



# California Regional Water Quality Control Board

## Los Angeles Region



Recipient of the 2001 *Environmental Leadership Award* from Keep California Beautiful

Linda S. Adams  
Agency Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013  
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Arnold Schwarzenegger  
Governor

February 8, 2008

Mr. Pete Woolson  
Assistant City Manager  
City of Avalon  
410 Avalon Canyon Road  
Avalon, California 90704

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
NO. 7003 3110 0003 3258 3168

**CONDITIONAL EARLY SETTLEMENT OFFER NO. R4-2008-0003-S RELATING TO NOTICE OF VIOLATION DATED JULY 20, 2007 – CITY OF AVALON, AVALON WASTEWATER TREATMENT FACILITY, PEBBLY BEACH ROAD, AVALON (ORDER NO. R4-2002-0094, NPDES PERMIT NO. CA0054372, CI NO. 0066)**

Dear Mr. Woolson:

This letter is an offer to the City of Avalon (Permittee) to participate in the Regional Board's Early Settlement Program.

Background: On July 20, 2007, the Regional Water Quality Control Board (Regional Board) Executive Officer issued the Permittee a Notice of Violation and Requirement to Submit Information (NOV) letter (attached) for exceeding effluent limitations contained in Order No. R4-2002-0094.

On August 17, 2007, the Permittee submitted a response to the July 20, 2007 NOV. In the August 17, 2007 correspondence, the Permittee did not contest the eighteen (18) effluent limit violations of Order No. R4-2002-0094 that were noted in the Permittee's self-monitoring reports during the period June 2003 through April 2007 as identified in Table 1 of the attached NOV. These violations include effluent limit exceedances for biochemical oxygen demanding substances (BOD<sub>5</sub>), Oil & Grease (O&G), settleable solids, total suspended solids (TSS), and turbidity.

Pursuant to CWC § 13385, you are subject to penalties ranging from a mandatory minimum penalty of \$3,000 for each violation to \$10,000 for each day in which the violation occurs plus \$10 multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons. These civil liabilities will be assessed by the Regional Board, beginning with the date that the violations first occurred, and without further warning prior to the issuance of an administrative civil liability complaint (ACLC).

**California Environmental Protection Agency**



*Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.*

The Permittee may elect to avoid the issuance of an ACLC, by participating in the Regional Board's Early Settlement Program. Details of the proposed settlement are described in the enclosed documents.

As stated in the enclosed Notice of Violation dated July 20, 2007, subdivisions (h) and (i) of California Water Code section 13385 requires the Regional Board to assess a mandatory minimum penalty of \$3,000 for serious and chronic effluent limit violations. The mandatory minimum penalty that the Regional Board is required to assess for the violations described in the NOV is \$33,000. The violations are identified in Table 1 attached hereto and incorporated herein by reference.

Potential Liability: Please be advised, however, that section 13385 also authorizes the Regional Board, in its discretion, to assess up to \$10,000 for each violation. Furthermore, if referred to the Attorney General for prosecution, the Superior Court may assess up to \$25,000 per violation. In addition, the Regional Board may assess up to \$10 multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons (or \$25 per gallon if assessed by the Superior Court). In due course, an administrative or judicial complaint will be issued to assess penalties for all the violations described in the NOV, in an appropriate amount, which will not be less than the mandatory minimum penalty of \$3,000 per violation required by section 13385.

Offer: To promote early settlement of administrative enforcement actions, the Regional Board hereby tenders this Conditional Early Settlement Offer. You are hereby informed that you may accept this offer, waive your right to a hearing, and pay the mandatory minimum penalty of \$33,000, for the relevant violations described in the NOV. In the event you elect to do so, subject to the conditions below, the Regional Board will accept that payment in settlement of any enforcement action that would otherwise arise out of the violations described in the NOV. Accordingly, the Regional Board will forego issuance of a formal complaint, will not refer the violations to the Attorney General, and will waive its right to seek additional penalties above the required mandatory minimum. To accept this offer, please complete and return the enclosed "Acceptance of Conditional Early Settlement Offer and Waiver of Right to Hearing".

Conditions: Federal regulations require the Regional Board to publish and allow the public 30 days to comment on any settlement of an enforcement action (40 CFR part 123.27(d)(2)(iii)). Upon receipt of your Acceptance and Waiver, the settlement will be published as required by law. If no comments are received within the 30-day period, you will be notified accordingly, and payment in the appropriate amount must be received within an additional seven (7) days. The \$33,000 penalty shall be to the "State Water Resources Control Board Cleanup and Abatement Account," or submit the partial payment of the civil liability in the amount of \$9,000 and proof of payment of at least \$24,000 to a Supplemental Environmental Project (SEP) listed on the Regional Board-approved SEP list. The pre-approved SEP list is available at the following web site: [www.waterboards.ca.gov/losangeles/html/programs/enforcement.html](http://www.waterboards.ca.gov/losangeles/html/programs/enforcement.html)

Following payment, the Regional Board will deem the matter to be final.

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If, however, significant comments are received in opposition to the settlement, the matter may be set for a hearing before the Regional Board. In that event, you will be notified that this Offer and your Waiver are withdrawn, you will be free to make any arguments as to any violations that you desire, and your agreement to participate in this proposed settlement will not in any way be binding against you. Additionally, staff will ensure that your agreement to participate in this conditional settlement will be noted in the record in mitigation of any fines or additional fines that may be recommended, and your payment will be credited accordingly.

Should you have any questions about this Conditional Early Settlement Offer, please contact Mr. Hugh Marley at (213) 620-6375 or Mr. Russ Colby at (213) 620-6373.

Sincerely,

Deborah J. Smith  
Chief Deputy Executive Officer

Attachment: Notice of Violation dated July 20, 2007  
Table 1  
Acceptance and Waiver Form

