

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
LOS ANGELES REGIONSETTLEMENT AGREEMENT AND STIPULATION FOR ENTRY OF  
ADMINISTRATIVE CIVIL LIABILITY ORDER R4-2012-0160 (Proposed)IN THE MATTER OF  
SANTA CLARITA VALLEY SANITATION DISTRICT  
OF LOS ANGELES COUNTY  
(VALENCIA AND SAUGUS WATER RECLAMATION PLANTS)

This Settlement Agreement and Stipulation for entry of Administrative Civil Liability Order (Stipulated Order or Order) is entered into by and between the Executive Officer of the Regional Water Quality Control Board, Los Angeles Region (Los Angeles Water Board), on behalf of the Los Angeles Water Board Prosecution Team (Prosecution Team), and the Santa Clarita Valley Sanitation District (SCVSD or Discharger) (collectively known as the Parties) and is presented to the Los Angeles Water Board, or its delegee, for adoption as an order by settlement, pursuant to Government Code section 11415.60.

**RECITALS**

1. SCVSD owns and operates the Valencia Water Reclamation Plant (hereinafter Facility or Valencia WRP), a tertiary wastewater treatment plant located at 28185 The Old Road, Valencia, California. The facility has a design capacity of 21.6 million gallons per day (mgd). The facility discharges tertiary-treated wastewater from Discharge Points 001 and 002 to the Santa Clara River, a water of the United States. SCVSD also owns and operates the Saugus Water Reclamation Plant (hereinafter Saugus WRP), a tertiary wastewater treatment plant located at 26200 Springbrook Avenue, Santa Clarita, California. The facility has a design capacity of 6.5 mgd. The facility discharges tertiary-treated wastewater from Discharge Point 001 to the Santa Clara River.
2. On May 6, 2004, the Los Angeles Water Board adopted Resolution No. 04-004, which revised and adopted the Upper Santa Clara River Chloride Total Maximum Daily Load (TMDL). This TMDL was approved by the State Water Resources Control Board (State Water Board) on July 22, 2004; the Office of Administrative Law (OAL) on November 15, 2004; and the United States Environmental Protection Agency (USEPA) on April 28, 2005. It became effective on May 4, 2005.
3. On December 11, 2008, the Los Angeles Water Board adopted Resolution No. R4-2008-012, which adopted site-specific chloride objectives and revised the Upper Santa Clara River Chloride TMDL. This resolution was approved by the

State Water Board on October 20, 2009; the OAL on January 26, 2010; and the USEPA on April 6, 2010. It became effective on April 6, 2010.

4. On June 4, 2009, the Los Angeles Water Board adopted Order No. R4-2009-0074 *Waste Discharge Requirements for the Santa Clarita Valley Sanitation District of Los Angeles County, Valencia Water Reclamation Plant Discharge to the Santa Clara River*. This Order became effective on July 24, 2009, and serves as National Pollutant Discharge Elimination System (NPDES) Permit No. CA0054216. Order No. R4-2009-0074 incorporates the Upper Santa Clara River Chloride TMDL Implementation Plan.
5. On June 4, 2009, the Los Angeles Water Board adopted Order No. R4-2009-0075 *Waste Discharge Requirements for the Santa Clarita Valley Sanitation District of Los Angeles County, Saugus Water Reclamation Plant Discharge to the Santa Clara River*. This Order became effective on July 24, 2009, and serves as National Pollutant Discharge Elimination System (NPDES) Permit No. CA0054313. Order No. R4-2009-0075 incorporates the Upper Santa Clara River Chloride TMDL Implementation Plan.
6. Order No. R4-2009-0074, Provision VI.C.8. (page 41), and Order No. R4-2009-0075, Provision VI.C.8. (page 40), read: "The discharger shall comply with the applicable TMDL-related tasks, and future revisions thereto, in Attachment K of this Order." Task No. 17(a) of Attachment K for both Orders requires that by May 4, 2011, SCVSD complete a Wastewater Facilities Plan and Programmatic Environmental Impact Report (EIR) for facilities to comply with final effluent permit limits for chloride.
7. On May 2, 2011, SCVSD submitted a copy of a Notice of Exemption from the requirement to prepare an EIR or Negative Declaration. This Notice of Exemption did not meet the requirements of Task 17(a) because it did not constitute a programmatic EIR and it addresses actions to meet the conditional wasteload allocations (WLAs), not actions to meet the final effluent limits for chloride.
8. On May 2, 2011, SCVSD submitted a Wastewater Facilities Plan. The Wastewater Facilities Plan was inadequate because it was not a plan for actions to meet the final effluent limits for chloride of 100 mg/L. Additionally, the Wastewater Facilities Plan does not provide the facilities necessary to allow application of conditional WLAs.
9. On May 27, 2011, the Los Angeles Water Board issued a Notice of Violation (NOV) to SCVSD for failure to complete Task 17(a) from Attachment K of Order Nos. R4-2009-0074 and R4-2009-0075. The NOV directed SCVSD to complete Task 17(a) and submit the Wastewater Facilities Plan and Programmatic EIR for facilities to comply with final permit effluent limits for chloride to the Regional

Board. The NOV further directed SCVSD to submit a written response by June 27, 2011 that either: (1) confirms that SCVSD has corrected these violations with a brief description of how SCVSD has corrected them, or (2) identifies when SCVSD will have completed correcting these violations and a brief description of how SCVSD will correct them.

