STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION

In the Matter of: **Placentia-Yorba Linda Unified School District** **1301 E. Orangethorpe Avenue** **Placentia, CA 92870** **Attn: Mike Bailey**	**COMPLAINT NO. R8-2010-0024** **for** **ADMINISTRATIVE CIVIL LIABILITY**

YOU ARE HEREBY GIVEN NOTICE THAT:

1. Placentia-Yorba Linda Unified School District (hereinafter the Discharger) is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Regional Board), may impose administrative civil liability under California Water Code (hereinafter "CWC") §13385(c).

2. A hearing concerning this Complaint may be held before the Regional Board within ninety (90) days of the date of issuance of this Complaint, unless, pursuant to CWC §13323, the Discharger waives its right to a hearing. The waiver procedures are specified in the attached Waiver Form. The hearing in this matter is scheduled for the Regional Board's regular meeting on July 23, 2010, at the Loma Linda City Council Chambers, 25541 Barton Road, City of Loma Linda, California. The Discharger or its designated representative will have an opportunity to appear and be heard, and to contest the allegations in this Complaint and the imposition of civil liability by the Regional Board. An agenda for the meeting and the staff report relating to this item will be mailed to you not less than 10 days prior to the hearing date.

3. If a hearing is held on this matter, the Regional Board will consider whether to affirm, reject, or modify the proposed administrative civil liability or whether to refer the matter to the Attorney General for recovery of judicial civil liability. If this matter proceeds to hearing, the Prosecution Team reserves the right to seek an increase in the civil liability amount to cover the costs of enforcement incurred subsequent to the issuance of this Complaint through hearing.

4. The Discharger is alleged to have violated the following sections of the General Permit for Storm Water Discharges Associated with Construction Activity, Order No. 99-08-DWQ (General Permit):

   A) Discharge Prohibition, Provision A.3:

      "Storm water discharges shall not cause or threaten to cause pollution, contamination, or nuisance."

B) Special Provision C.2:

"All dischargers shall develop and implement a [Storm Water Pollution Prevention Plan] SWPPP in accordance with Section A: Storm Water Pollution Prevention Plan. The discharger shall implement controls to reduce pollutants in storm water discharges from their construction sites to the BAT/BCT[1] performance standard."

C) Section A.6:

"At a minimum, the discharger/operator must implement an effective combination of erosion and sediment control on all disturbed areas during the rainy season..."

5. THIS COMPLAINT IS BASED ON THE FOLLOWING FACTS:

a. The General Permit regulates storm water discharges from construction activities of one acre or greater to waters of the United States. The Discharger is a public school district with headquarters at 1301 East Orangethorpe Avenue in Placentia, California. On May 24, 2007, the Discharger filed a Notice of Intent for coverage of its construction activities at the Yorba Linda High School site under the General Permit. Yorba Linda High School is located at 4175 Fairmont Boulevard in Yorba Linda, California. The NOI indicated that the construction activities would disturb 53 acres. Storm water runoff from the construction site is regulated under the State's General Permit, Waste Discharge Identification (WDID) No. 8 30C347137. Runoff from the site drains via the City's municipal storm drain system to Carbon Canyon Creek, which confluences with Reach 2 of the Santa Ana River.

b. On March 24, 2009, Board staff conducted a routine inspection of the construction site. Staff observed that there was an ineffective combination of erosion and sediment controls throughout the site, perimeter sediment controls were inadequate, soil stockpiles were not adequately protected, trash and construction wastes were not adequately contained; the Storm Water Pollution Prevention Plan (SWPPP) was incomplete, and on-site storm drain inlets were inundated with sediment from sediment-laden storm water discharges.

c. On April 3, 2009, the Discharger was issued a Notice of Violation (NOV) via certified mail that cited its inadequate implementation of pollution control measures and incomplete Storm Water Pollution Prevention Plan. The letter required that the Discharger to submit a response to the Regional Board office citing the actions that had been taken to come into compliance.

d. On April 17, 2009, the Discharger responded to the NOV. The response stated pollution control measures had been improved and the Storm Water Pollution Prevention Plan had been updated.

