



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 16, 2010

Mr. Michael W. Webb
City Attorney
City of Redondo Beach
Redondo Beach, California 90277-0639

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
NO. 7008 1830 0004 3360 5620

COMPLAINT NO. R4-2008-0058-M FOR MANDATORY MINIMUM PENALTY AGAINST CITY OF REDONDO BEACH, SEASIDE LAGOON, 200 PORTFINO WAY, REDONDO BEACH, CA (ORDER NOS. 99-057 AND R4-2005-0016, NPDES PERMIT NO. CA0064297, CI NO. 8034)

Dear Mr. Webb:

Enclosed is Complaint No. R4-2008-0058-M for Mandatory Minimum Penalty in the amount of \$150,000 against City of Redondo Beach (hereinafter Permittee) for violating waste discharge requirements contained in Regional Board Order Nos. 99-057, and R4-2005-0016. Also enclosed is a copy of the California Regional Water Quality Control Board, Los Angeles Region (Regional Board) Notice of Public Hearing to Consider an Administrative Civil Liability Complaint.

Unless waived, a hearing before the Regional Board or a Regional Board Hearing Panel (Hearing Panel) will be held on this Complaint pursuant to California Water Code §§ 13228.14 and 13323. Should the Permittee choose to waive its right to a hearing, an authorized agent must sign the waiver form attached to Complaint No. R4-2008-0058-M and return it to the Regional Board by 5:00 pm on **March 18, 2010**. If we do not receive the waiver and full payment of the mandatory minimum penalty by **March 18, 2010**, this matter will be heard before the Regional Board or Hearing Panel. The Notice of Public Hearing containing the date, time, location, and specific procedures of the hearing will be mailed to you prior to the hearing date.

If you have any questions regarding this matter, please contact Mr. Hugh Marley at (213) 620-6375 or Mr. Russ Colby at (213) 620-6373.

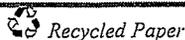
Sincerely,


Samuel Unger, P.E.
Assistant Executive Officer

Enclosures: Complaint No. R4-2008-0058-M
Exhibit "A"
Notice of Public Hearing

cc: Ms. Mayumi Okamoto, Office of Enforcement, State Water Resources Control Board
Ms. Tracy Egoscue, Los Angeles Regional Water Quality Control Board
Mr. Michael Levy, Office of Chief Counsel, State Water Resources Control Board
Mr. Reed Sato, Office of Enforcement, State Water Resources Control Board

California Environmental Protection Agency



**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION**

In the matter of:)	Complaint No. R4-2008-0058-M
)	Mandatory Minimum Penalty for
)	Violation of California Water Code § 13376
City of Redondo Beach)	and
Seaside Lagoon)	Order Nos. 99-057 & R4-2005-0016
Redondo Beach, California)	(NPDES No. CA0064297)

This Complaint to assess the mandatory minimum penalty pursuant to California Water Code (CWC) § 13385 subdivisions (h) and (i) is issued to the City of Redondo Beach (hereinafter Permittee) based on a finding of violations of waste discharge requirements prescribed in Order Nos. 99-057 & R4-2005-0016 (NPDES No. CA0064297, CI No. 8034).

The Assistant Executive Officer of the Regional Water Quality Control Board, Los Angeles Region (Regional Board) finds the following:

