnovers; differences in suspended solids densities; or, though a rare occurrence, a salinity pulse from Bay water influx. These conditions generally respond well to reducing plant flow. Next, conduct a settlability, or jar test to verify optimum dosages are established. Ops Tip: In the event of coag/sed. upset due to failed coag/floc process, the recovery/re-treatment progress can be significantly shortened by treating one basin at a time.
4. Filter Upset (Not caused by pre-treatment failure)	- Switch filter effluent control valve(s) to SCADA manual control and reduce filter rate to manage spike and reduce rate to achieve output turbidity to 0.10 ntu, or below. Repeat as needed or leave filter in manual once stable condition is met. - Replace with a standby set of filters; backwash when able in the recycle mode.
5. Low Post Chlorine²¹ Residual (e.g., 0.5 mg/L, or less) This procedure is written for use of 12.5% Sodium Hypochlorite (NaOCl) (²¹Disinfection Emergency Plan Title 22 CFE ss64660.c.2)	Perform the following: - Switch chlorinator control from flow pacing to manual selection to input feeder settings. Consider reducing plant flow. - Verify that hypochlorinator output is at targeted dose setting; increase dose as necessary. - Verify that chlorine solution is conducted to the correct injection point(s), valved to contact chamber. Check bulk storage – verify adequate storage quantity and that product is correctly delivered through supply and feeder piping. Verify that chlorine solution is valved to the correct injection point. - Select to alternate injection point(s) if available to restore adequate feed. - Activate spare chlorinator at high output and begin treatment at <i>Post Contactor Channel Diffusers</i> for more immediate residual restoration. - If the problem cannot be corrected and residual drops below 0.5 mg/L at plant effluent - cease operations. - Notify Supervisor/Management WHENEVER plant cannot maintain adequate disinfection or fails to achieve required inactivation ratio (i.e.: > or = to 1.0). Prepare to assist lab in residual tracking and distribution flushing if so directed.

TABLE X - 1
OPERATOR EMERGENCY RESPONSE PROCEDURES (ERPs) Updated January 2018

ERP NUMBER	DESCRIPTION
6. Pre Ozone failure	Perform the following checks. 1. Check O₃ feed gas flow & concentration, adjust as needed. 2. Check PSU for normal status, If tripped check all breakers – including those I/O PUSH BUTTON breakers within PSU cabinet; reset alarms and check generator vessel for coronal discharge; any more than 5 dark dielectric tubes requires maintenance. Check PSU & generator cooling: A/C online; adequate water flow & temperatures. 3. Check LOX tank level, normal evaporator functions – switch to defrosted standby if primary is over-iced. Confirm O₂ flows. Verify all system control valves have correct position and normal function. (O₃ concentration may decrease after LOX delivery due to trace levels of impurities.) If the generator will not re-start, be prepared to increase coagulant and Cl₂ doses; consider prepping standby generator for pre-service purge & start-up. (Ref. SOP T-2.15)
7. Chemical Feed Pump Failure	1. Upon chemical feed pump failure the chemical feed pump is: - Taken out of service and isolated from product bulk storage & tagged <i>Out-of-Service</i>. - Select spare feed pumps available for trade-out. Determine extent of impact on process. Plan recovery response accordingly.
8. Power Failure	1. After a 6 – 10 second power delay the diesel generator starts and after another delay power transfer switch engages over to the generator. Reset all process equipment trips -- resets MUST be checked. All equipment and full plant functions can be sustained by the plant generator (Including BW & Ozone).
9. Spill at Treatment Facilities, or on Plant Property.	1. Inform supervisor and consult the <u>EMERGENCY RESPONSE PLAN</u> - SECTION 4 HAZMAT SPILLS. 2. Protect yourself from exposure with approved PPE (Ref. product MSDS); 3. Isolate spill site and obtain back-up if injury hazard(s) exists. 4. If equipment available, establish containment (dams, trenching, absorbents). Prevent chemical from entering storm drain or contaminating treatment processes. 5. Begin remediation. Contact a certified contractor for removal and disposal of hazardous waste and spoils. 6. If spill is beyond containment, performance of mandatory notifications is required (supervision/Mgt./regulatory). 7. Cal OES (916) 845-8788 8. Observe & record spill quantity and measure environmental impacts for incident reporting.
10. Chlorine Release & other Respiratory Hazards [12.5% Sodium Hypochlorite (NaOCl); HF-Hydrofluoric [gas, or acid]; O₃-Ozone]	It is a good practice to assume that any spill, and/or admixing, of other chemicals with NaOCl (sodium hypochlorite) may induce a release of Cl₂ gas: 1. Notify supervisor/Management. If so directed, a qualified shift operator & one qualified assistant may, after donning SCBA, all necessary PPE for meeting potential exposure hazards, then proceed to investigate a Cl₂ release and evaluate condition causing the release. If feasible, shut-off, or separate chemical source(s), otherwise, barricade (isolate) site & deny entry – proceed to a quick self-de-con (eyewash-shower station) and await IC/SSO plan for further action, if required. 2. <u>No work in this procedure is to be done solo</u>: If hazardous atmosphere intensifies, notify management, contact 911 (review ERP Section 4.0-page 4.8); if exposure becomes imminent, abandon immediate area and await back up at safe distance (100 yds. up wind, uphill) - per DOT/ERG Guide No.124).