[1] BAT is the acronym for Best Available Technology; BCT is the acronym for Best Conventional Technology.

e. On November 18, 2009, Board staff conducted an inspection of the construction site. Staff observed that there was an ineffective combination of erosion and sediment controls throughout the site, soil stockpiles were not adequately protected, and construction materials and waste were not adequately contained. Board staff walked the site with Mr. Shrader (Construction Manager) and Mr. Schoeneman (Assistant Supervisor) and explained the deficiencies that were noted in the site's BMP implementation.

f. On December 7, 2009, Board staff re-inspected the site during a rain event. Staff observed ineffective erosion and sediment control measures. Soil stockpiles were without adequate erosion and sediment controls and the southern slope lacked adequate erosion and sediment controls. Staff observed the discharge of sediment-laden storm water from the site to the municipal separate storm sewer system due to inadequate BMP implementation.

g. On December 8, 2009, the Discharger was issued a second Notice of Violation (NOV) via certified mail for violations observed during the November 18, 2009 inspection (these items had been orally conveyed to site personnel during the inspection). The letter cited inadequate implementation of pollution control measures. The letter required that the Discharger take immediate steps to come into compliance and required the Discharger to explain discrepancies between the post-construction BMPs identified in the SWPPP and what was observed on-site. The certified return receipt showed that the letter was received by the Discharger on December 9, 2009. The Discharger did not provide a written response to this NOV.

h. On January 7, 2010, the Discharger was issued a third Notice of Violation (NOV) via certified mail for violations which included observations during the December 7, 2009 inspection. The letter cited an inadequate implementation of pollution control measures and incomplete SWPPP. The letter required that the Discharger submit a response to the Regional Board office by January 18, 2010, citing the actions that had been taken to come into compliance and a copy of the site SWPPP. The certified return receipt showed that the letter was received by the Discharger on January 8, 2010. The Discharger neither responded to the NOV nor submitted the site SWPPP by the deadline.

i. On January 21, 2010, Board staff re-inspected the site during a rain event. Staff observed erosion and sediment controls had not been improved and degraded BMPs had not been maintained. Soil stockpiles were still without adequate erosion and sediment controls, there were ineffective erosion and sediment controls at the proposed playing fields, the southern slope was still unprotected and the soil stockpiles adjacent to a v-ditch were not contained by adequate erosion and sediment controls. Once again staff observed the discharge of sediment-laden storm water from the site to the municipal separate storm sewer system due to a lack of adequate BMPs.

j. On February 11, 2010, the Discharger was issued a fourth Notice of Violation (NOV) via certified mail that cited its inadequate implementation of erosion and sediment control measures. The letter required that the Discharger submit a response to the Regional Board office citing the actions that had been taken to come into compliance and a copy of the Storm Water Pollution Prevention Plan. The certified return receipt showed that the letter was received by the Discharger on February 12, 2010. A response date of February 18, 2010 was set in the NOV.

k. On February 18, 2010, the Discharger submitted a response letter that partially addressed the violations that had been listed in the previous four NOVs. A copy of the site SWPPP was still not submitted to the Regional Board office as per the previous three NOVs.

l. On March 18, 2010, the Discharger submitted a copy of the site SWPPP, 71 days after the initial request.

6. The Discharger violated the General Permit by discharging storm water containing pollutants to waters of the United States from the construction site and by causing or threatening to cause a condition of pollution or nuisance. The Discharger also violated the General Permit by failing to develop and properly implement an effective SWPPP and by failing to maintain adequate pollution control measures. Pursuant to Water Code Section 13385(a)(2), civil liability may be imposed for the preceding violations.

7. Pursuant to CWC §13385(c), the Regional Board may impose civil liability administratively for the above violations on a daily basis at a maximum of ten thousand dollars ($10,000) for each day in which the violation occurs in accordance with CWC §13385(c)(1); or where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars ($10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons in accordance with CWC §13385(c)(2); or both.