1. The Permittee owns and operates the Seaside Lagoon (hereinafter facility) located at 200 Portofino Way, Redondo Beach, California. The facility is a 1.4 million gallon man-made saltwater lagoon which provides recreational services to the public. Water is supplied from a cooling water discharge outfall owned and operated by AES Redondo Beach, LLC Power Plant and chlorinated prior to entering the lagoon. To maintain the water level in the lagoon, the Permittee discharges up to 2.3 million gallons per day (MGD) of de-chlorinated wastewater to King Harbor at the shoreline embankment through Discharge Serial No. 001 (Latitude 33°50'38", Longitude 118°23'47"). The wastewater is susceptible to containing coliform and enterococcus bacteria, biochemical oxygen demanding substances (BOD₅), total residual chlorine (TRC), total suspended solids (TSS), oil and grease (O&G), and other pollutants which can degrade water quality and impact beneficial uses of water, and which are defined as wastes under the Porter-Cologne Water Quality Control Act (CWC § 13000 et seq.). The wastewater flows to King Harbor, a navigable water of the United States.
2. On June 30, 1999, the Regional Board adopted Order No. 99-057, which prescribed waste discharge requirements to the Permittee for the discharge of treated wastes from the facility. Order No. 99-057 became effective on July 6, 1999.
3. On March 3, 2005, the Regional Board adopted Order No. R4-2005-0016 prescribing waste discharge requirements to the Permittee for the discharge of treated wastes from the facility. Order No. 99-057 was rescinded upon adoption of Order No. R4-2005-0016, except for enforcement purposes.
4. Because the Permittee could not comply with the final effluent limitations set forth in Order No. R4-2005-0016 for TSS and BOD₅, the Permittee requested that the Regional Board adopt a Time Schedule Order (TSO). The Regional Board adopted TSO No. R4-2007-0024, on April 26, 2007,

prescribing higher interim limits for TSS and BOD₅ discharges effective from May 1, 2007 to January 31, 2008.

5. In accordance with TSO No. R4-2007-0024, the Permittee submitted a Source Identification Report (SIR) dated October 1, 2007. Elevated BOD₅ concentrations previously detected did not appear during the study period, however, based on the SIR data, the Permittee requested additional time to achieve full compliance with the final TSS limitation.
6. On January 31, 2008, the Regional Board adopted TSO No. R4-2008-0002 prescribing an interim effluent limit for TSS effective from February 1, 2008 to February 28, 2010.
7. Order No. 99-057 (Part 2 page 5) includes the following effluent limitations for BOD₅, enterococcus, TRC, and TSS :

Constituent	Unit of Measure	Discharge Limitations	
		Daily Maximum	Monthly Average
BOD ₅	mg/L	30	20
TRC	µg/L	8	2
TSS	mg/L	150	50
Enterococcus	MPN/100 mL	(a) 30-day geometric mean ≤ 24 MPN/100 mL, (b) 6-month geometric mean ≤ 12 MPN/100 mL	

µg/L = micrograms/liter, mg/L = milligrams/liter, MPN = most probable number

8. Order No. R4-2005-0016 (Parts I.B.1 and 4, pages 7 and 9) include the following effluent limitations for BOD₅, coliform, O&G, TRC, TSS, and pH:

Constituent	Unit of Measure	Discharge Limitations	
		Daily Maximum	Monthly Average
BOD ₅	mg/L	30	20
O&G	mg/L	15	10
TRC	µg/L	8	2
TSS	mg/L	75	50
pH	S.U.	(a) Instantaneous Minimum = 6.5 (b) Instantaneous Maximum = 8.5	
Total Coliform	MPN/100 mL	(a) Daily Maximum ≤ 10,000 MPN/100 mL, (b) 30-day period ≤ 1,000 MPN/100 mL	

mg/L = milligrams/liter, µg/L = micrograms/liter, MPN/100 mL = Most Probable Number/ 100 milliliters, S.U. = Standard Units

9. Fifty-four (54) violations of Order Nos. 99-057, and R4-2005-0016 were noted in the Permittee's self-monitoring reports during the period June 2002 through October 2007. Out of the fifty-four (54) violations, forty-nine (49) are subject to mandatory minimum penalties. These violations

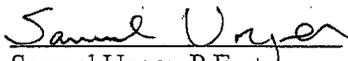
include effluent limit exceedances for BOD₅, coliform, enterococcus, O&G, TRC, TSS, and pH. The violations are identified in Exhibit "A" attached hereto and incorporated herein by reference.