TABLE X-1
EMERGENCY RESPONSE PROCEDURES (ERPs) Updated January 2018

ERP NUMBER/TITLE	DESCRIPTION
11. Earthquake Emergency Response	A. Assignments, Responsibilities, and Tasks Initial Operations Survey: 1. Review plant status: processes WQ, RW Transmission, Distribution storage & pumping stations. 2. Check raw and finished water quality for any change. 3. Check clearwell storage level. 4. Check the status of chemical feed system. B. Post-Quake Emergency Operations: 1. Assess personnel injury, render 1st aid if able. Contact EMS as necessary. 2. Check for hazardous chemical releases. If found, isolate area & deny entry. Monitor & record any release(s) to the environment for reporting of threshold contaminant quantities, other damages, mitigation response. 3. Monitor treated water storage reservoir No.4 to determine if there are any major water breaks in A.F. system. If the 2.5 MG storage is dropping inform the Air Base Utilities Shop 424.8870 or EMCS 427.4975 4. Check the emergency generator at the plant. Event power outage: the plant is fully operational with generator running (ref. ERP #9). 5. Filter Liquefaction: <i>Operators should be vigilant from 5 to 30 minutes following strong quakes (M 4.5+) for signs of filtered turbidities well in excess of 1.0 ntu that can result from media scrubbing and liquefaction phenomena; also, for declassified media layers, support gravel; broken tiles & underdrain piping abnormalities may produce 30 ntu, or more - signifying severe damage has occurred and a clear necessity to immediately remove upset filter(s) from service until a closer evaluation can be made.</i>²² a. Corrective actions^{1.0 ntu, or less, :} i. reduce plant flow, divert affected filters to filter-to-waste; ii. light BW (at a sub-fluidization flow rate) for ~ 5 minutes, followed by FTW to recovery; iii. prepare to stop plant operations, if possible. 6. Commence detailed assessments of plants and appurtenances for damage, upsets. <u>CalARP requires Bulk Chem. & Fuel Storage Tank Inspections.</u> All WTPs; Cordelia diesel, Somerset diesel, Swanzy Cl₂ storage. 7. Begin Event log, record-keeping described in Section 3 WD ERP; Forms in Appendix B. C. Establish Lines of Communication: 1. Water Superintendent(s), Treatment & Maintenance 2. Water Treatment Supervisor(s) 3. Operator IVs 4. Operator IIIs D. Alerts and Callback Procedures: 1. All earthquakes M 6.0 + and above: i. available staff to report to Water Department Operations Center (DOC:2nd floor FHTP) as soon as able. ii. Management & Supervisory staff should coordinate work plan & relief schedules for available response personnel. iii. Available staff to make telephone-contact with DOC chief or asst., if unable to physically report to a facility. E. If facilities are destroyed or damaged to the extent that repair is doubtful or habitation is dangerous: 1. stop plant operations, if feasible 2. avoid structures with obvious damage until inspection can be made - BUILDING DIVISION: 707.648.4374 3. Collect communications eqpt. Operational logs and records, seek best, safe refuge available onsite. 4. Unassigned WD staff on hand shall to remain at the plant to assist communications and secure the facilities.

TABLE X - 1
OPERATOR EMERGENCY RESPONSE PROCEDURES (ERPs) Updated January 2018

ERP NUMBER/TITLE	DESCRIPTION
11. Earthquake Emergency Response (cont'd)	F. Communications 1. Due to potential overloading of regional networks, use radios when available. 2. Report ops staffing & system status to Water Department DOC chief. 3. Telephone, Cellular, Radio. 4. Runner to EOC, if all the above are unavailable; <i>provide directions to runner for safest route.</i> G. Records & Reporting: 1. Losses of facilities, loss of capacity, WQ/CalARP violation(s) see 7 Public notification(s): EAP/SWRCB-Cal OES/ Solano Co. DRM. 2. Serious injury/Fatality: OSHA/CalOSHA/Cal OES 3. DD/ICS214, DOC/EOC logs: DOC/EOC; Cal OES H. Resource Procurement: Alert DOC/EOC Logistics of potential needs diesel fuel and gasoline for the generators, and typical water treatment chemicals: 1. City corporation yard to request placement on diesel and gasoline priority listing. 2. Check status of primary and back-up contract suppliers Bulk chemicals. 3. Potential for potable water deliveries²²: commercial suppliers, carriers or neighboring water agencies in operable condition for potential interties.
12. Watershed Emergency	A. Watershed emergencies are presently anticipated to occur in four general areas: <u>Hydrology</u>: precipitation & flows; <u>Biological</u>: ecosystem, flora, fauna; <u>Geological</u>: landform, soils, sediments; <u>Impoundment-transmission structures</u>: Dams, canals. 1. Precip run-off adversely affecting WQ at plant inlet: both SPW (NBA), and to lesser degree SP (SID) sources can present elevated turbidities, TOC concentrations and coliform densities in periods of heavy rainfall. Operators should provide aggressive doses of pre oxidation with ozone combined with enhanced coagulation. (Flooding: see #3-A. below.) 2. In contrast to historic trends, algal blooms have recently provided year-round challenges due to irregular climate, reduced dilution factors by drought-diminished flow thru-puts and increased nutrient loads, all favoring algae growth: both filter clogging and odor producing species have similarly been reduced with aggressive ozone/coagulant dosages with conservative post disinfection profiles and increased frequencies of turn-over in finished water reservoirs along with distribution flushing in locations of low pipeline velocities. Both systems feature continuous water quality & flow information logs 24/7. Operators can monitor these data, forecast reports and alerts posted to the websites to inform operational decisions. NBA-Barker Slough http://www.grabdata.com/assets/SCWA/bspp.htm & SID Putah South Canal http://www.scwamonitoring.com/PutahCreekWQ/index.htm .