10. On June 27, 2011, SCVSD submitted a response to the NOV stating that SCVSD staff would recommend to its Board of Directors that staff prepare a Wastewater Facilities Plan and EIR for facilities to comply with a final effluent chloride limit of 100 mg/L. The response stated that, assuming the Board approved the staff recommendation, the Wastewater Facilities Plan and EIR would be completed by December 31, 2012.
11. On July 19, 2012, SCVSD submitted a letter to the Los Angeles Water Board with a compliance status update. According to the letter, at its July 26, 2011 meeting, the SCVSD Board of Directors approved their staff's recommendation to prepare a Wastewater Facilities Plan and EIR for facilities to comply with a final effluent chloride limit of 100 mg/L. SCVSD released a Notice of Preparation on January 6, 2012, seeking input on the scope for the Facilities Plan and EIR. According to the July 19, 2012 letter, due to the volume and nature of comments received in response to the Notice of Preparation, SCVSD would not be able to complete the Wastewater Facilities Plan and EIR by December 31, 2012. The letter stated that SCVSD would provide a new projected schedule for the production of the documents at a later date.
12. As of the date of this Order, SCVSD has not complied with Task 17(a) from Attachment K of Order Nos. R4-2009-0074 and R4-2009-0075.

#### Regulatory Considerations

1. As described in the above Recitals, SCVSD has violated Order Nos. R4-2009-0074 and R4-2009-0075 by failing to comply with Task 17(a) from Attachment K. The Los Angeles Water Board may assess administrative civil liability based on California Water Code Section 13385.
2. Water Code Section 13385(e) states: *"In determining the amount of civil liability imposed under this section, the regional board... shall take into account the nature, circumstances, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on its ability to continue its business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters as justice may require. At a minimum, liability shall be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation."*

3. The Stipulated Order is consistent with both the California Water Code and the Enforcement Policy, as described more fully in Attachment A. The Discharger's economic benefit is recovered in accordance with Water Code section 13385(e).

#### Settlement

4. On 26 November 2012, the Executive Officer of the Los Angeles Water Board issued Administrative Civil Liability Complaint (ACLC) R4-2012-0160 to the Discharger for \$280,250. The Parties thereafter engaged in settlement negotiations and have agreed to settle the matter without administrative or civil litigation and by presenting this Stipulated Order to the Los Angeles Water Board, or its delegee, for adoption as an order by settlement pursuant to Government Code section 11415.60. The Prosecution Team believes that the resolution of the alleged violations is fair and reasonable and fulfills its enforcement objectives, that no further action is warranted concerning the violations alleged in the ACLC and that this Stipulated Order is in the best interest of the public.
5. The Parties have agreed to adjust three of the penalty calculation factors, as described in Attachment A to this Order (Potential for Harm; Per Day Factor; History of Violations). The basis for these factors is found in the State Water Resources Control Board's *Water Quality Enforcement Policy*.
6. To resolve the violations alleged in the ACLC by consent and without further administrative proceedings, the Parties have agreed to the imposition of \$225,000 in liability against the Discharger. Consistent with the *Water Quality Enforcement Policy*, up to 50% of that amount can be dedicated toward a Supplemental Environmental Project. Therefore, the Parties have agreed that \$97,500 of the total liability (50%, after subtracting staff costs) will be allocated to a SEP, as described in Attachment B. In addition, the Discharger shall pay a total of \$127,500 to the State Water Resources Control Board's Cleanup and Abatement Account. Of that amount, approximately \$30,000 consists of staff costs and the balance is stipulated penalties.

#### Stipulations

The Parties stipulate to the following:

1. **Administrative Civil Liability:** The Discharger hereby agrees to the imposition of an administrative civil liability totaling **two hundred twenty five thousand dollars (\$225,000)**. Of this amount:
  - a. **One hundred and twenty-seven thousand five hundred dollars (\$127,500)** shall be paid into the Cleanup and Abatement Account. A single payment shall

be made not later than 30 days after the final execution of the Order. The check should be made payable to the *State Water Pollution Cleanup and Abatement Account*, and shall indicate on the check the number of this Order. The Discharger shall send the original signed check to Julie Macedo, State Water Resources Control Board, Office of Enforcement, P.O. Box 100, Sacramento, CA 95812. A copy of the check shall be sent to Jenny Newman, Regional Water Quality Control Board, Los Angeles Region, 320 W. 4<sup>th</sup> Street, Los Angeles, CA 90013.

- b. The remaining liability of **ninety-seven thousand five hundred dollars (\$97,500)** shall be permanently suspended pending timely completion of the work, and submittal of the reports, described in Attachment B, *Supplemental Environmental Project*. The reports must document completion of the required tasks at a cost of at least \$97,500. If less than \$97,500 is spent on the project, then the Discharger shall submit the difference no later than 1 November 2015.
2. **Agreement of Discharger to Fund, Report, and Guarantee Implementation of SEP:** The Discharger represents that: (1) it will fund the SEP in the amount as described in this Stipulation; (2) it will provide certifications and written reports to the Los Angeles Water Board consistent with the terms of this Stipulation detailing the implementation of the SEP; and (3) will guarantee implementation of the SEP by remaining liable for the entire cost of the SEP until it is completed and accepted by the Los Angeles Water Board in accordance with the terms of this Stipulation. The Discharger agrees that the Los Angeles Water Board has the right to require an audit of the funds expended by it to implement the SEP.
  3. **Oversight of SEP:** The Discharger is solely responsible for paying for all oversight costs incurred to oversee the SEP. The SEP oversight costs are in addition to the total administrative civil liability imposed against the Discharger and are not credited toward the Discharger's obligation to fund the SEP.
  4. **Anticipated 2013 Submission from SCVSD.** SCVSD, as lead agency, will circulate for public review a draft Facilities Plan and EIR for a project that complies with the TMDL on or about April 30, 2013, consider for approval a final Facilities Plan and EIR on or before October 31, 2013, and thereafter submit to the Los Angeles Water Board, pursuant to Order Nos. R4-2009-0074 and R4-2009-0075, a final Facilities Plan and certified EIR.
  5. **SCVSD Settlement Protection.** By resolving the violations brought pursuant to the ACLC, SCVSD will not face additional enforcement for failure to comply with Task 17(a) from Attachment K of Order Nos. R4-2012-0074 and R4-2012-0075 for possible violations that could be brought from November 27, 2012 through April 30, 2013. However, the Los Angeles Water Board reserves all of its other enforcement rights, including but not limited to submission of engineering designs. If SCVSD fails to submit its final Facilities Plan and certified EIR by October 31,

