



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 4, 2009

Victor Meza
City of Monterey Park
320 West Newmark Avenue
Monterey Park, CA 91754

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
Claim No. 7008 1830 0004 3359 1879

RESPONSE TO REQUEST FOR ALLEGED VIOLATION REVIEW – CITY OF MONTEREY PARK, DELTA PLANT, 2657 DELTA AVENUE, ROSEMEAD, CA. (ORDER NO. R4-2007-0022, NPDES PERMIT NO. CAG914001, CI NO. 8584)

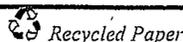
Dear Mr. Meza:

Thank you for your letter dated January 2, 2009, responding to Offer to Participate in Expedited Payment Program No. R4-2008-0150-M, which assessed mandatory minimum penalties (MMPs) for violations of effluent limitation and late reporting violation. This letter addresses your comments in this regard.

First, Regional Board staff has reviewed the alleged late reporting violation and has determined that Permittee's 1st Quarter 2007 self-monitoring report was received by the Regional Board on July 2, 2007, a total of 48 days late. Monitoring and Reporting Program CI No. 8584 states that the 1st Quarter 2007 self-monitoring report under this Program is due by May 15, 2007. There is no grace period for submittal of monitoring reports. Based on the above, the 1st Quarter 2007 report is still considered 48 days late, as it was due May 15, 2007. Therefore, this violation is fully justified. Although the City of Monterey Park (City) alleges that the 1st Quarter 2007 self-monitoring report "was complete and ready to be mailed" but was not mailed on time due to unavailability of the City's representative to sign it, it is the City's responsibility to comply with the requirements prescribed in Order No. R4-2007-0022. Also, submission of all previous and subsequent self-monitoring reports on time does not alleviate the fact that the City failed to submit its 1st Quarter 2007 self-monitoring report on time. Therefore, Regional Board staff cannot agree with the Permittee's request that the July 2, 2007 late reporting violation should be removed and disallowed.

Second, in response to the effluent limit violations for April 30, 2007, tetrachloroethylene was reported as being present in the effluent on April 30, 2007 at a concentration of 2.8 µg/L, which is above the effluent limit of 0.8 µg/L contained in Board Order No. R4-2007-0072. In its January 2, 2009 correspondence, the City asserted that the tetrachloroethylene "was detected at 2.8 µg/L but the result was due to a laboratory error." Furthermore, the City stated that it "requested the laboratory to reconfirm the results, but was told by the laboratory that the results

California Environmental Protection Agency



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Mr. Victor Meza
City of Monterey Park

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February 4, 2009

were valid." Based on the information provided, Regional Board staff cannot agree with the Permittee's assertion that the April 30, 2007 exceedance event was a laboratory error and should be removed and disallowed.

Since the City of Monterey Park requested a review of this violation, the Regional Board has established new deadlines. If you intend to participate in the Expedited Payment Program, you must sign and return the attached Acceptance of Conditional Resolution and Waiver of Right to Hearing form by **March 9, 2009**. By signing the Acceptance and Waiver, the City agrees to pay the penalty as indicated on the amended Exhibit A – Notice of Violation and waives the right to a hearing.

If you do not elect to sign the Acceptance and Waiver, you will be contacted regarding formal enforcement action that will be initiated with regard to the contested violation.

If you have questions regarding this matter, please contact Mr. Hugh Marley at (213) 620-6375 or Ms. Mercedes Merino at (213) 620-6369.

Sincerely,



Deborah J. Smith
Chief Deputy Executive Officer

Enclosures:

Revised Exhibit "A" - Notice of Violation
Acceptance of Conditional Resolution and Waiver of Right to Hearing; (proposed) Order

cc: Taryn Stokell, Office of Enforcement, State Water Resources Control Board

California Environmental Protection Agency



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Settlement Offer No. R4-2008-0150-M
CI No. 8584, NPDES Permit No. CAG914001

**ACCEPTANCE OF CONDITIONAL RESOLUTION
AND WAIVER OF RIGHT TO HEARING; (proposed) ORDER**

RECEIVED
2009 FEB 17 PM 1 57

Monterey Park City
Settlement Offer No. R4-2008-0150-M
NPDES Permit No. CAG914001