10. On September 15, 2008, the Chief Deputy Executive Officer of the Regional Board issued the Permittee Offer to Participate in Expedited Payment Program (EPP) No. R4-2008-0058-M, which included a Notice of Violation notifying the Permittee of the fifty-four (54) effluent limit violations from the 3rd Quarter 2002 through the 4th Quarter 2007 subject to mandatory minimum penalties in the amount of \$147,000.
11. Subsequent to issuance of the EPP, one (1) additional effluent limit violation of Order No. R4-2005-0016 was reported by the Permittee in its self-monitoring report for the month of July 2008. This additional violation is subject to a mandatory minimum penalty and is identified in Exhibit "A" attached hereto and incorporated by reference.
12. Any discharge containing pollutants violating the effluent limitations set in the waste discharge requirements is prohibited by CWC § 13376.
13. Among the provisions in the Permittee's waste discharge requirements are the requirements to implement a discharge monitoring program and to prepare and submit monthly NPDES self-monitoring reports to the Regional Board pursuant to the authority of CWC § 13383.
14. CWC § 13385(h) requires the Regional Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious violation. Pursuant to CWC § 13385(h)(2) "a serious violation is defined as any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant by 20 percent or more, or for a Group I pollutant by 40 percent or more. Appendix A of Part 123.45 of Title 40 of the Code of Federal Regulations specifies the Group I and II pollutants."
15. CWC § 13385(i) requires the Regional Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each violation whenever the permittee violates a waste discharge requirement effluent limitation in any period of six consecutive months, except that the requirement to assess the mandatory minimum penalty shall not be applicable to the first three violations within that time period.
16. The maximum amount of discretionary administrative civil liability assessable pursuant to CWC § 13385(c) for each day of violation is \$10,000 per day of violation plus \$10 times the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

YOU ARE HEREBY GIVEN NOTICE THAT:

17. The Assistant Executive Officer proposes that the Permittee be assessed a mandatory minimum penalty in the amount of \$150,000 for the violations which occurred during the June 2002 through July 2008 monitoring periods cited in Exhibit "A". Refer to Exhibit "A" for the calculation of the amount of mandatory minimum penalty.
18. The Permittee may waive the right to a hearing and pay the recommended civil liability. Should the Permittee choose to waive its right to a hearing, an authorized agent must sign the waiver form attached to this Complaint and return it to the Regional Board by 5:00 pm on **March 18, 2010**. If the hearing is waived, a check in the amount of \$150,000 (payable to the State Water Pollution Cleanup and Abatement Account) must be received by the Regional Board by 5:00 pm on **March 18, 2010**.

19. If the Regional Board does not receive a waiver and full payment of the recommended penalty by **March 18, 2010**, the Complaint will be heard before the Regional Board or Regional Board Hearing Panel pursuant to California Water Code §§ 13228.14 and 13323. The Notice of Public Hearing contains that date, time, location, and specific procedures of the scheduled hearing of this matter.
20. If a hearing on this matter is held, the Regional Water Board will consider whether to affirm, reject, or modify (i.e. increase the proposed civil liability above the mandatory minimum) the proposed civil liability, or whether to refer the matter to the Attorney General for assessment of judicial civil liability.
21. There are no statutes of limitations that apply to administrative proceedings. The statutes of limitations that refer to "actions" and "special proceedings" and are contained in the California Code of Civil Procedure apply to judicial proceedings, not administrative proceeding. See *City of Oakland v. Public Employees' Retirement System* (2002) 95 Cal. App. 4th 29, 48; 3 Witkin, Cal. Procedure (4th ed. 1996) Actions, §405(2), p. 510.)
22. Notwithstanding the issuance of this Complaint, the Regional Board shall retain the authority to assess additional penalties for violations of the requirements of the Permittee's waste discharge requirements for which penalties have not yet been assessed or for violations that may subsequently occur.
23. This enforcement action is exempt from the provisions of the California Environmental Quality Act, California Public Resources Code § 21000 et seq., in accordance with California Code of Regulations, title 14, § 15321.
24. Regulations of the US Environmental Protection Agency require public notification of any proposed settlement of the civil liability occasioned by violation of the Clean Water Act including NPDES permit violations. Accordingly, interested persons will be given 30 days to comment on any proposed settlement of this Complaint.



Samuel Unger, P.E.

