

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

<b>In the Matter of:</b>	)	
	)	
<b>Riviera-West Mutual</b>	)	
<b>Water Company Domestic</b>	)	<b>Order No. R5-2013-0571</b>
<b>Water Treatment Plant</b>	)	
<b>Lake County</b>	)	<b>Settlement Agreement and Stipulation</b>
<b>Administrative Civil Liability</b>	)	<b>for Entry of Order; Order</b>
<b>No. R5-2013-0571</b>	)	

**SECTION I: INTRODUCTION**

This Settlement Agreement and Stipulation for Entry of Administrative Civil Liability (“ACL”) Order (“Agreement” or “Stipulated Order”) is entered into by and between the Executive Officer of the Regional Water Quality Control Board, Central Valley Region (“Central Valley Water Board”), on behalf of the Central Valley Water Board Prosecution Team Staff (“Prosecution Team”), and Riviera-West Mutual Water Company, a California corporation (collectively the “Parties”) and is presented to the Central Valley Water Board, or its delegee, for adoption as an order by settlement, pursuant to Government Code section 11415.60.

**SECTION II: RECITALS**

1. The Respondent Riviera-West Mutual Water Company (“Riviera West”) is a general (i.e., stock) corporation that owns and operates a domestic water treatment plant (“WTP”), which provides potable water for the Riviera West subdivision in Lake County near Konocti Bay. Riviera West is currently subject to the General Corporation Law, Division 1 of Title 1 of the California Corporations Code (Sections 100-2319). After the conversion discussed herein, the corporation would be subject to the Nonprofit Mutual Benefit Corporation Law, Part 3 of Division 2 of Title 1 of the California Corporations Code (Sections 7110-8910). As a mutual water company, Riviera West is also subject to Sections 14300-14303 of the Corporations Code, and would continue to be subject to those sections after the conversion.
2. On 3 May 1996, the Central Valley Water Board issued Waste Discharge Requirements (“WDR”) Order 96-099 (NPDES Permit No. CA0083925) to regulate discharges of filter backwash water from Riviera West’s WTP directly to Clear Lake, a water of the United States. On 19 July 2002, the Board issued WDR Order R5-2002-0130, which contained new regulations and rescinded Order 96-099. The WDR included effluent limitations and other requirements, and included a Monitoring and Reporting Program that required the submittal of periodic monitoring reports. Riviera West did not submit an application to allow the WDR to be renewed or administratively extended and, therefore, the permit expired on 30 June 2007.
3. On 19 July 2002, the Central Valley Water Board also issued a Cease and Desist Order (“CDO”) R5-2002-0131 requiring Riviera West to cease discharging contrary to WDR Order R5-2002-0130. The CDO required that Riviera West develop a source control program or

provide treatment measures in order to comply with the effluent limitations for chlorine, electrical conductivity, total dissolved solids, and aluminum by 19 July 2004.

**4.** The CDO also documented that Riviera West had not submitted any of the monitoring reports required under the previous WDR. As described in the CDO, for the period from June 1996 (when the requirements of Order No. 96-099 were effective) through May 2002 (when the CDO was drafted), Riviera West: (a) failed to submit 23 of the 23 required quarterly reports; (b) failed to submit the results of 308 of the 308 required weekly effluent turbidity, pH, and chlorine residual samples; (c) failed to submit the results of 2,160 of the required 2,160 daily effluent flow samples; and (d) failed to submit the results of 308 of the required 308 weekly raw water turbidity, pH, and temperature samples. The CDO required Riviera West to comply immediately with requirements in the Monitoring and Reporting Program for Order No. R5-2002-0130, and listed the potential civil liabilities that would accrue under California Water Code (“CWC”) sections 13383 and 13268 if Riviera West failed to submit monitoring reports.

**5.** On 21 November 2008, Jack Del Conte, the Assistant Executive Officer, acting as head of the Central Valley Water Board’s Prosecution Team, issued ACL Complaint R5-2008-0625 (“2008 ACL Complaint”) to Riviera West. The 2008 ACL Complaint proposed that the Central Valley Water Board assess \$3,945,000 in mandatory minimum penalties (“MMPs”). All but one of the MMPs were for failure to submit discharge monitoring reports between February 2004 and June 2007, when WDRs Order R5-2002-0130 expired. Penalties were initially calculated through June 2008, when the 2008 ACL Complaint was drafted. On 12 December 2008, Riviera West conditionally waived its right to a hearing in 90 days. Between November 2008 and mid-2011, the Parties engaged in several confidential settlement discussions, hoping to resolve the reporting violations through modifications being made to the State Water Resources Control Board’s Enforcement Policy, or through legislation affecting the MMP statutes in the Water Code. During this time frame, the Parties also met about the information still needed from Riviera West in order to issue a new WDR for land application of the WTP’s filter backwash water.