2013, the Los Angeles Water Board may pursue further enforcement for compliance with Task 17(a) and is permitted to calculate any penalties from May 1, 2013, although the Los Angeles Water Board agrees not to commence any enforcement action, for any violations arising from Order Nos. R4-2012-0074 or R4-2012-0075, until on or after November 1, 2013.

6. **Publicity:** Should Discharger or its agents or subcontractors publicize one or more elements of the SEP, they shall state in a prominent manner that the project is being partially funded as part of the settlement of an enforcement action by the Los Angeles Water Board against the Discharger.
7. **Compliance with Applicable Laws:** The Discharger understands that payment of administrative civil liability in accordance with the terms of this Stipulated Order and or compliance with the terms of this Stipulated Order is not a substitute for compliance with applicable laws, and that continuing violations of the type alleged in the Complaint may subject it to further enforcement, including additional administrative civil liability.
8. **Party Contacts for Communications related to Stipulated Order:**

For the Regional Water Board:

Jenny Newman  
Regional Water Quality Control Board  
Los Angeles Region  
320 W. 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

For the Discharger:

Grace R. Chan  
Chief Engineer and General Manager  
County Sanitation Districts of Los Angeles County  
1955 Workman Mill Road  
Whittier, CA 90601

9. **Attorney's Fees and Costs:** Except as otherwise provided herein, each Party shall bear all attorneys' fees and costs arising from the Party's own counsel in connection with the matters set forth herein.
10. **Matters Addressed by Stipulation:** Upon the Los Angeles Water Board's, or its delegee's, adoption of this Stipulated Order, this Order represents a final and binding resolution and settlement of the violations alleged in the ACLC pursuant to Water Code sections 13323, 13350 and 13385. The provisions of this Paragraph are expressly conditioned on the full payment of the administrative civil liability, in accordance with Stipulation Paragraph 1 herein.

11. **Public Notice:** The Discharger understands that this Stipulated Order will be noticed for a 30-day public review and comment period prior to consideration by the Los Angeles Water Board, or its delegee. If significant new information is received that reasonably affects the propriety of presenting this Stipulated Order to the Los Angeles Water Board, or its delegee, for adoption, the Executive Officer may unilaterally declare this Stipulated Order void and decide not to present it to the Los Angeles Water Board, or its delegee. The Discharger agrees that it may not rescind or otherwise withdraw their approval of this proposed Stipulated Order.
12. **Addressing Objections Raised During Public Comment Period:** The Parties agree that the procedure contemplated for the Los Angeles Water Board's adoption of the settlement by the Parties and review by the public, as reflected in this Stipulated Order, will be adequate. In the event procedural objections are raised prior to the Stipulated Order becoming effective, the Parties agree to meet and confer concerning any such objections, and may agree to revise or adjust the procedure as necessary or advisable under the circumstances.
13. **No Waiver of Right to Enforce:** The failure of the Prosecution Team or Los Angeles Water Board to enforce any provision of this Stipulated Order shall in no way be deemed a waiver of such provision, or in any way affect the validity of the Order. The failure of the Prosecution Team or Los Angeles Water Board to enforce any such provision shall not preclude it from later enforcing the same or any other provision of this Stipulated Order.
14. **Interpretation:** This Stipulated Order shall be construed as if the Parties prepared it jointly. Any uncertainty or ambiguity shall not be interpreted against any one Party.
15. **Modification:** This Stipulated Order shall not be modified by any of the Parties by oral representation made before or after its execution. All modifications must be in writing, signed by all Parties, and approved by the Los Angeles Water Board.
16. **If Order Does Not Take Effect:** In the event that this Stipulated Order does not take effect because it is not approved by the Los Angeles Water Board, or its delegee, or is vacated in whole or in part by the State Water Board or a court, the Parties acknowledge that they expect to proceed to a contested evidentiary hearing before the Los Angeles Water Board to determine whether to assess administrative civil liabilities for the underlying alleged violations, unless the Parties agree otherwise. The Parties agree that all oral and written statements and agreements made during the course of settlement discussions will not be admissible as evidence in the hearing. The Parties agree to waive any and all objections based on settlement communications in this matter, including, but not limited to:

- a. Objections related to prejudice or bias of any of the Los Angeles Water Board members or their advisors and any other objections that are premised in whole or in part on the fact that the Los Angeles Water Board members or their advisors were exposed to some of the material facts and the Parties' settlement positions as a consequence of reviewing the Stipulation and/or the Order, and therefore may have formed impressions or conclusions prior to any contested evidentiary hearing on the Complaint in this matter; or
  - b. Laches or delay or other equitable defenses based on the time period for administrative or judicial review to the extent this period has been extended by these settlement proceedings.
17. **No Admission of Liability:** In settling this matter, the Discharger does not admit to any of the findings in the ACLC, this Stipulated Order, or that it has been or is in violation of the Water Code, or any other federal, state, or local law or ordinance; however, the Discharger recognizes that this Stipulated Order may be used as evidence of a prior enforcement action consistent with Water Code section 13327.
  18. **Waiver of Hearing:** The Discharger has been informed of the rights provided by CWC section 13323(b), and hereby waives its right to a hearing before the Los Angeles Water Board prior to the adoption of the Stipulated Order.
  19. **Waiver of Right to Petition:** The Discharger hereby waives its right to petition the Los Angeles Water Board's adoption of the Stipulated Order as written for review by the State Water Board, and further waives its rights, if any, to appeal the same to a California Superior Court and/or any California appellate level court.
  20. **Los Angeles Water Board is Not Liable:** Neither the Los Angeles Water Board members nor the Los Angeles Water Board staff, attorneys, or representatives shall be liable for any injury or damage to persons or property resulting from acts or omissions by the Discharger, its directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Stipulated Order.
  21. **Authority to Bind:** Each person executing this Stipulated Order in a representative capacity represents and warrants that he or she is authorized to execute this Stipulated Order on behalf of and to bind the entity on whose behalf he or she executes the Order.
  22. **No Third Party Beneficiaries.** This Stipulated Order is not intended to confer any rights or obligations on any third party or parties, and no third party or parties shall have any right of action under this Stipulated Order for any cause whatsoever.
  23. **Effective Date:** This Stipulated Order shall be effective and binding on the Parties upon the date the Los Angeles Water Board, or its delegee, enters the Order.

24. **Counterpart Signatures:** This Stipulated Order may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterparts shall together constitute one document.

**IT IS SO STIPULATED.**

California Regional Water Quality Control Board Prosecution Team  
Los Angeles Valley Region

By: Samuel Unger  
Samuel Unger  
Executive Officer

Date: April 16, 2013

Santa Clarita Valley Sanitation District of Los Angeles County

ATTEST:

Santa Clarita Valley Sanitation District of Los Angeles County

By: Kimberly S. Compton  
Secretary

By: Mike Cantorini  
Chairperson

Date: March 13, 2013

Approved as to Form

Lewis, Brisbois, Bisgaard, & Smith, LLP

By: Ray J. B...  
District Counsel

### Order of the Los Angeles Water Board

1. In adopting this Stipulated Order, the Los Angeles Water Board or its delegee has considered, where applicable, each of the factors prescribed in CWC sections 13327 and 13385(e). The consideration of these factors is based upon information and comments obtained by the Los Angeles Water Board's staff in investigating the allegations in the Complaint or otherwise provided to the Los Angeles Water Board or its delegee by the Parties and members of the public. In addition to these factors, this settlement recovers the costs incurred by the staff of the Los Angeles Water Board for this matter.
2. This is an action to enforce the laws and regulations administered by the Los Angeles Water Board. The Los Angeles Water Board finds that issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, sections 21000 et seq.), in accordance with section 15321(a)(2), Title 14, of the California Code of Regulations.
3. The terms of the foregoing Stipulation are fully incorporated herein and made part of this Order of the Los Angeles Water Board.

Pursuant to CWC sections 13323, 13350, 13385 and Government Code section 11415.60, **IT IS HEREBY ORDERED** by the California Regional Water Quality Control Board, Los Angeles Region.

By: \_\_\_\_\_

Deborah Smith  
Chief Deputy Executive Officer

Date: \_\_\_\_\_

Attachment A: Penalty Calculation Methodology  
Attachment B: Supplemental Environmental Project (SEP)

**ATTACHMENT A to SETTLEMENT AGREEMENT AND STIPULATION**  
**ACL Order R4-2013-0160**  
**Santa Clarita Valley Sanitation District**  
**Analysis of Enforcement Policy Penalty Methodology**

California Water Code (CWC) section 13385(e) requires the State Water Board and Regional Water Boards to consider several factors when determining the amount of civil liability to impose. These factors include in part: "...the nature, circumstance, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup and abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters as justice may require."

On 17 November 2010, the State Water Board adopted Resolution No. 2009-0083 amending the Water Quality Enforcement Policy (Enforcement Policy). The Enforcement Policy was approved by the Office of Administrative Law and became effective on 20 May 2010. The Enforcement Policy establishes a methodology for assessing administrative civil liability. The use of this methodology addresses the factors that are required to be considered when imposing a civil liability as outlined in CWC section 13385(e). The entire Enforcement Policy can be found at: [http://www.waterboards.ca.gov/water\\_issues/programs/enforcement/docs/enf\\_policy\\_final11179.pdf](http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final11179.pdf).

This attachment summarizes the Prosecution Team's selected factors presented in the original ACLC, and the ultimately selected factors agreed upon by the Parties (the Prosecution Team and Santa Clarita Valley Sanitation District) through settlement negotiations, which commenced after the ACLC was issued on November 26, 2012.

**Step 1 – Potential for Harm for Discharge Violations**

Not Applicable – This step does not apply since the violation of Order Nos. R4-2009-0074 and R4-2009-0075 alleged in the Complaint are non-discharge violations.

**Step 2 – Assessment for Discharge Violations**

Not Applicable – This step does not apply since the violation of Order Nos. R4-2009-0074 and R4-2009-0075 alleged in the Complaint are non-discharge violations.

**Step 3 – Per Day Assessments for Non-Discharge Violations**

Regional Board staff used the matrix set forth in Table 3 of the Enforcement Policy (page 16) to calculate an initial liability factor for the violation of the Orders, considering the **Potential for Harm** and the **Deviation from Requirement**.

*a. Potential Harm*

Staff determined that the **Potential for Harm** was **Moderate** because the violations of Task 17(a), which will lead to a delay in compliance with final effluent limits for chloride, will have an impact on salt sensitive agriculture beneficial uses. Thus, "the characteristics of the violation present a substantial threat to beneficial uses, and/or the circumstances of the violation indicate a substantial potential for harm" as described in the Enforcement Policy.