TABLE X - 1
OPERATOR EMERGENCY RESPONSE PROCEDURES (ERPs) Updated January 2018

ERP NUMBER/TITLE	DESCRIPTION
12. Watershed Emergency (cont'd)	3. Changes in landform due to flooding or strong seismic events producing significant source water challenges: A. Indirect WQ degradation incurred by flooding, land-mass movements, slides, sieche or disruption of reservoir sediments should be met with the aggressive treatment techniques at the plants as described above. Entrainment of flood water exiting population centers into the source water streams and reservoirs can be expected to carry coliform densities that may completely overwhelm conventional treatment processes. Laboratory & other sections will quickly need to determine monitoring locations and methods that must be established to intercept any contamination well in advance of the treatment plants. Otherwise, source of raw water can usually be moved to the most favorable supply available. B. Upwelling from underground springs into the natural courses of an approved source water supply represents a direct influence factor which should require primacy agency notification and assessment – such as may occur after specific analysis, to determine what pretreatments, if any, need to be met to ensure that no threat to public health will result from the agency use of the “new” source of water; for temporary inclusion into the utility’s existing permit – if prior amendments do not exclude such use. 4. As regulated under the CA Department of Safety of Dams (DSOD), the management and operation of the City’s seven Dams are under the direct oversight of Water Department Maintenance and Engineering branches. However, operators have monitoring, operational and recording responsibilities in specific areas: a. Summit Res. (Terminus of Cordelia transmission system – 61 MG): exert operational control of over flows entering, and flows leaving the reservoir so as to prevent: i. reservoir spill (elevation 56.5 ft.). ii. limit loading/unloading reservoir 5 ft./24 hrs, during periods of heavy precip., and iii. Perform monthly monitoring and recording of piezometer values & underdrain flows. b. Swanzy Reservoir (Southern terminus of finished water Trans-Vallejo (TV) system– 37 MG): i. Report reservoir spill. Access, monitor & report flows at reservoir <i>Leak House</i>. ii. Control finished water entering, and leaving reservoir to levels ranging 15–20% of reservoir cpy in order to reduce loss, stabilize & supplement pressures in South TV, West Grid & Mare Is. pressure zones. iii. Daily observe reservoir level, monitor and control residual chlorine boosting station. c. In the event of emergencies or failures originating at the Dams, Operators may be authorized by Water Department management to execute notification procedure prescribed in DSOD/CalOES <i>EAP</i> written for each Dam. Other resources: <i>WD ERP, Appendix I - Emergency Contact List of Agencies & Utilities and the Contact & Emergency binder</i>, located at the Operations center controls console. i. Water Superintendent – Maintenance: Brian Vanciel ii. Lake Curry Dam (10,700 AF) CoV Reservoir Keeper II: Mark Witherspoon iii. Lake Madigan Dam (1175 AF) CoV Reservoir Keeper II: Tim Lindeman iv. Swanzy Dam Finished Water Res. (47 MG) WTPO III: Lynn Schulte

TABLE X -1
OPERATOR EMERGENCY RESPONSE PROCEDURES (ERPs) Updated January 2018

ERP NUMBER/TITLE	DESCRIPTION
12. Watershed Emergency (cont'd)	d. Any spills reported to Operations involving watershed properties or trans i. Consult SECTION 6 of the <u>EMERGENCY RESPONSE PLAN</u> (also SECTION MATERIALS are involved). Perform Notifications as required by scenario (e.g.: Super Department Management, etc. (<u>EMERGENCY RESPONSE PLAN</u> Appendix D or Call-o telephone contact information). ii. If contamination event has disrupted process, prepare operation for sh iii. Review SECTION 6: Required Notifications & recommended Response F Water Quality Emergencies.

²¹Emergency Disinfection Plan

The plan procedure titled No. 5 above further answers the cited requirement* for redundant equipment, including auxiliary power supply with automatic start-up, and alarm annunciation to ensure disinfection application is maintained continuously while water is delivered to the distribution system (*Title 22 CCR ss64652.C.2)

²²Integrated Design & Operation of Water Treatment Facilities, 2nd Ed.; Kawamura, Susumu – June 2002

Plan for provision of alternative water supplies.

Both utilities and state agencies recognize the importance of developing a plan to provide an alternate drinking water supply to customers in the event of prolonged service interruptions. Suggested activities include analyzing options for an alternative water supply such as bottled water, bulk water, wells, and temporary treatment and distribution systems. Communities often assume the availability of bottled water, but suppliers may not be able to reach consumers if roads are impassible. In addition, bottled water is not a viable option for essential needs such as medical and/ or commercial HVAC requirements. State EMAs may consider providing bulk water if there are a sufficient number of certified tankers and a viable system of distribution. Before temporary systems are used, state primacy agencies must assure that water quality testing is performed and state drinking water requirements are met. If this planning has not been pursued prior to an incident of regional disaster, it will certainly demand attention at such an occurrence. A helpful resource is the EPA/AWWA-developed "Planning for an Emergency Water Supply" (see Water Security Research [Infrastructure Protection link] on <http://www.epa.gov/nhsr/index.html>). This document is complemented by the CDC/AWWA collaboration on "Emergency Water Supply Planning Guide for Hospitals and Health Care Facilities" see: <http://www.cdc.gov/healthywater/emergency/drinkingwateradvisory.html> .











Close this window



Water Treatment Plant Operator

Class Code:
02330

CITY OF VALLEJO

Established Date: Jun 8, 2015

Revision Date: Jun 23, 2015

SALARY RANGE

\$39.89 - \$48.49 Hourly
\$3,191.50 - \$3,879.29 Biweekly
\$6,914.91 - \$8,405.13 Monthly
\$82,978.96 - \$100,861.50 Annually

DEFINITION:

To perform a variety of skilled technical duties and semi-skilled labor as shift operator, as regulated by Federal and State potable water treatment guidelines, in the operation and maintenance of the City's drinking water treatment plants, transmission, distribution systems, and appurtenances.