**6.** On 9 November 2011, the Prosecution Team issued a tentative ACL Order for \$2,586,000 to Riviera West. The proposed penalty amount was reduced from the 2008 ACL Complaint because (a) although Riviera West had not submitted annual reports, the failure to submit annual reports was not subject to MMPs, and (b) the calculation of penalties ended when the WDR Order expired (in June 2007) rather than continuing through the date that the ACL Complaint was drafted (in June 2008). However, after issuance of this tentative ACL Order, the Prosecution Team staff determined that there were additional effluent violations in the monitoring data that Riviera West submitted in the late 2008/early 2009 timeframe that had been overlooked. In the interest of resolving all MMP violations in a single hearing, the 2011 tentative ACL Order was withdrawn and revised to address all known violations.

**7.** In February 2012, the Prosecution Team issued a revised tentative ACL Order, which proposed \$2,844,000 in mandatory penalties, and addressed: (a) reporting violations that occurred from 1 February 2004 (i.e., 30 days after the effective date of CWC 13385.1) through June 2007 (i.e., the last report due under WDR Order R5-2002-0130), and (b) additional

effluent limitation violations that occurred from 1 December 2003 through 30 June 2006. On 2 February 2012, the Central Valley Water Board also adopted a new WDR for Riviera West, Order No. R5-2012-0008, which regulates the application of the WTP's filter backwash water to land.

**8.** The February 2012 revised tentative ACL Order was scheduled to be heard at the March 2012 Central Valley Water Board meeting, but was continued to the June 2012 Board meeting. At that time, the Executive Officer made a recommendation to the Central Valley Water Board to refer the matter to the California Attorney's General Office, notice of which was provided to all parties. The Central Valley Water Board elected to discuss the matter in closed session and then referred the case to the Attorney General pursuant to Water Code section 13385(b)(2). However, the Attorney General declined to take the case.

**9.** On 26 April 2013, the Central Valley Water Board Prosecution Team formally reinitiated the administrative enforcement process against Riviera West by issuing another ACL Order ("2013 tentative ACL Order"), and scheduling the matter for a hearing on 25/26 July 2013. The matter was reinitiated because the Prosecution Team believed that the Central Valley Water Board was obligated by law to assess the MMPs described in California Water Code section 13385, and the outstanding MMP violations had not yet been assessed. If adopted, the 2013 tentative ACL Order would resolve the same violations and same amount of MMPs (\$2,844,000) as contained in the February 2012 tentative Order.

**10.** The 2013 tentative ACL Order alleged that Riviera West failed to submit complete monitoring reports since at least 1996, even though the Water Board adopted a CDO in 2002 requiring that the reports be submitted. Although some monitoring data was submitted in early 2004, Riviera West did not submit a complete monitoring report between at least 1996 and 30 June 2007, when WDR Order R5-2002-0130 administratively expired.

**11.** The Prosecution Team's review of the case file found that on 1 March 2004, Riviera West submitted partial monitoring data for the period of December 2003 and January 2004. On 23 January 2009, Riviera West submitted laboratory reports for the period of December 2003 through April 2006, although Riviera West alleges copies of these reports were turned in previously on 27 October 2008. Additional laboratory data for January, March, and June of 2006 was found in Riviera West's 29 December 2008 Report of Waste Discharge. Although incomplete and submitted up to five years late, these reports allowed Central Valley Water Board staff to evaluate compliance with some of the effluent limitations set forth in WDR Order R5-2002-0130. The Prosecution Team believed that it was appropriate and legally required to assess MMPs for the effluent limit violations identified through the review of these laboratory reports.

**12.** CWC section 13385.1 took effect on 1 January 2004. This statutory provision, among other things, requires that regional boards assess MMPs for the failure to submit discharge monitoring reports if the report was designed to ensure compliance with limitations contained in the waste discharge requirements that contain effluent limitations. The 2013 tentative ACL Order alleged that Riviera West committed 820 serious violations for the non-submittal, or the

late submittal, of monitoring reports as required by WDR Order R5-2002-0130 during the period beginning 1 February 2004 and ending 1 August 2007, which was the due date for the last monitoring report (covering the month of June 2007) required by WDR Order R5-2002-0130. A detailed list of the alleged monitoring report violations is included in Attachment A, a part of this Stipulated Order.

**13.** The Prosecution Team alleges that the discharge monitoring report violations met the definition of serious, as found in CWC section 13385.1(a)(1), because the reports were designed to ensure compliance with limitations contained in waste discharge requirements that contain effluent limitations. Riviera West was previously notified, through adoption of the CDO, of its failure to file timely discharge monitoring reports. The mandatory minimum penalty for these serious violations is **two million four hundred sixty thousand dollars (\$2,460,000)**.

**14.** According to Riviera West's submitted monitoring data, the Prosecution Team alleges that Riviera West committed seventeen (17) serious Group I violations of the effluent limitations contained in Order R5-2002-0130 during the period beginning 1 December 2003 and ending 1 July 2007, when the permit expired. The violations were defined as serious because the measured concentration of Group I constituents exceeded maximum prescribed levels by more than 40 percent. The mandatory minimum penalty for these serious violations is **fifty-one thousand dollars (\$51,000)**.