*b. Deviation from Requirement*

Staff determined that the **Deviation from Requirement** was **Moderate** because SCVSD did not submit the Wastewater Facilities Plan and Programmatic EIR by the required deadline, but it has taken steps to do so in the future. Thus, "the intended effectiveness of the requirement has been partially compromised (e.g., the requirement was not met, and the effectiveness of the requirement is only partially achieved)" as described in the Enforcement Policy.

*c. Per Day Factor*

From the range given in the matrix set forth in Table 3 of the Enforcement Policy non-discharge violations of this type, Staff selected a **Per Day Factor** of **0.35**, which is the average factor in the given range.

*d. Maximum per Day Liability Amount*

Pursuant to CWC section 13385, the Regional Board may assess a maximum administrative civil liability of **\$10,000** for each day in which the Dischargers fail to comply with requirements of Order No. R4-2009-0074.

*e. Days Subject to Liability*

SCVSD has been in violation for **572 days** for each Order, calculated from the May 4, 2011 due date for the Wastewater Facilities Plan and Programmatic EIR through November 26, 2012, the date the ACLC was issued.

However, in accordance with the Enforcement Policy (page 18), an alternative approach to penalty calculation for violations that last more than 30 days may be used if the Los Angeles Water Board can make express findings that the violation(s):

- a. Is (are) not causing daily detrimental impacts to the environment or the regulatory program;
- b. Result(s) in no economic benefit from the illegal conduct that can be measured on a daily basis; or
- c. Occurred without the knowledge or control of the violator, who therefore did not take action to mitigate or eliminate the violation.

Los Angeles Water Board staff has determined that the alternative penalty calculation approach is appropriate since the violations result in no economic benefit from the illegal conduct that can be measured on a daily basis.

The alternative penalty calculation approach provides that for violations lasting more than 30 days, the liability shall not be less than an amount that is calculated based on an assessment of the initial liability amount for the first day of the violation, plus an assessment for each 5 day period of violation until the 30th day, plus an assessment for each 30 days of violation thereafter.

Using the alternative penalty calculation approach, **25 days** for the violation of each Order are subject to liability, based on a per day assessment for day 1, 5, 10, 15, 20, 25, 30, 60, 90, and so forth for every additional 30 days of violation within the 501 day total.

Using the above information, the Initial Liability assessed per day was calculated to be **\$87,500**:

$$\begin{aligned} & \text{(Per Day Factor)} \times \text{(Days Subject to Liability)} \times \text{(Maximum per Day Liability Amount)} \\ & = (0.35) \times (25 \text{ days}) \times (\$10,000/\text{day}) \\ & = \$87,500 \text{ for each facility (Valencia and Saugus)} \end{aligned}$$

**Settlement Considerations:** In settlement negotiations, the Parties agreed to reduce the Potential for Harm factor from moderate to minor (step a, above) and ultimately selected a Per Day factor of 0.30 (step c, above). The resulting calculation is \$75,000 for each facility.

#### **Step 4 – Adjustment Factors**

Staff considered certain Permittee Conduct Factors to calculate assessment for the Violations:

***a. Culpability:***

SCVSD is culpable for the violations. The completion date for Task No. 17(a) is clearly listed in Order Nos. R4-2009-0074 and R4-2009-0075. In addition, SCVSD was also given notice to submit the required documentation in letters from the Los Angeles Water Board dated September 29, 2010; April 1, 2011; and May 27, 2011. SCVSD therefore was fully aware of the requirement of Order Nos. R4-2009-0074 and R4-2009-0075 and failed to comply. SCVSD's compliance with the TMDL in 2015, while not at issue in this Complaint, is jeopardized by SCVSD's failure to submit the initial documentation. In addition, extensive communications between the Regional Board staff and SCVSD staff led the Regional Board staff to presume that the technical documents would be submitted timely. Instead, to the extent that SCVSD has changed course with its remedial and technical intentions, contrary to public statements made to Regional Board staff and to the Regional Board in developing the TMDL, we hope that this Complaint provides the deterrence against

further violations and SCVSD's correspondence stating that the plan would be submitted by December 31, 2012 is accurate. However, to the extent that SCVSD claims it simply needed more time to meet the existing schedule, the May 2011 submittals claiming an "exemption" could have been avoided. Upon receiving the first notice, a reasonable and prudent person would have submitted the required technical documents to come into compliance. For these reasons, staff selected a factor of **1.3**. The selection of this factor increases the base liability.

*b. Cleanup and Cooperation:*

SCVSD has voluntarily cooperated in returning to compliance, although is not currently in compliance. As of the date of the Complaint, SCVSD has taken steps to come into compliance with the Orders by approving the staff recommendation to prepare a Wastewater Facilities Plan and EIR, and by releasing a Notice of Preparation. Therefore, Staff selected a factor of **1.0**. The selection of this factor neither increases nor decreases the base liability.

*c. History of Violations:*

SCVSD has previously violated effluent limits under NPDES Permit No. CA0054216. Therefore, staff selected a factor of **1.1**, which is the minimum multiplier for repeated violations. The selection of this factor increases the base liability.

**Settlement Considerations:** In settlement negotiations, the Parties agreed to reduce the History of Violations factor to 1.0. Therefore, the selection of 1 will not further increase the base liability.

*Revised Assessment for Each Violation*

The initial assessment for the Violation is multiplied by the above factors to give a revised assessment of **\$97,500**:

$$\begin{aligned} & (Initial\ Assessment) \times (Culpability) \times (Cleanup\ and\ Cooperation) \times (History) \\ & = (\$75,000) \times (1.3) \times (1.0) \times (1.0) \\ & = \$97,500\ for\ each\ violation \end{aligned}$$

**Step 5 – Determination of Total Base Liability Amount**

Since there are two violations being assessed liability, the **Total Base Liability Amount** is **\$195,000** (\$97,500 (Valencia, Order No. R4-2009-0074) + \$97,5000 (Saugus, Order No. R4-2009-0075)).