8. Pursuant to Section 13385(c), the total maximum assessment for which the Discharger is civilly liable is $1,807,880 [40,000 for 4 days of violation that staff observed @ $10,000/day; $558,870 for the December 7, 2009 discharge [(56,887 gallons – first 1,000 gallons) @ $10/gallon]; and $1,209,010 for the January 21, 2010 discharge [(121,901gallons - first 1,000 gallons) @ $10/gallon]] for the violations cited in Paragraph 5, above.

9. CWC §13385(e) specifies factors that the Regional Board shall consider in establishing the amount of civil liability. The Water Quality Enforcement Policy (Policy) adopted by the State Water Resources Control Board on November 19, 2009, establishes a methodology for assessing administrative civil liability pursuant to this statute. Use of methodology addresses the factors in CWC section 13385. The policy can be found at: http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf.

10. Attachment A presents the administrative civil liability derived from the use of the penalty methodology in the Policy. In summary, this penalty assessment is based on a consideration of the potential for harm from the discharge of sediment-laden storm water and the repeated failure to implement adequate control measures in a timely manner. After use of the penalty methodology, the Division Chief proposes that civil liability be imposed administratively on the Discharger in the amount of one hundred nine thousand dollars ($109,000) for the violations cited above. This amount includes: (1) $15,000 for 4 days of violation; (2) $24,344 for the December 7, 2009 discharge of 55,887 gallons at $0.44 per gallon (adjusted for culpability, cleanup, cooperation and history of violations); (3) $52,664 for the January 21, 2010 discharge of 120,901 gallons at $0.44 per gallon (adjusted for culpability, cleanup, cooperation, and history of violations); and (4) staff costs of $17,100 (the total assessment of $109,048 was adjusted to the nearest thousand).

WAIVER OF HEARING

The Discharger may waive its right to a hearing. If the Discharger chooses to do so, please sign the attached waiver form and return it, together with a check for $109,000 payable to the State Water Pollution Cleanup and Abatement Account, in the enclosed preprinted envelope. If you waive your right to a hearing and pay the assessed amount, the Regional Board may not hold a hearing regarding this Complaint.

If you have any questions, please contact Mary Bartholomew at (951) 321-4586, Mark Smythe at (951) 782-4998, or me at (951) 782-3238. Legal questions should be directed to Reed Sato at (916) 341-5889.

6/10/2010
Date

Michael J. Adackapara
Division Chief
Regional Board Prosecution Team

California Regional Water Quality Control Board
Santa Ana Region

3737 Main Street, Suite 500, Riverside, California 92501-3348
Phone (951) 782-4130 • FAX (951) 781-6288 • TDD (951) 782-3221
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Linda S. Adams
Secretary for Environmental Protection

Arnold Schwarzenegger
Governor

WAIVER FORM
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT

By signing this waiver, I affirm and acknowledge the following:

I am duly authorized to represent Placentia-Yorba Linda Unified School District (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint No. R8-2010-0024 (hereinafter the "Complaint"). I am informed that California Water Code Section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served [with the Complaint]. The person who has been issued a complaint may waive the right to a hearing."

☐ ***(OPTION 1: Check here if the Discharger waives the hearing requirement and will pay the liability in full.)***

a. I hereby waive any right the Discharger may have to a hearing before the Regional Board.

b. I certify that the Discharger will remit payment for the proposed civil liability in the full amount of one hundred nine thousand dollars ($109,000) by check that references "Complaint No. R8-2010-0024" made payable to the State Water Pollution Cleanup and Abatement Account. Payment must be received by the Regional Board office no later than **June 23, 2010** or the Regional Board may adopt an Order requiring payment.

c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after the 30-day public notice and comment period. Should the Regional Board receive significant new information or comments from any source (excluding the Regional Board's Prosecution Team) during this comment period, the Regional Board's Division Chief may withdraw the Complaint, return payment, and issue a new Complaint. I understand that this proposed settlement is subject to approval by the Executive Officer of the Regional Board, and that the Regional Board may consider this proposed settlement in a public meeting or hearing. I also understand that approval of the settlement will result in the Discharger having waived the right to contest the allegations in the Complaint and the imposition of civil liability.