CALIFORNIA REGIONAL WATER
QUALITY CONTROL BOARD
LOS ANGELES REGION

By signing below and returning this Acceptance of Conditional Resolution and Waiver of Right to Hearing (Acceptance and Waiver) to the Los Angeles Regional Water Quality Control Board (Regional Board), Monterey Park City (Permittee) hereby accepts the "Offer to Participate in Expedited Payment Program" and waives the right to a hearing before the Regional Board 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 California Water Code and that no separate complaint is required for the Regional Board to assert jurisdiction over the alleged violations through its Executive Officer. The Permittee agrees to pay the penalties required by California Water Code section 13385, in the sum of \$6,000 (Expedited Payment Amount), which shall be deemed payment in full of any civil liability pursuant to Water Code sections 13385 and 13385.1 that otherwise might be assessed for the violations described in the NOV. The Permittee understands that this Acceptance and Waiver waives the Permittee's right to contest the allegations in the NOV and the amount of civil liability for such violations.

The Permittee understands that this Acceptance and Waiver does not address or resolve liability for any violation that is not specifically identified in the NOV.

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

Mercedes Merino, Enforcement Unit
Expedited Payment Program
Regional Water Quality Control Board, Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, California 90013

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

If no comments are received within the notice period that cause the Regional Board Executive Officer to question the Expedited Payment Amount, the Regional Board Executive Officer will execute the Acceptance and Waiver.

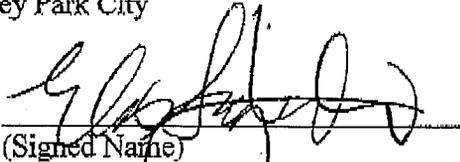
Settlement Offer No. R4-2008-0150-M
CI No. 8584, NPDES Permit No. CAG914001.

The Permittee understands that if significant comments are received in opposition to the Expedited Payment Amount, the offer on behalf of the Regional 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 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 further understands that once the Acceptance and Waiver is executed by the Regional Board Executive Officer, the full payment required by the deadline set forth below is a condition of this Acceptance and Waiver. In accordance with California Water Code section 13385(n)(1), funds collected for violations of effluent limitations and reporting requirements pursuant to section 13385 shall be deposited in the State Water Pollution Cleanup and Abatement Account. Furthermore, in accordance with California Water Code section 13385.1(b)(1), funds collected pursuant to section 13385.1 for failure to timely file a report shall be deposited in the Waste Discharge Permit Fund. Accordingly, the \$6,000 liability shall be paid by a cashiers or certified check for \$3,000 made out to the "State Water Pollution Cleanup and Abatement Account" AND a cashiers or certified check for \$3,000 made out to the "Waste Discharge Permit Fund". The payment must be submitted to the Regional Board no later than ten (10) calendar days after the date the Permittee receives written notice that the Regional Board Executive Officer has executed this Acceptance and Waiver.

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.

Monterey Park City

By: 
(Signed Name)

1/29/09
(Date)

Elias Saykali
(Printed or typed name)

Director of Public Works
(Title)

IT IS SO ORDERED PURSUANT TO WATER CODE SECTION 13385

Date: _____

By: _____
Tracy J. Egoscue
Executive Officer

EXHIBIT "A" - NOTICE OF VIOLATION

Effluent Limit Violations

Date	Violation Description	Pollutant Category	Serious/Chronic	Water Code Section 13385	Penalty
04/30/07	2Q07 effluent violation (04/30/07): PCE Daily Maximum (2.8 / 0.8 ug/L)	CAT2	Serious	(h)(1)	\$3,000
				Total	\$3,000

EXHIBIT "A" - NOTICE OF VIOLATION
Late Reporting Violations

Reporting Period	Violation Type	Due Date	Received Date	Days Late	# of Complete 30-Day Periods	Serious/Chronic	Water Code Section 13385	Amount Per 30-Day Period	Penalty
1 st Quarter 2007	Late Report	05/15/2007	07/02/2007	48	1	Serious	(h)(1)	\$3,000	\$3,000
							Total		\$3,000
							Settlement Total		\$6,000