Assistant Executive Officer

Los Angeles Regional Water Quality Control Board

February 16, 2010

WAIVER FORM

FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R4-2008-0058-M

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

I am duly authorized to represent the City of Redondo Beach (hereinafter "Permittee") in connection with Administrative Civil Liability Complaint No. R4-2008-0058-M (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 Permittee waives the hearing requirement and will pay the recommended liability.)*
- a. I hereby waive any right the Permittee may have to a hearing before the Regional Water Board.
 - b. I certify that the Permittee will remit payment for the civil liability imposed in the amount of **\$150,000** by check that references "ACL Complaint No. R4-2008-0058-M" made payable to the "*Cleanup and Abatement Account*". Payment must be received by the Regional Water Board by **March 18, 2010** or this matter will be placed on the Regional Board's agenda for a hearing as initially proposed in the Complaint.
 - 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 expires. Should the Regional Water Board receive significant new information or comments from any source (excluding the Water Board's Prosecution Team) during this comment period, the Regional Water Board's Chief Deputy Executive Officer may withdraw the complaint, return payment, and issue a new complaint. I understand that this proposed settlement is subject to approval by the Regional Water Board, and that the Regional Water Board may consider this proposed settlement in a public meeting or hearing. I also understand that approval of the settlement will result in the Permittee 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 Permittee to further enforcement, including additional civil liability.

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

(Print Name and Title)

(Signature)

(Date)

EXHIBIT "A"
 City of Redondo Beach
 Seaside Lagoon
 CI 8034

Date	Monitoring Period	Violation Type	Parameter	Reported Value	Permit Limit	Units	Pollutant Category	% Exceeded	Serious/Chronic	Water Code Section 13385	Penalty
06/20/2002	Jun-02	30-Day Geometric Mean*	Enterococcus	156	24	MPN/100 ml	NA	NA	Chronic	(i)(1)	\$0
05/23/2003	May-03	Daily Maximum	TRC	1,800	8	µg/L	2	22,400	Serious	(h)(1)	\$3,000
05/23/2003	May-03	Monthly Average	TSS	76	50	mg/L	1	52	Serious	(h)(1)	\$3,000
05/28/2003	May-03	Daily Maximum	TRC	840	8	µg/L	2	10,400	Serious	(h)(1)	\$3,000
05/31/2003	May-03	Monthly Average	TRC	840	2	µg/L	2	41,900	Serious	(h)(1)	\$3,000
06/03/2003	Jun-03	Daily Maximum	TRC	140	8	µg/L	2	1,650	Serious	(h)(1)	\$3,000
06/24/2003	Jun-03	Monthly Average	TSS	64	50	mg/L	1	28	Chronic	(i)(1)	\$3,000
06/30/2003	Jun-03	30-Day Geometric Mean*	Enterococcus	38	24	MPN/100 ml	NA	NA	Chronic	(i)(1)	\$3,000
07/10/2003	Jul-03	Monthly Average	TSS	76	50	mg/L	1	52	Serious	(h)(1)	\$3,000
07/29/2003	Jul-03	30-Day Geometric Mean*	Enterococcus	35	24	MPN/100 ml	NA	NA	Chronic	(i)(1)	\$3,000
08/20/2003	Aug-03	Monthly Average	TSS	84	50	mg/L	1	68	Serious	(h)(1)	\$3,000
08/27/2003	Aug-03	30-Day Geometric Mean*	Enterococcus	26	24	MPN/100 ml	NA	NA	Chronic	(i)(1)	\$3,000
08/17/2004	Aug-04	Daily Maximum	TSS	188	150	mg/L	1	25	Chronic	(i)(1)	\$0
08/17/2004	Aug-04	Monthly Average	TSS	188	50	mg/L	1	276	Serious	(h)(1)	\$3,000
08/17/2004	Aug-04	Monthly Average	BOD ₅	23.6	20	mg/L	1	18	Chronic	(i)(1)	\$0
09/01/2004	Sep-04	Daily Maximum	BOD ₅	525	30	mg/L	1	1,650	Serious	(h)(1)	\$3,000
09/01/2004	Sep-04	Monthly Average	BOD ₅	525	20	mg/L	1	2,525	Serious	(h)(1)	\$3,000
08/15/2005	Aug-05	Daily Maximum	BOD ₅	75	30	mg/L	1	150	Serious	(h)(1)	\$3,000
08/15/2005	Aug-05	Monthly Average	BOD ₅	75	20	mg/L	1	275	Serious	(h)(1)	\$3,000
09/26/2005	Sep-05	Daily Maximum	TSS	80	75	mg/L	1	7	Chronic	(i)(1)	\$0
10/03/2005	Oct-05	Daily Maximum	BOD ₅	40	30	mg/L	1	33	Chronic	(i)(1)	\$3,000
10/03/2005	Oct-05	Instantaneous	pH	5.95	6.5 - 8.5	pH Units	NA	NA	Chronic	(i)(1)	\$3,000
10/03/2005	Oct-05	30-Day Rolling Average*	Total Coliform	1,646	1,000	MPN/100 ml	NA	NA	Chronic	(i)(1)	\$3,000
10/10/2005	Oct-05	30-Day Rolling Average*	Total Coliform	2,190	1,000	MPN/100 ml	NA	NA	Chronic	(i)(1)	\$3,000
10/17/2005	Oct-05	30-Day Rolling Average*	Total Coliform	2,005	1,000	MPN/100 ml	NA	NA	Chronic	(i)(1)	\$3,000
10/24/2005	Oct-05	30-Day Rolling Average*	Total Coliform	2,164	1,000	MPN/100 ml	NA	NA	Chronic	(i)(1)	\$3,000
10/31/2005	Oct-05	30-Day Rolling Average*	Total Coliform	1,430	1,000	MPN/100 ml	NA	NA	Chronic	(i)(1)	\$3,000