d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

☐ ***(OPTION 2: Check here if the Discharger waives the 90-day hearing requirement in order to engage in settlement discussions.)*** I hereby waive any right the Discharger may have to a hearing before the Regional Board within 90 days after service of the Complaint, but I reserve the ability to request a hearing in the future. I certify that the Discharger will promptly engage the Regional Board Prosecution Team in settlement discussions to attempt to resolve the outstanding violation(s). By checking this box, the Discharger requests that the Regional Board delay the hearing so that the Discharger and the Prosecution Team can discuss settlement. It remains within the discretion of the Regional Board to agree to delay the hearing. Any proposed settlement is subject to the conditions described above under "Option 1."

☐ ***(OPTION 3: Check here if the Discharger waives the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines. Attach a separate sheet with the amount of additional time requested and the rationale.)*** I hereby waive any right the Discharger may have to a hearing before the Regional Board within 90 days after service of the Complaint. By checking this box, the Discharger requests that the Regional Board delay the hearing and/or hearing deadlines so that the Discharger may have additional time to prepare for the hearing. It remains within the discretion of the Regional Board to approve the extension.

_____
(Print Name and Title)

_____
(Signature)

_____
(Date)

Linda S. Adams
Secretary for
Environmental Protection

California Regional Water Quality Control Board
Santa Ana Region

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Arnold Schwarzenegger
Governor

HEARING PROCEDURE
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT
NO. R8-2010-0024
ISSUED TO
Placentia-Yorba Linda Unified School District
1301 E. Orangethorpe Avenue
Placentia, CA 92870
Orange County

SCHEDULED FOR JULY 23, 2010

PLEASE READ THIS HEARING PROCEDURE CAREFULLY. FAILURE TO COMPLY WITH THE DEADLINES AND OTHER REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF YOUR DOCUMENTS AND/OR TESTIMONY.

Background

The Division Chief has issued an Administrative Civil Liability Complaint (hereinafter "Complaint") pursuant to California Water Code Section 13323 against Placentia-Yorba Linda Unified School District (hereinafter "Discharger") alleging that it has violated the General Permit for Storm Water Discharges Associated with Construction Activity, Order No. 99-08-DWQ, by discharging pollutants to waters of the United States associated with its construction activity. The Complaint proposes that administrative civil liability in the amount of one hundred nine thousand dollars ($109,000) be imposed as authorized by Water Code Section 13385(c). A hearing is currently scheduled to be held before the Regional Board during its July 23, 2010 meeting.

Purpose of Hearing

The purpose of the hearing is to consider relevant evidence and testimony regarding the Complaint. At the hearing, the Regional Board will consider whether to issue an administrative civil liability order assessing the proposed liability, or a higher or lower amount, or reject the proposed liability. The public hearing on July 23, 2010 will commence at 9:00 a.m. or as soon thereafter as practicable, or as announced in the Regional Board meeting agenda. The meeting will be held at the Loma Linda City Council Chambers, 25541 Barton Road, City of Loma Linda, California. An agenda for the meeting will be issued at least ten days before the meeting and be posted on the Regional Board's web page at:

http://www.waterboards.ca.gov/santaana/board_info/agendas/index.shtml.

The agenda will include the final hearing date and location, and the start time for the meeting. Since the exact start time for this item is unpredictable, all interested parties are urged to be present from the start of the Board meeting.

Hearing Procedures

The hearing will be conducted in accordance with this hearing procedure. This hearing procedure has been pre-approved by the Regional Board's Advisory Team in model format, but the Advisory Team may modify the procedure on its own or at the request of any party. A copy of the general procedures governing adjudicatory hearings before the Regional Board may be found at Title 23 of the California Code of Regulations, Section 648 et seq., and is available at http://www.waterboards.ca.gov or upon request. In accordance with Section 648, subdivision (d), any procedure not provided by this Hearing Procedure is deemed waived. Except as provided in Section 648 and herein, subdivision (b), Chapter 5 of the Administrative Procedures Act (commencing with Section 11500 of the Government Code) does not apply to this hearing.