**Step 6 – Ability to Pay and Ability to Continue in Business**

SCVSD is a large public agency that has the ability to increase rates. The Total Base

Liability Amount will not affect the Permittee's ability to continue in business. Accordingly, the Total Base Liability Amount was not adjusted. The burden of proof is on SCVSD to indicate if it has the inability to pay the recommended liability.

#### **Step 7 – Other Factors as Justice May Require**

If the amount determined using the above factors is inappropriate, the amount may be adjusted under the provision for "other factors as justice may require," but only if express findings are made to justify this adjustment. In addition, the costs of investigation and enforcement are "other factors as justice may require," and should be added to the liability amount.

Staff costs incurred by the Los Angeles Water Board to date are \$30,000. This amount was added to the Total Base Liability Amount, bringing the **adjusted Total Base Liability Amount to \$225,000:**

$$(Adjusted\ Total\ Base\ Liability) = (Total\ Base\ Liability) + (Staff\ Costs)$$

$$= (\$195,000) + (\$30,000)$$

$$= \$225,000$$

#### **Step 8 – Economic Benefit**

The Economic Benefit Amount is any savings or monetary gain derived from the act or omission that constitutes the violation. The Enforcement Policy states that the adjusted Total Base Liability Amount shall be at least 10 percent higher than the Economic Benefit Amount so that liabilities are not construed as the cost of doing business and that the assessed liability provides a meaningful deterrent to future violations.

Staff estimates the benefit of non-compliance to be approximately \$10,000 which is an estimate based on the interest able to be generated by SCVSD between May 4, 2011, when the EIR and Wastewater Facilities Plan was due, and December 31, 2012, the date by which SCVSD has promised to come into compliance. This figure was generated using the ABEL model developed by the EPA. Staff is currently treating this cost as a delayed cost rather than an avoided cost.

**Settlement Considerations:** The negotiated settlement of \$225,000 will recover SCVSD's economic benefit, in accordance with the Water Code.

#### **Step 9 – Maximum and Minimum Liability Amounts**

The **Minimum Liability Amount** is equivalent to 110 percent of the **Economic Benefit** derived from the violation. Using the economic benefit estimated in Step 8, the minimum liability amount is \$11,000 (economic benefit plus 10%).

The **Maximum Liability Amount** is **\$11,440,000**, which is calculated by multiplying the maximum \$10,000 per day rate under Water Code Section 13385, subdivision (c), and 1,144 days, the total number of days SCVSD has been in violation.

**Settlement Considerations:** The negotiated settlement of \$225,000 is between the maximum and minimum administrative civil liability amounts, and is therefore consistent with the Enforcement Policy.

#### **Step 10 – Final Liability Amount**

In accordance with the above methodology, Staff recommends a **Final Liability Amount** of **\$280,250**. This Final Liability Amount is within the statutory minimum and maximum amounts.

**Settlement Considerations:** The negotiated settlement of \$225,000 recovers a majority of the Prosecution Team's recommended administrative civil liability and, in the Prosecution Team's opinion, the settlement is in the best interests of the public.

**ATTACHMENT B to SETTLEMENT  
AGREEMENT AND STIPULATION**

**ACL Order R4-2013-0160**

**Santa Clarita Valley Sanitation District**

**SEP Proposal**

# CITY OF SANTA CLARITA LOW IMPACT DEVELOPMENT PARKING LOT RETROFIT SUPPLEMENTAL ENVIRONMENTAL PROJECT

## PROPOSAL/ WORK PLAN REQUIREMENTS

### Project title

City of Santa Clarita Low Impact Development (LID) Parking Lot Retrofit

### Organization proposing the project [project manager's name, email address, and phone number; type of organization (public, private, non-profit, etc.)]

City of Santa Clarita (Public)

Project Manager: Heather Lea Merenda  
[HMERENDA@santa-clarita.com](mailto:HMERENDA@santa-clarita.com)  
(661) 284-1413

Santa Clarita Valley Sanitation District of Los Angeles County (Public)

Contact: Matt Bao  
[mbao@lacsdc.org](mailto:mbao@lacsdc.org)  
(562) 908-4288 extension 2809

### Name of the independent management company who would report solely to the Regional Board, to oversee the implementation of the SEP, including all contact information (If applicable)

Not Applicable

### Third party completing the project including all contact information (If applicable)

Not Applicable

### Names and statement of qualifications and experience for key project team members

Travis Lange, Environmental Services manager, City of Santa Clarita

Heather Lea Merenda, Sustainability Planner, City of Santa Clarita

*Qualifications:* Qualified SWPPP Development, Certified Professional in Storm Water Quality

### Name and location of the project, including watershed (creek, river, bay) where it is located

- Ventura Coastal, Ventura River, Santa Clara River, Santa Monica Bay, Los Angeles Country Coastal, Los Angeles River, or multiple watersheds

Name: City of Santa Clarita LID Parking Lot Retrofit

Location: The proposed project site would be located in the City of Santa Clarita (City). Project will retrofit one of the City owned parking lots within the City boundaries. Possible locations include the City Corporate Yard Employee Parking Lot at 25663 Avenue Stanford, Santa Clarita CA 91355 and City Parks Parking Lots (list of parks can be found at <http://www.santa-clarita.com/index.aspx?page=343>). The proposed project site is estimated to be approximately 5,000 square feet.