EXHIBIT "A"
 City of Redondo Beach
 Seaside Lagoon
 CI 8034

Date	Monitoring Period	Violation Type	Parameter	Reported Value	Permit Limit	Units	Pollutant Category	% Exceeded	Serious/Chronic	Water Code Section 13385	Penalty
06/05/2006	Jun-06	Daily Maximum	TSS	112	75	mg/L	1	49	Serious	(h)(1)	\$3,000
06/05/2006	Jun-06	Monthly Average	TSS	112	50	mg/L	1	124	Serious	(h)(1)	\$3,000
07/18/2006	Jul-06	Daily Maximum	TSS	96	75	mg/L	1	28	Chronic	(i)(1)	\$0
07/24/2006	Jul-06	Daily Maximum	TSS	81	75	mg/L	1	8	Chronic	(i)(1)	\$3,000
07/31/2006	Jul-06	Monthly Average	TSS	79	50	mg/L	1	58	Serious	(h)(1)	\$3,000
08/07/2006	Aug-06	Daily Maximum	TSS	286	75	mg/L	1	281	Serious	(h)(1)	\$3,000
08/28/2006	Aug-06	Daily Maximum	TSS	81	75	mg/L	1	8	Chronic	(i)(1)	\$3,000
08/28/2006	Aug-06	Daily Maximum	BOD ₅	76	30	mg/L	1	152	Serious	(h)(1)	\$3,000
08/28/2006	Aug-06	Monthly Average	BOD ₅	76	20	mg/L	1	278	Serious	(h)(1)	\$3,000
08/31/2006	Aug-06	Monthly Average	TSS	184	50	mg/L	1	268	Serious	(h)(1)	\$3,000
9/11/2006	Sep-06	Daily Maximum	TSS	76	75	mg/L	1	1	Chronic	(i)(1)	\$3,000
9/11/2006	Sep-06	Daily Maximum	BOD ₅	71.9	30	mg/L	1	140	Serious	(h)(1)	\$3,000
9/25/2006	Sep-06	Daily Maximum	TRC	1,000	8	µg/L	2	12,400	Serious	(h)(1)	\$3,000
9/25/2006	Sep-06	Daily Maximum	TSS	76	75	mg/L	1	1	Chronic	(i)(1)	\$3,000
9/25/2006	Sep-06	Daily Maximum	BOD ₅	72.1	30	mg/L	1	140	Serious	(h)(1)	\$3,000
9/30/2006	Sep-06	Monthly Average	TSS	76	50	mg/L	1	52	Serious	(b)(1)	\$3,000
9/30/2006	Sep-06	Monthly Average	BOD ₅	72	20	mg/L	1	260	Serious	(b)(1)	\$3,000
10/2/2006	Oct-06	Daily Maximum	TSS	86	75	mg/L	1	15	Chronic	(i)(1)	\$3,000
10/2/2006	Oct-06	Daily Maximum	BOD ₅	92.4	30	mg/L	1	208	Serious	(h)(1)	\$3,000
10/9/2006	Oct-06	Daily Maximum	O&G	318	15	mg/L	1	2,020	Serious	(h)(1)	\$3,000
10/9/2006	Oct-06	Daily Maximum	TSS	146	75	mg/L	1	95	Serious	(h)(1)	\$3,000
10/9/2006	Oct-06	Daily Maximum	BOD ₅	97.7	30	mg/L	1	226	Serious	(h)(1)	\$3,000
10/31/2006	Oct-06	Monthly Average *	TSS	116	50	mg/L	1	132	Serious	(h)(1)	\$3,000
10/31/2006	Oct-06	Monthly Average *	BOD ₅	95.1	20	mg/L	1	376	Serious	(h)(1)	\$3,000
9/24/2007	Sep-07	Daily Maximum	TRC	710	8	µg/L	2	8,775	Serious	(h)(1)	\$3,000
10/6/2007	Oct-07	Daily Maximum	TRC	2,100	8	µg/L	2	26,150	Serious	(h)(1)	\$3,000
10/6/2007	Oct-07	Monthly Average	TRC	2,100	2	µg/L	2	104,900	Serious	(h)(1)	\$3,000
7/28/2008	Jul-08	Daily Maximum	TRC	2,000	8	µg/L	2	24,900	Serious	(h)(1)	\$3,000
										Total	\$150,000