THE PROCEDURES AND DEADLINES HEREIN MAY BE AMENDED BY THE ADVISORY TEAM AT ITS DISCRETION. **ANY OBJECTIONS TO THE HEARING PROCEDURE MUST BE RECEIVED BY THE REGIONAL BOARD'S ADVISORY TEAM BY JUNE 23, 2010 OR THEY WILL BE WAIVED.** FAILURE TO COMPLY WITH THE DEADLINES AND REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF DOCUMENTS AND/OR TESTIMONY.

Hearing Participants

Participants in this proceeding are designated as either "parties" or "interested persons." Designated parties to the hearing may present evidence and cross-examine witnesses and are subject to cross-examination. Interested persons generally may not submit evidence, cross-examine witnesses, or be subject to cross-examination, but may present policy statements. Policy statements may include comments on any aspect of the proceeding, but may not include evidence (e.g., photographs, eye-witness testimony, monitoring data). Interested persons who would like to submit evidence may do so if the evidence is submitted in accordance with the procedures and deadlines for submitting evidence described below. Interested persons who present evidence may be subject to cross-examination. Both designated parties and interested persons may be asked to respond to clarifying questions from the Regional Board, staff or others, at the discretion of the Regional Board.

The following participants are hereby designated as parties in this proceeding:

(1) Regional Board Prosecution Team

(2) Placentia-Yorba Linda Unified School District, also referred to as the Discharger

Requesting Designated Party Status

Persons who wish to participate in the hearing as a designated party must request party status by submitting a request in writing (with copies to the existing designated parties) so that it is received by 5 p.m. on June 16, 2010 by Advisory Team Attorney David Rice, davidrice@waterboards.ca.gov. The request shall include an explanation of the basis for status as a designated party (e.g., how the issues to be addressed in the hearing and the potential actions by the Regional Board affect the person), the information required of designated parties as provided below, and a statement explaining why the party or parties designated above do not adequately represent the person's interest. Any opposition to the request must be received by the Advisory Team, the person requesting party status, and all parties by 5 p.m. on June 23, 2010. The parties will be notified by 5 p.m. on June 28, 2010 in writing whether the request has been granted or denied.

Primary Contacts

Advisory Team:

David Rice (email: Davidrice@waterboards.ca.gov)
Phone: 916-341-5182
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Prosecution Team:

Reed Sato (email: rsato@waterboards.ca.gov)
Phone: 916-341-5889

Shannon Chambers (email: SChambers@waterboards.ca.gov)
Phone: 916-324-6681
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Discharger:

Mike Bailey
Email: (currently not available)
Phone: 714-985-8770
Placentia-Yorba Linda Unified School District
1301 East Orangethorpe Avenue
Placentia, CA 92870-5302

Separation of Functions

To help ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the Regional Board (Prosecution Team) have been separated from those who will provide advice to the Regional Board (Advisory Team). Members of the Advisory Team are: David Rice, Staff Counsel, State Water Resources Control Board and Kurt Berchtold, Assistant Executive Officer, Santa Ana Regional Water Quality Control Board. Members of the Prosecution Team are: Reed Sato, Shannon Chambers, Office of Enforcement, State Water Resources Control Board; Michael Adackapara, Division Chief, Santa Ana Regional Water Quality Control Board; Mark Smythe, Coastal Storm Water Unit Chief, Santa Ana Regional Water Quality Control Board; Michael Kashak, Environmental Scientist, Santa Ana Regional Water Quality Control Board; and Mary Bartholomew, Environmental Scientist, Santa Ana Regional Water Quality Control Board. Any members of the Advisory Team who normally supervise any members of the Prosecution Team are not acting as their supervisors in this proceeding, and vice versa. Members of the Prosecution Team may have acted as advisors to the Regional Board in other, unrelated matters, but they are not advising the Regional Board in this proceeding. Members of the Prosecution Team have not had any ex parte communications with the members of the Regional Board or the Advisory Team regarding this proceeding.