DISTINGUISHING CHARACTERISTICS

This is the full journey level classification in the treatment plant operator series, meeting requirements set by the U.S. Environmental protection Agency under the Safe Drinking Water Act, as well as by the State Water Resources Control Board (SWRCB), under the California Safe Drinking Water Act. The regulations ensure that water treatment facilities are operated and maintained by operators who are certified at the appropriate level, ensuring the protection of public health and safety. Performance expectations at this level include performance of the full range of responsibilities within the function. Individuals in this classification have satisfactorily demonstrated they are capable of operating and maintaining serviceable water supply, according to the City's treatment facility classification consistent with Environmental Protection Agency regulations, through the City's transmission, distribution facilities, water treatment plants and sludge de-watering project on an assigned shift, often without immediate supervision. Incumbents apply board job knowledge to resolve issues/problems of diverse scope where analysis of data requires evaluation of identifiable factors. Work requires independent judgment, initiative, and action within established operational parameters. This classification is distinguished from the Advanced Water Treatment Plant Operator class, as the latter is the challenging responsibilities for which problem-solving frequently requires analysis of unique issue/problems without precedent and/or structure.

AS a condition of continued employment with the City of Vallejo, incumbents are required to adhere to the process for maintaining the Grade T3 Water Treatment Plan Operator certification outlined by the State Water Resources Control Board (SWRCB). If the certification is not maintained, employment will be terminated. Advancement beyond the

classification of Water Treatment Plant Operator is not required as a condition of continued employment.

SUPERVISION RECEIVED AND EXERCISED

Receives general supervision from supervisory and management staff such as the Water Treatment Plant Supervisors and the Water Operations Superintendent. May receive lead direction from Advanced Water Treatment Plant Operators.

Exercises functional and technical supervision over, and provides training to Water Treatment Plant Operator Trainee staff.

EXAMPLES OF DUTIES:

EXAMPLES OF IMPORTANT RESPONSIBILITIES AND DUTIES - *Important responsibilities and duties may include, but are not limited to, the following:*

Monitors, adjusts and controls functions at water treatment plants, transmission/distribution system and sludge de-watering facility, using local controls and the Supervisory Control and Data Acquisition System (SCADA).

Operates and adjusts treatment plant pumps, motors, feeders and other equipment to maintain appropriate plant operations; regulate the flow of water through the water treatment plant and distribution system. Correctly regulates waste side-streams and return flows.

Calculates dosages and adjusts chemical feed machines for proper operation and application of chemicals in order to assure finished water quality standards. Arranges, safely receives and records deliveries of process chemicals to ensure adequate supplies.

Performs water quality tests using standardized testing methods in the plant laboratory; mixes and applies process chemicals at various stages in the treatment process.

Assembles updates and maintains plant operations logs and reports; performs and records mathematical calculations related to plant operational activities, process testing and control.

Works with hazardous chemicals related to water treatment and branch laboratory operations; receives training in and assists in spill prevention and response at City facilities.

Schedules, safely receives and records deliveries of process chemicals and monitors inventories to ensure adequate supplies.

Maintains plant, operating equipment and facilities in a clean and orderly condition; performs routine housekeeping inside and outside the plant and conducts regular site safety inspections

Dispatch call-out personnel as required at all hours. May act in a central communications function as follows: taking, relaying, transmitting, and providing information to and from City personnel or outside emergency services as required.

Operate city-owned motor vehicle to a number city facilities; operates licensed, City communication equipment.

Receives, safely unloads and stores materials by hand and by use of motorized and mechanical equipment.

Receives business contact with other city employees, customer inquiries and makes every effort to enhance public relations. Conducts general tours of the facilities.

Provides for safe plant conditions and working environment at all times by exercising a routine of attentiveness and proactive responses to plant safety and security matters.

Provides for safe plant conditions and working environment at all times by exercising a routine of attentiveness and proactive responses to plant safety and security matters.

Participates in accurate and complete shift change turn-overs to discuss vital plant information.

Participates in emergency preparedness training and exercises.

Perform related duties and responsibilities as required.

KNOWLEDGE AND ABILITIES:

QUALIFICATIONS

Knowledge of:

Standard principles of mathematics, biology, chemistry, and hydraulics as applied in the operation of a water treatment facility.

Standard principles, practices of drinking water treatment plant operations, laboratory analysis techniques and current drinking water standards and regulations.

Operating principles of plant equipment such as valves, pumps motors, controls, instrumentation and telemetry.

Operational and safety regulations pertaining to water treatment plant operations and vehicle and equipment usage.

Safety regulations pertaining work practices and use of related equipment.

Regulations, techniques and equipment used in managing mitigation, recovery and reporting of hazardous materials release.

Basic computer (PC) skills in Microsoft Suite software.

Safe vehicle and equipment use.

Ability to:

Logically solve problems and identify hazardous work conditions.

Understand and carry out written and oral instructions.

Operate and maintain water treatment plant equipment.

Diagnose operating problems and take effective courses of action.

Make independent technical decisions within established parameters to maintain proper treatment operations.

Establish and maintain effective working relationships with those contacted in the course of work.

Apply the practices, procedures, techniques, and treatment rules pertaining to the operation of water treatment plants and distribution system into daily practice.

Read and interpret gauges and other recording devices, plant piping and distribution diagrams and other technical documents.

Perform simple repair or maintenance to plant equipment such as pumps, valves, and electronic monitoring devices.

Perform simple to moderately complex tasks while wear Level A personal protective equipment.

Demonstrate the capability to independently operate all of the Water Division's facilities.

Exercise capable operations in all phases of plant operations: start-up, shutdown, reduction or bypass of unit processes, adverse or emergency conditions.

Accurately observe and record operating conditions and furnish verbal reports.

Travel to alternate duty/work locations and offsite meetings.

Work any shift, weekends, and holidays, at any Water Division facility.

Lift 55 pounds and move heavy chemical containers

Wear respiratory protection equipment as required.

Maintain the ability to perform required duties while wearing a Self-Contained Breathing Apparatus (SCBA).

Travel to alternate duty/work locations and offsite meetings.

Work independently without supervision.

MINIMUM QUALIFICATIONS:

Experience:

A minimum of twenty-four (24) months experience in the City of Vallejo classification of Water

Treatment Plant Operator II.

OR

A minimum of three (3) years of water treatment operating experience, which includes at least one (1) year functioning as a journey-level operator, while holding Grade T3 Water Treatment Plant Operator certification at a T3 or higher surface water treatment facility. As a condition of continued employment, employees shall successfully complete the Water Treatment Plant Operator Promotional Review Process within twelve (12) months of the date of hire into this classification

Training:

A high school diploma or G.E.D with three (3) years of high school mathematics, including at least two (2) years of algebra.

Completion of the following four (4) California State University, Sacramento "Ken Kerri" Series of Courses: Water Treatment Plant Operation (Vols. 1 & 2); Small Water System Operation and Maintenance; and Water Distribution Operation and Maintenance.

Certification:

Possess and maintain a valid Class C California Driver License.

Possess and maintain a Water Treatment Operator Grad T3 Certification issued by the State Water Resources Control Board (SWRCB). Failure to maintain appropriate certification for classification will result in termination of employment.

Possess and maintain recertification for Hazardous Materials Technician, Confined Space Entry, CPR/First Aid, and Fork Lift Safety as often as set forth by the authority establishing the requirement.

OTHER REQUIREMENTS

Prior to appointment to this classification, the incumbent must have attained Grade T3 Water Treatment Plant Operator certification. Internal candidates must have demonstrated receipt of satisfactory performance reviews within the preceding twenty-four (24) month period, and successful completion of the Water Treatment Plant Operator Promotional Review Process.

Pursuant to California Government Code, Title 1 Division 4, Chapter 8, Section 3100 "all public employees have been declared to be disaster service workers subject to such disaster service activities as may be assigned to them by their superiors or by law."

Must be medically approved for wearing a Self-contained Breathing Apparatus (SCBA), and remain shaven of facial hair at all times as required to wear respiratory protection equipment.

Must maintain the ability to perform required duties while wearing SCBA.

Must be able to work safely while wearing Personal Protective Equipment (PPE).

Work on an unscheduled basis for emergency situations; must be willing to work any day and any shift within a 24-hour period as assigned, including holidays, week

WORKING CONDITIONS:

WORKING CONDITIONS

Risk of exposure to chemicals; some lifting; machinery noise.
Work in and around confined spaces and elevated structures.
Work in proximity of high voltage and electronic equipment.
Work outdoors in a variety of weather conditions.
Work around complex, moving machinery in a biohazard environment.

[Close this window](#)

Instrument Technician I

Class Code:
02641

CITY OF VALLEJO

Established Date: Nov 10, 2008

SALARY RANGE

\$26.32 - \$31.99 Hourly
\$2,105.70 - \$2,559.50 Biweekly
\$4,562.34 - \$5,545.57 Monthly
\$54,748.10 - \$66,546.90 Annually

DEFINITION:

Under general supervision, performs the maintenance, repair, replacement, design and calibration of programmable logic controllers; process instrumentation; electronic, electrical and mechanical instrumentation; and, equipment employed in the operation of water treatment plants, pumping stations and a hydroelectric power plant; and, other related duties as required.

DISTINGUISHING CHARACTERISTICS

This is the entry level class in the Instrument Technician series. This class is distinguished from the Instrument Technician II by the performance of the more routine tasks and duties assigned to positions within the series including maintenance, repair, replacement, design and calibration of controllers, instrumentation, and equipment as knowledge and experience grow and develop. Since this class is typically used as a training class, employees may have only limited related work experience.

SUPERVISION RECEIVED AND EXERCISED

Receives immediate supervision from more experienced staff, supervisory and management staff.

EXAMPLES OF DUTIES:

Important responsibilities and duties may include, but are not limited to, the following:

Installs, maintains, calibrates, and repairs microcomputer-based data acquisition and control

systems, including telemeters, programmable logic controllers, monitoring and process control equipment and instrumentation.

Makes inspections and performs periodic preventative maintenance on various control, metering, recording and display equipment; cleans, lubricates, calibrates and/or adjusts equipment as needed.

Troubleshoots and diagnoses electronic, electro-mechanical instrumentation malfunctions; completes component level repairs or advises system contractor(s) of other repair requirements as appropriate.

Uses software diagnostic routines and tests equipment to verify and/or adjust control system equipment according to manufacturer's recommendations.

Installs, maintains and repairs multi-channel system radio and telephone, and calibrates microwave electronic equipment, antennas, battery backup power supplies and grounding systems including connections to existing systems.

Reads and interprets wiring schematics, mechanical drawings and specifications as necessary to install, service and/or repair equipment in accordance with related regulations.

May make estimates of labor, materials and supplies necessary for the performance of specific assignments.

Keeps records and makes verbal and written reports of work performed.

Installs, maintains, monitors, overhauls, calibrates and tests a wide variety of electronic recording, indicating, controlling, telemetering and other test instruments including but not limited to programmable logic controllers, communications systems, digital and/or analog instrumentation, printed circuits, magnetic flow meters, differential pressure transducers, multiplex equipment, flow meters, process control equipment, loss-of-head indicators, level indicators, solid state equipment, alarm circuits and systems, pressure and temperature regulators, gauges and recorders, chemical feeder controllers and telemetering receivers and transmitters.