**HEARING PANEL OF THE
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION**

320 W. 4th Street, Suite 200
Los Angeles, California 90013
(213) 576-6600

ACLC R4-2008-0058-M

NOTICE OF PUBLIC HEARING

**TO CONSIDER AN ADMINISTRATIVE CIVIL LIABILITY COMPLAINT AND
PROPOSE RECOMMENDATIONS**

<u>DISCHARGER</u>	<u>DISCHARGE LOCATION</u>	<u>RECEIVING WATERS</u>
City of Redondo Beach	Seaside Lagoon 200 Portofino Way	King Harbor

Administrative Civil Liability Complaint (“ACLC”) No. R4-2008-0058-M alleges that the City of Redondo Beach violated Order Nos. 99-057 and R4-2005-0016 by failing to comply with the effluent limits during the period June 2002 through July 2008. During this time, seventeen (17) effluent limit violations of Order No. 99-057 and thirty-eight (38) effluent limit violations of Order No. R4-2006-0053 were noted in the Permittee’s self-monitoring reports. Out of the fifty-five effluent limit violations, fifty (50) are subject to mandatory minimum penalties. As stated in the ACLC, Regional Board staff, represented by the Regional Board Staff Prosecution Team (Prosecution Team), recommends that a penalty of \$150,000 be assessed against the City of Redondo Beach for the violations.

Pursuant to Water Code section 13228.14, a Hearing Panel consisting of three members of the California Regional Water Quality Control Board, Los Angeles Region (“Regional Board”) will convene a hearing to hear evidence, determine facts, and to propose a recommendation to the Regional Board about resolution of the ACLC.

This notice sets forth procedures to be used by hearing panels of the Regional Board and outlines the process to be used at this hearing.

I. HEARING DATE AND LOCATION

Date: May 17, 2010
Time: 10:00 A.M.
Place: 320 W. 4th Street
Los Angeles, CA 90013
• Room location TBD

II. AVAILABILITY OF DOCUMENTS

The ACLC, related documents, proposed order, comments received, and other information about the subject of the ACLC are available for inspection and copying between the hours of 8:00 a.m. and 5:00 p.m. at the following address:

California Regional Water Quality Control Board
Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013

Arrangements for file review and/or copies of the documents may be made by calling the Los Angeles Regional Board at (213) 576-6600.