Ex Parte Communications

The designated parties and interested persons are forbidden from engaging in ex parte communications regarding this matter with members of the Advisory Team or members of the Regional Board. An ex parte contact is any written or verbal communication pertaining to the investigation, preparation, or prosecution of the Complaint between a member of a designated

party or interested person on the one hand, and a Regional Board member or an Advisory Team member on the other hand, unless the communication is copied to all other designated parties (if written) or made in a manner open to all other designated parties (if verbal). Communications regarding non-controversial procedural matters are not ex parte contacts and are not restricted. Communications among one or more designated parties and interested persons themselves are not ex parte contacts.

Hearing Time Limits

To ensure that all participants have an opportunity to participate in the hearing, the following time limits shall apply: Each designated party shall have a combined 20 minutes to present evidence, cross-examine witnesses (if warranted), and provide a closing statement; and each interested person shall have 3 minutes to present a non-evidentiary policy statement. Participants with similar interests or comments are requested to make joint presentations, and participants are requested to avoid redundant comments. Participants who would like additional time must submit their request to the Advisory Team so that it is received no later than July 14, 2010. Additional time may be provided at the discretion of the Advisory Team (prior to the hearing) or the Regional Board Chair (at the hearing) upon a showing that additional time is necessary.

Submission of Evidence and Policy Statements

The following information must be submitted in advance of the hearing:

1. All evidence (other than witness testimony to be presented orally at the hearing) that the Designated Party would like the Regional Board to consider. Evidence and exhibits already in the public files of the Regional Board may be submitted by reference as long as the exhibits and their location are clearly identified in accordance with Title 23, CCR, Section 648.3.
2. All legal and technical arguments or analysis.
3. The name of each witness, if any, whom the designated party intends to call at the hearing, the subject of each witness' proposed testimony, and the estimated time required by each witness to present direct testimony.
4. The qualifications of each expert witness, if any.
5. If the Discharger intends to argue an inability to pay the civil liability proposed in the Complaint (or an increased or decreased amount as may be imposed by the Regional Board), the Discharger should submit supporting evidence as set forth in the "ACL Fact Sheet" under "Factors that must be considered by the Board."

The Prosecution Team shall submit 15 hard copies of its information and one electronic copy of the information to Advisory Team Attorney David Rice so that it is received by 5 p.m. on July 8, 2010.

The remaining designated parties and interested persons who would like to submit evidence shall submit 15 hard copies of their information and one electronic copy of the information to Advisory Team Attorney David Rice so that they are received by 5 p.m. on July 8, 2010.

Any designated party that would like to submit information that rebuts the information previously submitted by other designated parties shall submit 15 hard copies of their rebuttal information and one electronic copy of the information to Advisory Team Attorney David Rice so that they are received by 5 p.m. on July 08, 2010. Rebuttal information shall be limited to the scope of the information previously submitted by the other designated parties. Rebuttal information that

is not responsive to information previously submitted by other designated parties may be excluded.

If the total amount of information submitted by any party is less than 15 pages, that party may submit the information by email, rather than in writing. In addition to the foregoing, each designated party shall submit (1) one copy of the above information to each of the other designated parties so that it is received by 5 p.m. on the deadline specified above.

Interested persons who would like to submit written non-evidentiary policy statements are encouraged to submit them to the Advisory Team as early as possible, but no later than July 8, 2010. Interested persons do not need to submit written non-evidentiary policy statements in order to speak at the hearing.

In accordance with Title 23, California Code of Regulations, Section 648.4, the Regional Board endeavors to avoid surprise testimony or evidence. Absent a showing of good cause and lack of prejudice to the parties, the Regional Board may exclude evidence and testimony that is not submitted in accordance with this hearing procedure. Excluded evidence and testimony will not be considered by the Regional Board and will not be included in the administrative record for this proceeding. Power Point and other visual presentations may be used at the hearing, but their content may not exceed the scope of other submitted written material. A copy of such material intended to be presented at the hearing must be submitted to the Advisory Team by July 15, 2010 for inclusion in the administrative record. Additionally, any witness who has submitted written testimony for the hearing shall appear at the hearing and affirm that the written testimony is true and correct, and shall be available for cross-examination.