Watershed: Santa Clara River Watershed

**Description of the project and how it fits into one or more of the following SEP categories:**

- **Pollution prevention**
- **Environmental restoration**
- **Environmental auditing**
- **Compliance education/development of education materials**
- **Watershed assessment (e.g., citizen monitoring, coordination, and facilitation)**
- **Watershed management facilitation services**
- **Non-point source program implementation**

**Project Description:**

*Background:*

The Santa Clara River is regarded as the largest natural river system in Southern California. The Santa Clara River flows approximately 84 miles from its headwaters near Acton, in the San Gabriel Mountains, westward through Los Angeles and Ventura counties, to its delta between the cities of Ventura and Oxnard. The 45-mile long portion of the Santa Clara River and its tributaries within Los Angeles County is referred to as the "Upper Santa Clara River watershed" while the portion in Ventura County is referred to as the "Lower Santa Clara River watershed."

The Upper Santa Clara River watershed, where the proposed project is located, consists of approximately 680 square miles of mostly rugged topography and natural land. Urban development is concentrated in the City of Santa Clarita and its four communities (Canyon Country, Newhall, Saugus, and Valencia) and the Los Angeles County unincorporated communities of Stevenson Ranch, Castaic, West Ridge, and West Creek. There are also rural communities with some urbanization in Val Verde, Agua Dulce and Acton. Surface flows are ephemeral in Reach 7 (between Bouquet Canyon Creek and Lang Gauging Station) and Reach 8 (above Lang Gauging Station) and are perennial for the majority of Reach 5 (from Blue Cut to The Old Road) and Reach 6 (from The Old Road to Bouquet Canyon Creek). The beneficial use designations for the Upper Santa Clara River include IND, PROC, AGR, GWR, FRSH, REC1, REC2, WARM, WILD, BIOL, and WET.

Native habitats occupying the upland portions of the watershed include chaparral, coastal sage scrub, and oak woodlands. The floodplains of the Upper Santa Clara River and its tributaries support a mix of cover including open channel, a variety of native habitats, and developed areas. The most significant habitats are cottonwood woodlands, willow woodlands, and riparian scrub. Multiple threats to the health of the watershed exist. Runoff from parking lots is one of the urban runoff issues of concern.

*Project Overview:*

Infiltration of urban runoff has increasingly been recognized as a sustainable stormwater management strategy that helps protect water quality in surface and ground waters by reducing stormwater runoff and pollutant loadings. The State Water Resources Control Board and the California Coastal Commission have endorsed this type of best management practice as highly preferable to other stormwater treatment efforts. This has been recently reaffirmed by the "Reining in the Rain" statewide conference hosted by the Coastal Commission. The Low Impact Development Center, Inc. has also promoted infiltration with concern for parking lots. LID is a way, using engineering design, to help restore the pre-development hydrologic regime landscapes. This design approach incorporates strategic planning with best management practices to improve water quality, while allowing for development or infrastructure rehabilitation to occur. The proposed project will retrofit an existing City public parking lot by including LID strategies such as planting areas that allow for infiltration, permeable pavers, and/or porous concrete to allow for stormwater absorption below parking and walking areas.

*How the Project Fits into the SEP Categories:*

*Pollution Prevention or Reduction* – This proposed project would utilize LID strategies at an existing City owned parking lot to reduce stormwater runoff impacts. Pollutants of concern from parking lots can include sediment, nutrients, trash, metals, bacteria, oil, and grease. LID strategies can result in pollutant removal through settling, filtration, adsorption, and biological uptake.<sup>1</sup>

*Environmental Restoration* – The proposed project will potentially lower pollutant loading to the Santa Clara River by better managing stormwater runoff at the source. Due to the high traffic volumes that regularly travel through City public parking lots, loading to the Santa Clara River could be reduced, which could improve wildlife habitats along the Santa Clara River and enhance recreational uses.

**Description of how the project benefits water quality and/or quantity**

In the Municipal Guide to Low Impact Development, it explains LID “is an ecologically friendly approach to site development and storm water management that aims to mitigate development impacts to land, water, and air. The approach emphasizes the integration of site design and planning techniques that conserve natural systems and hydrologic functions on a site ... Specifically, LID aims to ... decentralize and micromanage stormwater at its source.” Both permeable paving and infiltration trenches are elements of LID. Nutrients and metals are held in check by porous pavements. The trenches will remove sediment, nutrients, trash, metals, bacteria, oil, grease, and organics from stormwater runoff. All of these will reduce pollutants in the stormdrain system. Infiltration reduces hydro-modification impacts.

**Description of how the project benefits the public**

The City of Santa Clarita Low Impact Development (LID) Parking Lot Retrofit project benefits the public by better managing stormwater at City-related facilities, potentially improving local surface water quality, and restoring the direct hydrological connection between localized rainfall and the groundwater basin.

**Documented support by one or more of the following:**

- Other agencies
- Public groups
- Impacted persons

In addition to the City, non-profit organizations have provided support for these types of projects for years. SCOPE, the Santa Clarita Organization for Planning and the Environment, is a local non-profit organization that has actively lobbied and supported this project for ten years. Lynne Plambeck, president of SCOPE, can be contacted at (661) 255-6899.

**Monitoring plan or Quality Assurance Project Plan (QAPP) if applicable – required for all projects and tasks involving use of existing environmental data and those involved with the collection of new information e.g. the sampling and analysis project**

- Guidance for QAPP <http://www.epa.gov/quality/qs-docs/g5-final.pdf>

Not Applicable

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<sup>1</sup> U.S EPA, *Reducing Stormwater Costs through Low Impact Development (LID) Strategies and Practices*, December 2007.

**Detailed description of the scope of work, work products and project milestones**

*Scope of Work*

The SEP is expected to occur over eighteen (18) months for site selection, design, bid process, permitting, construction, and final inspection.