The entire file will become a part of the administrative record of this proceeding, irrespective of whether individual documents are specifically referenced during the hearing. However, the entire file might not be available at the hearing. Should any parties or interested persons desire that the Prosecution Team bring to the hearing any particular documents that are not included in the Hearing Panel binder, they must submit a written or electronic request to the Prosecution Team during business hours, not later than **April 27, 2010**. The request must identify the documents with enough specificity for the Prosecution Team to locate them. (Documents in the Hearing Panel binder will be present at the hearing.)

III. NATURE OF HEARING

This will be a formal adjudicative hearing pursuant to section 648 et seq. of title 23 of the California Code of Regulations. Chapter 5 of the California Administrative Procedure Act (commencing with section 11500 of the Government Code) relating to formal adjudicative hearings does not apply to adjudicative hearings before the Regional Board, except as otherwise specified in the above-referenced regulations.

IV. PARTIES TO THE HEARING

The following are the parties to this proceeding:

1. City of Redondo Beach
2. Regional Board Staff Prosecution Team

All other persons who wish to participate in the hearing as a designated party shall request party status by submitting a written or electronic request to the Legal Advisor to the Hearing Panel identified in section VIII below no later than **April 5, 2010**. The request shall include a statement explaining the reasons for their request (e.g., how the issues to be addressed in the hearing and the potential actions by the Regional Board affect the person), and a statement explaining why the party

or parties designated above do not adequately represent the person's interest. The requesting party will be notified before the hearing whether the request is granted. All parties will be notified if other persons are so designated.

V. COMMUNICATIONS WITH THE PROSECUTION TEAM

The California Administrative Procedure Act requires the Regional Board to separate prosecutorial and adjudicative functions in matters that are prosecutorial in nature. A Prosecution Team, comprised of the Regional Board enforcement and other staff, will serve as the complainant in the proceedings and is a designated party. The Case Manager over this matter, who will coordinate the efforts of the Prosecution Team, is Russ Colby, Environmental Scientist. Mayumi Okamoto, Staff Counsel from the State Water Resources Control Board's Office of Enforcement will advise the Prosecution Team prior to and at the panel hearing. Neither Ms. Okamoto nor the members of the Prosecution Team will be advising the Regional Board in this matter or have engaged in any substantive conversations regarding the issues involved in this proceeding with any of the Board Members or the advisors to the hearing panel (identified below).

Any communication with the Prosecution Team prior to the hearing should be directed to the Case Manager:

Russ Colby
320 W. 4th Street, Suite 200
Los Angeles, CA 90013
(213) 620-6369
rcolby@waterboards.ca.gov

VI. PUBLIC COMMENTS AND SUBMITTAL OF EVIDENCE

A. Submittals By Parties.

Not later than **March 26, 2010**, the Prosecution Team will send the parties a preliminary Hearing Panel binder containing the most pertinent documents related to this proceeding and a PowerPoint presentation, which summarizes the evidence and testimony that the Prosecution Team will present and rely upon at the hearing.

The City of Redondo Beach is required to submit:

- 1) Any additional documents or evidence the Party wants the Hearing Panel to consider,
- 2) A summary of any testimony the Party intends to present, and
- 3) A statement regarding how much time the Party needs to present the case

to the attention of the Case Manager of the Prosecution Team (as identified above) and other designated parties no later than 5:00pm on **April 19, 2010**. The Prosecution Team shall have the right to present additional evidence in rebuttal of matters submitted by any other party.

The Prosecution Team will send to the Hearing Panel and the parties a final Hearing Panel binder no later than **May 6, 2010**.

B. Submittals By Interested Persons.

Persons who are not designated as parties, above, that wish to comment upon or object to the proposed ACLC, or submit evidence for the Hearing Panel to consider, are invited to submit them in writing to the Prosecution Team (as identified above). To be evaluated and responded to by Prosecution Team, included in the final Hearing Panel binder, and fully considered by the Hearing Panel in advance of the hearing, any such written materials must be received no later than **March 18, 2010**. If possible, please submit written comments in Word format electronically to mmerino@waterboards.ca.gov. Interested persons should be aware the Regional Board is entitled to settle this matter without further notice, and therefore a timely submittal by this date may be the only opportunity to comment upon the subject of this ACLC. If the hearing proceeds as scheduled, the Hearing Panel will also receive oral comments from any person during the hearing (see below).