Request for Pre-hearing Conference

A designated party may request that a pre-hearing conference be held before the hearing in accordance with Water Code Section 13228.15. A pre-hearing conference may address any of the matters described in subdivision (b) of Government Code Section 11511.5. Requests must contain a description of the issues proposed to be discussed during that conference, and must be submitted to the Advisory Team, with a copy to all other designated parties, as early as practicable.

Evidentiary Objections

Any designated party objecting to written evidence or exhibits submitted by another designated party must submit a written objection to the Advisory Team and all other designated parties so that it is received by 5 p.m. on July 14, 2010. The Advisory Team will notify the parties about further action to be taken on such objections and when that action will be taken.

Evidentiary Documents and File

The Complaint and related evidentiary documents are on file and may be inspected or copied at the Regional Board office at 3737 Main Street, Suite 500, Riverside, CA 92501 by contacting August Lucas (email: alucas@waterboards.ca.gov; phone: 951-782-7961). This file shall be considered part of the official administrative record for this hearing. Other submittals received for this proceeding will be added to this file and will become a part of the administrative record absent a contrary ruling by the Regional Board Chair. Many of these documents are also posted on-line at:
http://www.waterboards.ca.gov/santaana/public_notices/enforcement_actions.shtml.

Although the web page is updated regularly, to assure access to the latest information, you may contact Reed Sato (rsato@waterboards.ca.gov) or Shannon Chambers (SChambers@waterboards.ca.gov).

Questions

Questions concerning this hearing procedure may be addressed to the Advisory Team Attorney David Rice (davidrice@waterboards.ca.gov).

IMPORTANT DEADLINES

(Note: the Regional Board is required to provide a hearing within 90 days of issuance of the Complaint (Water Code Section 13323). The Advisory Team will generally adhere to this schedule unless the discharger waives that requirement.)

June 10, 2010	Prosecution Team issues Complaint to Discharger and Advisory Team, sends Hearing Procedure to Discharger and Advisory Team, and publishes Public Notice.
June 16, 2010	Deadline for requests for designated party status
June 23, 2010	Deadline for oppositions to requests for designated party status
June 23, 2010	Deadline for objections, if any, to proposed Hearing Procedure
June 23, 2010	Discharger's deadline for waiving right to hearing
June 28, 2010	Advisory Team issues decision on requests for designated party status, if any
July 08, 2010	Prosecution Team's deadline for all information required under "Submission of Evidence and Policy Statements"
July 08, 2010	Remaining Designated Parties' Deadline for all information required under "Submission of Evidence and Policy Statements"
July 08, 2010	Interested Persons' deadline for written non-evidentiary policy statements
July 14, 2010	All Designated Parties' deadline for rebuttal information and evidentiary objections, if any
July 14, 2010	Deadline for requests of additional time
July 15, 2010	Deadline for submission of hearing presentation material
July 23, 2010	Public Hearing

Michael J. Adackapara
Division Chief
Regional Board Prosecution Team

6/10/2010
Date

Order No. R8-2010-0024
Attachment A

Factors Used in Calculating Discharge Violation Penalties			
Potential Harm to Beneficial Uses		2 - Below moderate risk	2 - Below moderate risk
Characteristics of Discharge		2 - Discharged material poses moderate risk	2 - Discharged material poses moderate risk
Susceptibility for Cleanup		1 - <50% of discharge suspectible to cleanup	1 - <50% of discharge suspectible to cleanup
Potential Harm Factor		5	5
Deviation from Permit Requiremetns		Major	Major