Performs other related duties as assigned.

KNOWLEDGE AND ABILITIES:

Knowledge of:

Some familiarity with methods, practices and tools used in maintaining, repairing, testing and calibrating electro-mechanical recording and metering instruments, programmable logic controllers, process control equipment, and mechanical linkage and telemetering systems.

General safety practices, precautions and procedures pertaining to the work.

Computer based data acquisition and control systems; microwave point to point and point-to-multi-point channel radio data communications equipment; telephone line interface for data communications; software diagnostic routines and test equipment; metering instruments and

open and closed loop control systems.

Common equipment, tools and materials used in electronic and instrument maintenance and repair.

Applied principles of electronic and electrical theory, including Ohm's law; basic D.C. circuit analysis; A.C. circuit analysis; and, applicable mathematics including algebra, geometry and trigonometry as related to specific work applications.

Ability to:

Learn to diagnose mechanical, electrical and electronic difficulties/malfunctions in instrumentation, programmable logic controllers, control and telemetering systems.

Read and interpret wiring schematics, diagrams, mechanical drawings and specifications.

Make repairs to electronic, electro mechanical metering and process control instruments.

Estimate labor and materials to effect repair or replacement as needed.

Keep accurate records and make oral and written reports.

Establish and maintain effective working relationships with others.

Perform skilled maintenance, calibration and repair of a variety of plant, electronic, and electro-mechanical instrumentation.

Lift and carry tools, supplies, and equipment which may exceed 50 pounds.

Use a variety of tools, including a variety of test equipment as required.

Work independently, efficiently and accountably under general direction.

Install metal or PVC electrical conduit.

Assist with maintenance of high voltage switch gear.

MINIMUM QUALIFICATIONS:

Experience:

Preferably completion of a formal, two-year electrical apprenticeship program and/or training in electronic technology.

OR

Some experience performing skilled field work in pneumatic, mechanical, electro mechanical and electronic circuitry repair, at least some of this time having involved work on instrumentation, field, and process controls.

Training:

A high school diploma or G.E.D.

License or Certificate:

Must possess and maintain a valid, appropriate California driver's license and have a satisfactory driving record.

WORKING CONDITIONS:

Must possess physical characteristics to perform the critical and important duties of the class, including sufficient physical agility to work in high or confined spaces. Must be willing to work outdoors in a variety of weather conditions and work overtime as needed.

From: Kevin J. Brown
Sent: Friday, October 11, 2019 8:17 AM
To: Mike Malone <Mike.Malone@cityofvallejo.net>; Beth Schoenberger <Beth.Schoenberger@cityofvallejo.net>
Subject: FW: Issues during PSPS

Maintenance staff observations at Green Valley WTP yesterday morning.

From: Joe Abitong
Sent: Thursday, October 10, 2019 9:21 PM
To: Jacob Barlow <Jacob.Barlow@cityofvallejo.net>; John Palesi <John.Palesi@cityofvallejo.net>; Kevin J. Brown <Kevin.Brown2@cityofvallejo.net>
Subject: RE: Issues during PSPS

Jacob,

Thanks for writing this report, as a lead person and from a standpoint as a witness.
What you guys saw was unacceptable especially given the situation and reason why he was at the plant.
I can see this case will go beyond our Dep't and also expect to be challenged by the individual.
To be ready, have James and Jacob P. also write their separate statement stating what they saw and did.

Question for Jacob: After you locked the door, did you and James leave the plant right away or you stayed for few minutes to check the generator?.

Thanks.

Joe

From: Jacob Barlow <Jacob.Barlow@cityofvallejo.net>
Sent: Thursday, October 10, 2019 8:12 PM
To: John Palesi <John.Palesi@cityofvallejo.net>; Joe Abitong <Joe.Abitong@cityofvallejo.net>; Kevin J. Brown <Kevin.Brown2@cityofvallejo.net>
Subject: Issues during PSPS

On 10/9 while making inspection rounds, Jacob Parsons visited GVWTP at approximately 22:30. He noted that Ken McKay the operator at the plant had a mattress and pillow on the floor of the control room. McKay was awake and operating the plant with no issues.

Later on at approximately 03:00 on 10/10 James Grandrath and myself visited GVWTP. We first checked at the SID pump station and then headed up to the plant. I noticed the door was locked and the control room lights were off. I unlocked the door and entered to find Ken McKay sleeping on the floor while the plant was operating. I proceeded to bring in James to witness it. I wasn't quiet and he never awoke, I didn't enter the control room. I proceeded to go outside and lock the door.

Not only did this bother me because the plant was operating, but the T1 line was down at this point and there was no way to remotely monitor the plant or distribution. We would have had no clue of a main break or other major issue.



Jacob Barlow

Acting Senior Instrument Technician

202 Fleming Hill Rd.

Vallejo, CA 94589

City of Vallejo | Water Department

[\(707\) 648-4307](tel:(707)648-4307) | [\(707\) 333-0465](tel:(707)333-0465) jacob.barlow@cityofvallejo.net



February 23, 2020

VIA ELECTRONIC MAIL

Janval "JV" Macor
Sr. Business Representative
IBEW Local Union 1245
30 Orange tree Circle
Vacaville, CA 95687
Card No. D201743

Re: City of Vallejo's Response to Request for Information Related to Appeal of
Five Day Suspension of Water Treatment Plan Operator Kenneth McKay

Dear Mr. Macor:

Please accept this as the City's response to your letter requesting additional information related to the specific requests for information below in preparation for the appeal hearing on March 8, 2020 concerning Mr. McKay. The City further responds to your requests for information (i.e., requests number 2, 3, 4, 5, 7, and 8) as follows:

- (1) **Request Number Two:** Copies of Appellant's annual reviews from 2015 to the present.

Response to Request Number Two: The City maintains its objection on the grounds that the requested information is equally available to Mr. McKay and is or should be in his possession.

Without waiving any objections, please find attached responsive documents in the City's possession.

- (2) **Request Number Three:** Copies of any material specific to the Appellant's back injury from date of occurrence in 2015 to present, including but not limited to:

- Meeting notes taken by Risk Management on behalf of any interactive process meetings held for the Appellant from the date of injury in 2015 to date.
- Any accommodation requests, doctor's notes or other documents related to the Appellant's back injury from 2015 to date.

Response to Request Number Three: The City maintains its objection to this request on the grounds of relevancy. The discipline imposed is based upon Mr. McKay's misconduct as detailed in the Order. The discipline is not based on the use of or requests for accommodations.

The City thanks the Union for providing a copy of a signed waiver. Without waiving any objections, please find attached responsive documents in the City's possession.

- (3) **Request Number Four:** Copies of any COVID-19 accommodation requests made by the Appellant in 2020 to management and/or Human Resources.

Response to Request Number Four: The City maintains its objection on the grounds of relevance and on the grounds that the Union has equal access to the requested information which is or should be in Mr. McKay's possession.

Without waiving any objections, please find attached responsive documents in the City's possession.

- (4) **Request Number Five:** Copies (redacted of personal information) of any disciplinary actions, records of counseling, written reprimands, for similar infractions as those provided to the Appellant.

Response to Request Number Five: The City maintains its objections on the grounds that disclosure would violate the constitutional privacy rights of employees and that the information sought is not relevant. Even with redaction, a description of the surrounding facts and circumstances contained in the documentation will likely reveal the identities of employee(s) disciplined. The City further maintains its objection on the grounds that the phrase "similar" is vague and ambiguous. The City further maintains its objection that the request is unduly burdensome as it is unlimited in time and scope.

Without waiving any objections and to accommodate the Union, the City requests the Union agree to limit the use and dissemination of a written reprimand issued to another employee at the open hearing so as not to disclose any confidential personnel information of another employee. Please advise if the Union will agree to this and the City will forthwith provide the Union with a redacted copy of the written reprimand.

(5) **Request Number Seven:**

Any historical documentation (redacted of personal information) where the City has disregarded the recommendations of a Skelly Officer who recommends a reduction in disciplinary action, inclusive [of] any final decisions rendered either by the Civil Service Commission or a third party neutral (arbitrator).

Response to Request Number Seven: The City maintains its objection on the grounds of relevance. Each disciplinary action is based upon its own unique facts and circumstances. The City further maintains its objection on the grounds that the request requires disclosure of confidential information and invades employees' constitutional privacy rights. Even with personal information redacted, disclosure of the facts and circumstances underlying disciplinary actions will likely reveal employees' identities. The City also maintains its objection on the grounds that this request is unduly burdensome as it is unlimited in time and scope. Additionally, the City maintains its objection on the grounds that the phrase "disregarded" is vague and ambiguous and improperly assumes a fact for which there is no evidence (i.e., that the City "disregards" Skelly Officers' recommendations and the related connotation of this).

Without waiving any objection, the City has considered the Union's assertion that the requested information is relevant to "trying to establish if the City consistently applies or discards the decisions presented by Skelly officers it appoints to oversee an appellant's due process rights."

To accommodate the Union, the City would be willing to provide statistical data related to the percentage of Skelly officers' decisions that are applied, but no such data exists. The City is amenable to considering other accommodations the Union may set propose.

(6) **Request Number Eight:** Any pertinent City policy or procedure that provides for addressing hazardous condition, inclusive [of] employee responsibilities when encountering a hazardous condition.

Response to Request Number Eight: The City maintains its objection to this request on the grounds that this request is vague and ambiguous as to the phrase "hazardous condition."

Without waiving any objection, please find attached documents the City deems responsive in its possession.

Additionally, the City previously identified witnesses, reserving the right to modify, add to, or supplement its witness list. The City anticipates calling the following witnesses:

1. Michael Malone

2. Joe Abitong
3. Jacob Barlow
4. Jacob Parsons
5. Kevin Brown
6. James Grandrath
7. John Palesi
8. Nick Rolley
9. Doris Papillon-Allen
10. Sarah Brannick
11. Ken McKay

Given that hearing preparation is still underway, the City reserves the right to modify, add to, or supplement this witness list.

Should you have any questions or concerns or any legal authority you believe supports your right to the above requested information, please reach out to me to discuss. The City is willing to consider your position and offer any possible accommodations, if appropriate.

Upon your review of this letter, I invite you to a Zoom meeting with Mark Love and I for Thursday or Friday of this week to go over/finalize exhibit exchange and other pre-hearing matters before the appeal hearing on March 8, 2020. Additionally, there is a possibility that another date will be required for us to complete the hearing. March 10, 2020 has been reserved for us in that event.

Thank you,



Meera Bhatt
Assistant City Attorney

From: Macor, Janval [mailto:JVM6@IBEW1245.com]
Sent: Tuesday, February 23, 2021 6:10 PM
To: Rachel Carranza <Rachel.Carranza@cityofvallejo.net>; Meera Bhatt <Meera.Bhatt@cityofvallejo.net>
Cc: Mark Love <Mark.Love@cityofvallejo.net>; Doris Papillon-Allen <Doris.Allen@cityofvallejo.net>; Kelley Cass <Kelley.Cass@cityofvallejo.net>
Subject: RE: Your Phone Call: Appeal Hearing

Hi Rachel,
Received your email and appears that everything came across in the drop box link.
Thanks and take care.

JV Macor
Business Rep.
IBEW Local 1245
Card No. D201743
Cell: 1 (707) 761-1948

CONFIDENTIALITY NOTICE: This e-mail may contain privileged information including confidential information that was shared in the course of seeking contractual advice. If you have received this message by mistake, please notify us immediately by replying to this message or telephoning us at the above number. Do not review, disclose or distribute the message. Thank you (hlvs)

From: Rachel Carranza <Rachel.Carranza@cityofvallejo.net>
Sent: Tuesday, February 23, 2021 16:53
To: Meera Bhatt <Meera.Bhatt@cityofvallejo.net>; Macor, Janval <JVM6@IBEW1245.com>
Cc: Mark Love <Mark.Love@cityofvallejo.net>; Doris Papillon-Allen <Doris.Allen@cityofvallejo.net>; Kelley Cass <Kelley.Cass@cityofvallejo.net>

Subject: RE: Your Phone Call: Appeal Hearing

Good evening JV,

[HERE](#) is a link to the dropbox file. Please see attached letter from Meera.

Thanks and have a great evening.

Rachel M. Carranza | Legal Secretary

City of Vallejo | City Attorney's Office

(707) 648-5411 | rachel.carranza@cityofvallejo.net



From: Meera Bhatt

Sent: Tuesday, February 23, 2021 4:51 PM

To: Macor, Janval <JVM6@IBEW1245.com>

Cc: Mark Love <Mark.Love@cityofvallejo.net>; Doris Papillon-Allen <Doris.Allen@cityofvallejo.net>;

Rachel Carranza <Rachel.Carranza@cityofvallejo.net>; Kelley Cass <Kelley.Cass@cityofvallejo.net>

Subject: RE: Your Phone Call: Appeal Hearing

Hi JV,

Your timing is perfect. Rachel is just about to send out a drop box. Feel free to give me a call on my cell today if needed. Else, I'll ask Rachel/Kelley to send out an invite for you, me, HR, and Rachel/Kelley.

Meera Bhatt

Assistant City Attorney

City of Vallejo | City Attorney's Office

555 Santa Clara Street

Vallejo, CA 94590

(707) 648-4201 | meera.bhatt@cityofvallejo.net



From: Macor, Janval [<mailto:JVM6@IBEW1245.com>]

Sent: Tuesday, February 23, 2021 4:48 PM

To: Meera Bhatt <Meera.Bhatt@cityofvallejo.net>

Cc: Mark Love <Mark.Love@cityofvallejo.net>; Doris Papillon-Allen <Doris.Allen@cityofvallejo.net>;

Rachel Carranza <Rachel.Carranza@cityofvallejo.net>; Kelley Cass <Kelley.Cass@cityofvallejo.net>

Subject: RE: Your Phone Call: Appeal Hearing

Hi Meera,

I'll keep an eye out for the Dropbox link today. I am sure there are some documents in my info request that may have been provided to Mr. McKay, unfortunately I am not always involved in what many employees do or request on their own, so I make it a practice to rely only on my official info request once I start processing a

grievance/appeal for 1245.

I have the morning of Thursday available until 1200, then the afternoon, I could make myself available from 1600 on. I'll keep those time slots open and look forward to a meeting invite.

Thanks

JV Macor

Business Rep.

IBEW Local 1245

Card No. D201743

Cell: 1 (707) 761-1948

CONFIDENTIALITY NOTICE: This e-mail may contain privileged information including confidential information that was shared in the course of seeking contractual advice. If you have received this message by mistake, please notify us immediately by replying to this message or telephoning us at the above number. Do not review, disclose or distribute the message. Thank you (hlvs)

From: Meera Bhatt <Meera.Bhatt@cityofvallejo.net>

Sent: Tuesday, February 23, 2021 15:12

To: Macor, Janval <JVM6@IBEW1245.com>

Cc: Mark Love <Mark.Love@cityofvallejo.net>; Doris Papillon-Allen <Doris.Allen@cityofvallejo.net>; Rachel Carranza <Rachel.Carranza@cityofvallejo.net>; Kelley Cass <Kelley.Cass@cityofvallejo.net>

Subject: Your Phone Call: Appeal Hearing

Hi JV,

Rachel shared with me that you reached out to her. Thank you for your phone call. I wanted to give you the "heads-up" that we will be sending you documents you requested via a Dropbox link today. Human Resources previously provided Mr. McKay with these documents, with the exception of a written reprimand issued to another employee which you will see referenced in the documents we send you.

The letter you'll receive also suggests a time for us to go through the exhibits/other procedural matters. I'm hoping you and HR are available sometime on Thursday. I may be able to move some things around if needed to accommodate everyone's schedules. Rachel/Kelley can assist in scheduling as well.

Finally JV, please don't hesitate to give me a call on my cell at 909-215-7885 if you ever need anything or if you ever don't receive a response to an email within 24 hour.

Look forward to connecting with you. Thank you,

Meera Bhatt

Assistant City Attorney

*City of Vallejo | City Attorney's Office
555 Santa Clara Street*

Vallejo, CA 94590

(707) 648-4201 | meera.bhatt@cityofvallejo.net



CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

***** This is an EXTERNAL EMAIL. Stop and think before clicking links or opening attachments.

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

***** This is an EXTERNAL EMAIL. Stop and think before clicking links or opening attachments.

CITY OF VALLEJO
HUMAN RESOURCES DEPARTMENT

The City of Vallejo has an Alcohol and Drug Abuse Policy. This policy is set forth in Administrative Rules 2.28. Enclosed in this packet are copies of these Administrative Rules.

I have received and understand the City of Vallejo's Alcohol and Drug Abuse Policy.



Employee Signature

Date: 4/17/2017