VII. HEARING PROCEDURES

Adjudicative proceedings before the Hearing Panel generally will be conducted in the following order:

- Opening statement by Hearing Panel Chair
- Administration of oath to persons who intend to testify
- Prosecution Team presentation
- Discharger presentation
- Designated parties' presentation (if applicable)
- Interested persons' comments
- Prosecution Team rebuttal
- Questions from Hearing Panel
- Deliberations (in open or closed session)
- Announcement of recommendation to the Regional Board

While this is a formal administrative proceeding, the Hearing Panel does not generally require the cross examination of witness, or other procedures not specified in this notice, that might typically be expected of parties in a courtroom.

Parties will be advised by the Hearing Panel after the receipt of public comments, but prior to the date of the hearing, of the amount of time each party will be allocated for presentations. That decision will be based upon the complexity and the number of issues under consideration, the extent to which the parties have coordinated, the number of parties and interested persons anticipated, and the time available for the hearing. The parties should contact the Case Manager not later than **April 19, 2010** to state how much time they believe is necessary for their presentations (see Section VI. A above). It is the Regional Board's intent that reasonable requests be accommodated.

Interested persons are invited to attend the hearing and present oral comments. Interested persons may be limited to approximately five (5) minutes each, for their presentations, in the discretion of the Chair, depending on the number of persons wishing to be heard. Persons with similar concerns or opinions are encouraged to choose one representative to speak.

For accuracy of the record, all important testimony should be in writing, and delivered as set forth above. The Hearing Panel will include in the administrative record written transcriptions of oral testimony or comments made at the hearing.

VIII. COMMUNICATIONS WITH THE HEARING PANEL

A. Ex Parte Communications Prohibited.

As an adjudicative proceeding, Regional Board members and their advisors may not discuss the subject of this hearing with any person, except during the public hearing itself, except in the limited circumstances and manner described in this notice. **Any communications to the Regional Board, Hearing Panel, or Hearing Panel Advisors before the hearing must also be copied to the Prosecution Team and other Party(ies), as identified above.**

B. Hearing Panel Advisors.

The Hearing Panel will be advised before and during the hearing by Executive Officer Tracy Egoscue, and a Legal Advisor, Michael Levy, Senior Staff Counsel for the Regional Board. While Ms. Egoscue exercises general oversight over the staff's enforcement activities, neither she nor Mr. Levy have exercised any authority or discretion over the Prosecution Team, or advised them with respect to this matter.

C. Objections to manner of hearing and resolution of any other issues.

1. Parties or interested persons with procedural requests different from or outside of the scope of this notice should contact the Case Manager at any time, who will try to accommodate the requests. Agreements between a party and the Prosecution Team will generally be accepted by the Hearing Panel as stipulations.
2. Objections to (a) any procedure to be used or not used during this hearing, (b) any documents or other evidence submitted by the Prosecution Team, or (c) any other matter set forth in this notice, must be submitted in writing no later than **April 19, 2010** to the Legal Advisor to the Hearing Panel:

Michael Levy
State Water Resources Control Board
1001 I Street, 22nd Floor
Sacramento, CA 95814
(916) 341-5193
mlevy@waterboards.ca.gov

Untimely objections will be deemed waived. Procedural objections about the matters contained in this notice will not be entertained at the hearing. Further, except as otherwise stipulated, any procedure not specified in this hearing notice will be deemed waived pursuant to section 648(d) of Title 23 of the California Code of Regulations, unless a timely objection is filed.

3. Any issues outside the scope of those described in section C.2, above, that cannot be resolved by stipulation shall be brought to the attention of the Legal Advisor to the Hearing Panel, as set forth in section C.2, by **April 19, 2010** if possible, and if not possible, then at the earliest possible time with an explanation about why the issue could not have been raised sooner.

IX. APPLICABILITY OF NOTICE

The Executive Officer has directed the use of this standard notice in an order dated March 5, 2008. If you have any questions about this Notice of Public Hearing, please contact as appropriate, the Case Manager of the Prosecution Team, or the Legal Advisor to the Hearing Panel as described above.

Date: February 16, 2010