Discharger Name/ID: 8 30C347137 - YLHS

			Inadequate BMPs - no discharge		Inadequate BMPs - with discharge - Dec 7, 2009		Inadequate BMPs - with discharge - Jan 21, 2010	
Discharge Violations	Step 1	Potential Harm Factor			5		5	
	Step 2	Per Gallon Factor			0.15		0.15	
		Gallons			55,887		120,901	
		Statutory / Adjusted Max per Gallon ($)			2.00		2.00	
		Total		$ -		$ 16,766		$ 36,270
		Per Day Factor			0.15		0.15	
		Days			1		1	
		Statutory Max per Day			10000.00		10000.00	
		Total		$ -		$ 1,500		$ 1,500
Non-Discharge Violations	Step 3	Per Day Factor	0.4	Major deviation; moderate harm				
		Days	2					
		Statutory Max per Day	$ 10,000					
		Total		$ 8,000.00		$ -		$ -
		Initial Amount of the ACL		$ 8,000.00		$ 18,266.10		$ 37,770.30
Additional Factors	Step 4	Culpability	1.2	$ 9,600.00	1.2	$ 21,919.32	1.2	$ 45,324.36
		Cleanup and Cooperation	1	$ 9,600.00	1.1	$ 24,111.25	1.1	$ 49,856.80
		History of Violations	1.1	$ 10,560.00	1.1	$ 26,522.38	1.1	$ 54,842.48
	Step 5	Total Base Liability Amount		$ 91,924.85				
	Step 6	Ability to Pay & to Continue in Business	1	$ 91,924.85				
	Step 7	Other Factors as Justice May Require	1	$ 91,924.85				
		Staff Costs	$ 17,100	$ 109,024.85				
	Step 8	Economic Benefit	$ 39,218	$ 109,024.85				
	Step 9	Minimum Liability Amount						
		Maximum Liability Amount	$ 1,807,880					
	Step 10	Final Liability Amount		$ 109,024.85				

Final (rounded to the nearest thousand)=$109,000

Further information can be obtained at http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf

Order No. R8-2010-0024
Attachment A

Factors Used in Calculating Discharge Violation Penalties			
Potential Harm to Beneficial Uses		2 - Below moderate risk	2 - Below moderate risk
Characteristics of Discharge		2 - Discharged material poses moderate risk	2 - Discharged material poses moderate risk
Susceptibility for Cleanup		1 - <50% of discharge suspectible to cleanup	1 - <50% of discharge suspectible to cleanup
Potential Harm Factor		5	5
Deviation from Permit Requiremetns		Major	Major

Discharger Name/ID: 8 30C347137 - YLHS

			Inadequate BMPs - no discharge		Inadequate BMPs - with discharge - Dec 7, 2009		Inadequate BMPs - with discharge - Jan 21, 2010	
Discharge Violations	Step 1	Potential Harm Factor			5		5	
	Step 2	Per Gallon Factor			0.15		0.15	
		Gallons			55,887		120,901	
		Statutory / Adjusted Max per Gallon ($)			2.00		2.00	
		Total		$ -		$ 16,766		$ 36,270
		Per Day Factor			0.15		0.15	
		Days			1		1	
		Statutory Max per Day			10000.00		10000.00	
		Total		$ -		$ 1,500		$ 1,500
Non-Discharge Violations	Step 3	Per Day Factor	0.4	Major deviation-moderate harm				
		Days	2					
		Statutory Max per Day	$ 10,000					
		Total		$ 8,000.00		$ -		$ -
		Initial Amount of the ACL		**$ 8,000.00**		**$ 18,266.10**		**$ 37,770.30**
Additional Factors	Step 4	Culpability	1.2	$ 9,600.00	1.2	$ 21,919.32	1.2	$ 45,324.36
		Cleanup and Cooperation	1	$ 9,600.00	1.1	$ 24,111.25	1.1	$ 49,856.80
		History of Violations	1.1	$ 10,560.00	1.1	$ 26,522.38	1.1	$ 54,842.48
	Step 5	**Total Base Liability Amount**		**$ 91,924.85**				
	Step 6	Ability to Pay & to Continue in Business	1	$ 91,924.85				
	Step 7	Other Factors as Justice May Require	1	$ 91,924.85				
		Staff Costs	$ 17,100	$ 109,024.85				
	Step 8	Economic Benefit	$ 39,218	$ 109,024.85				
	Step 9	Minimum Liability Amount						
		Maximum Liability Amount	$ 1,807,880					
	Step 10	Final Liability Amount		$ 109,024.85				

Final (rounded to the nearest thousand)=$109,000

Further information can be obtained at http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf