

**ACCEPTANCE OF CONDITIONAL RESOLUTION
AND WAIVER OF RIGHT TO HEARING
Order No. R1-2011-0050**

City of Fortuna Municipal Wastewater Treatment Plant
ORDER NO. R1-2007-0007
NPDES NO. CA0022730
WDID NO. 1B83135OHUM

By signing below and returning this Acceptance of Conditional Resolution and Waiver of Right to Hearing (Acceptance and Waiver) to the Regional Water Board, the City of Fortuna Municipal Wastewater Treatment Plant (Permittee) hereby accepts the "Offer to Participate in Expedited Payment Program" and waives the right to a hearing before the Regional Water Board with jurisdiction over the facility to dispute the allegations of violations described in the Notice of Violation (NOV) which is attached hereto as Exhibit "A" and incorporated herein by reference.

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

The Permittee understands that once the Acceptance and Waiver is executed by the Executive Officer of the Regional Water Board, the full payment required by the deadline indicated in the invoice to follow is a condition of this Acceptance and Waiver. The Permittee shall pay the Expedited Payment Amount of **\$9,000.00** by check payable to the SWRCB Cleanup and Abatement Account referencing "R1-2011-0050."

The Permittee understands that this Acceptance and Waiver does not address or resolve liability for any violation that is not specifically identified in the Notice of Violation as subject to mandatory minimum penalties regardless of the date that the violation occurred.

Upon execution by the Permittee, the Acceptance and Waiver shall be returned to:

Catherine Kuhlman, Executive Officer
California Regional Water Quality Control Board,
North Coast Region
5550 Skylane Blvd., Suite A
Santa Rosa, CA 95403

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

If no comments are received within the notice period which causes the Executive Officer of the Regional Water Board to reconsider the Expedited Payment Amount, the Executive Officer will execute the Acceptance and Waiver.

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

The Permittee understands that once the Acceptance and Waiver is executed by the Executive Officer of the Regional Water Board, the full payment required by the deadline indicated in the invoice to follow is a condition of this Acceptance and Waiver. The Permittee shall pay the Expedited Payment Amount in full. The payment shall be submitted to the Regional Water Board no later than the date indicated on an invoice which will accompany the Acceptance and Waiver after execution by the Executive Officer.

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

(Name of Permittee)

By: _____
(Signed Name)

(Date)

(Printed or typed name)

(Title)

IT IS SO ORDERED PURSUANT TO WATER CODE SECTION 13385

Date

By: _____
Catherine Kuhlman
Executive Officer