The City of Santa Clarita has diverse soil types, varying by location, in the over 50 square miles of City land. Site selection for this project would assess soil type and permeability as part of the design, and would incorporate actions necessary, if any, to ensure successful project implementation (e.g., amending soils with more permeable structure). Further, site assessors would refer to guidance in the California Stormwater Quality Association (CASQA) LID Manual for Southern California, CASQA Best Management Practices (BMP) Handbook, and other professional design standards in selecting and developing the site. The proposed project site would be approximately 5,000 square feet.

The work will include the following: removal and excavation of asphalt, soil excavation, installation of subsurface material (piping, gravel, media), installation of LID materials (geotextile fabric, permeable pavers or porous concrete), and landscaping.

*SEP Work Product*

- Quarterly Progress Reports
- Final Report
- SEP Certificate of Completion

*SEP Milestones*

- Construction Plan
- Completion of LID Parking Lot Retrofit

**Include or reference a scope of work, including a budget**

A task list and estimated budget for the SEP is included in Attachment A

**Schedule for periodic monitoring (quarterly at a minimum) on the performance of the SEP to monitor the timely and successful completion of the SEP**

- Reports should include a list of all activities on the SEP since its adoption, all SEP activities during the quarter, an accounting of funds expended, and the proposed work for the following quarter
- Copies of the reports must be provided to the Regional Board and the Division of Financial Assistance of the State Board

The City will provide quarterly progress reports, as well as a final report, to the Regional Water Board and the Division of Financial Assistance at the State Water Resources Control Board, on activities undertaken with the proposed project. At a minimum, the reports will include a list of all activity on the SEP for each reporting period, an accounting of funds expended, and the proposed work for the following quarter. Reports will be submitted no later than the first of the second month following the end of each reporting period in accordance with the schedule shown below. Until such time as expenditure of SEP funds has commenced, the City may submit only the report due on August 1. The City shall submit progress reports on the SEP until the proposed project is completed and the SEP contribution is fully expended or otherwise approved by the Regional Board Executive Officer.

<i>Reporting Period</i>	<i>Report Submittal Date</i>
January - March	May 1
April - June	August 1
July - September	November 1
October - December	February 1

Time schedule for implementation with single or multiple milestones and which identifies the amount of liability that will be suspended or excused upon the timely and successful completion of each milestone

- Except for the final milestone, the amount of the liability suspended for any portion of a SEP cannot exceed the projected cost of performing that portion of the SEP

The SEP is expected to occur over eighteen (18) months for site selection, design, bid process, permitting, construction, and final inspection. The project will be completed by November 2015. A project schedule is included in Attachment B.

*Milestones and Liability*

Milestone	Deadline	Liability Suspended or Excused Upon Completion
Construction Plan	December 1, 2014	\$15,000
Completion of LID Parking Lot Retrofit	November 1, 2015	\$82,500
<b>Total:</b>		<b>\$97,500</b>

Contain or reference performance standards and identify measures or indicators or performance in the scope of work

LID performance guidelines recommended by EPA (<http://water.epa.gov/polwaste/green/index.cfm>)

CASQA LID Manual for Southern California

CASQA BMP Handbook

U.S EPA, Reducing Stormwater Costs through Low Impact Development (LID) Strategies and Practices, December 2007.

**Discharger responsibility**

The Santa Clarita Valley Sanitation District is ultimately responsible for ensuring that the SEP monies are expended for the project described, and remains liable for the SEP amount under the Settlement Agreement and Stipulated ACL until the SEP is completed and accepted by the Los Angeles Water Board.

**ATTACHMENT A: TASK LIST AND PROJECT BUDGET**

Task	Amount of Work	\$/Unit	Estimated Cost
Design			\$15,000
Asphalt Removal and Recycling/Soil Excavation	Approx. 5,000 square feet	Approx. \$5 per square foot	\$25,000
Aggregate/Gravel/Media	Approx. 500 cubic yards	Approx. \$20 per cubic yard	\$10,000
Geotextile Fabric	Approx. 5,000 square feet	Approx. \$1.50 per square foot	\$7,500
Plant Material	Approx. 100 plants	Approx. \$50 per plant	\$5,000
Permeable Pavers or Porous Concrete	Approx. 1,400 square feet	Approx. \$25 per square foot	\$35,000

Total: \$97,500

Notes

- Depending on site location, amount of work for each task will vary. For example, potential sites will differ in requirements for the amount of plant material, permeable pavers, or porous pavers.
- Depending on the design, plants could range from 1 gallon to 15 gallon, and would consist of site-appropriate species of shrubs, perennials, and/or trees
- Unit Prices (\$/Unit) are preliminary estimates and will vary based on several factors such as site location, market value, and type and quantity of materials.

Attachment B: Proposed Project Schedule

ID	Task Name	Duration	Start	Finish
1	Determine Site Location	3.3 mons	Thu 6/1/14	Thu 7/3/14
2	Design	4.4 mons	Fri 8/1/14	Sun 11/30/14
3	Completion of Construction Plan	0 days	Mon 12/1/14	Mon 12/1/14
4	Bid Process	3.3 mons	Mon 12/1/14	Sat 2/28/15
5	Permitting	1.15 mons	Sun 3/1/15	Tue 3/3/15
6	Construction	6.55 mons	Wed 4/1/15	Wed 9/30/15
7	Final Inspection	1.15 mons	Thu 10/1/15	Sat 10/31/15
8	Completion of LID Parking Lot Restroom	0 days	Sun 11/1/15	Sun 11/1/15

2015  
 Dec Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec

Task Split

Progress Milestones

Summary Project Summary

External Tasks External Milestone

Deadline