**15.** According to Riviera West's submitted monitoring data, the Prosecution Team alleges that Riviera West committed forty-one (41) serious Group II violations of the effluent limitations contained in Order R5-2002-0130 during the period beginning 1 December 2003 and ending 1 July 2007, when the permit expired. The violations were defined as serious because the measured concentration of Group II constituents exceeded maximum prescribed levels by more than 20 percent. The mandatory minimum penalty for these serious violations is **one hundred twenty-three thousand dollars (\$123,000)**.

**16.** According to Riviera West's submitted monitoring data, the Prosecution Team alleges that the Riviera West committed seventy-two (72) non-serious violations of the effluent limitations contained in WDR Order R5-2002-0130 during the period beginning 1 December 2003 and ending 1 July 2007, when the permit expired. Non-serious violations are subject to mandatory penalties under CWC section 13385(i)(1) only when preceded by three or more violations of an effluent limitation within a six-month period. Because of the non-submittal of monitoring reports prior to December 2003, it is not possible to determine whether additional non-serious violations occurred in the previous six months. Therefore, no penalties were assessed for the first two non-serious violations. As shown in Attachment A, these violations were followed by seven serious violations and, therefore, the next non-serious violation was counted as being subject to mandatory penalties. The remaining seventy (70) non-serious violations are subject to mandatory penalties under CWC section 13385 subdivision (i)(1) because these violations were preceded by three or more violations within a six-month period. The mandatory minimum penalty for these non-serious violations is **two hundred ten thousand dollars (\$210,000)**.

**17.** The total amount of the mandatory minimum penalties proposed in the 2013 tentative ACL Order for the alleged effluent and reporting violations is **two million eight hundred forty-four thousand dollars (\$2,844,000)**. A detailed list of the alleged effluent and reporting violations is included in Attachment A, a part of this Order.

**18.** In response to the 2008 ACL Complaint, the intervening tentative ACL Orders in 2011 and 2012, and the 2013 tentative ACL Order, Riviera West submitted numerous objections and raised many legal, factual, and equitable arguments, including but not limited to statute of limitations and laches, the failure to exercise discretion, improper counting and imposition of effluent limit MMPs, and the inapplicability of the failure to report MMPs due to changes in legal requirements in the Water Code and the State Water Resources Control Board's Enforcement Policy. Riviera West also raised the issue and submitted evidence about its inability to pay the proposed penalty.

**19.** Given the inability of Riviera West to pay a \$2,844,000 penalty and the legal and factual issues particular to this case, it is likely that any assessment of this penalty outside of the settlement context proposed herein could never be paid and would be subject to being petitioned to the State Water Resources Control Board and then to the courts, at a significant cost to the State and Riviera West. With this understanding and putting aside the validity of the Parties' arguments and allegations, the Parties engaged in further settlement negotiations, commencing in May 2013, and now agree that it is in their mutual interest to resolve this matter without further administrative or civil litigation by presenting this Stipulated Order to the Central Valley Water Board, or its delegee, for adoption as an order by settlement pursuant to Government Code section 11415.60. As consideration for this Settlement Agreement, the public is receiving the improved water quality that will be made possible by the public funds that can be obtained once Riviera West converts to a nonprofit corporation, and the Prosecution Team is receiving the cost savings from avoiding additional years of protracted administrative and civil litigation by or against Riviera West. These factors were considered in accordance with the Enforcement Policy, and weigh in favor of the execution of this Settlement Agreement. 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 MMP violations that were or could have been alleged in the 2013 tentative ACL Order pursuant to WDR Order R5-2002-0130 except as provided in this Stipulated Order, and that this Stipulated Order is in the best interest of the public. Nothing in this paragraph is intended to limit the authority of the Central Valley Water Board to take any discretionary enforcement actions.

**20.** To resolve the 2008 ACL Complaint and the 2013 tentative ACL Order by consent and without further administrative or judicial proceedings, the Parties have agreed to the imposition of \$2,844,000 in liability, the total amount of the 2013 tentative ACL Order, against the Respondent Riviera-West Mutual Water Company, a general (i.e., stock) corporation, and to the adoption of an Order against Riviera West. This penalty will be conditional, as set forth in more detail below, based upon the ability of Riviera West to obtain an affirmative vote by the majority of Riviera West's current shareholders to convert the corporation into a nonprofit

mutual benefit corporation, and upon the California Department of Public Health funds being timely committed and obtained for planned drinking water treatment plant upgrades.

### **SECTION III: STIPULATIONS**

NOW, THEREFORE, in consideration of the execution of this Agreement and the releases, satisfactions, and promises made herein, it is hereby agreed upon and stipulated by the Parties as follows:

#### **1. Good Faith Effort and Cooperation For Department of Public Health Funding:**

Riviera West initially in its current corporate form, and then in its converted form as a nonprofit corporation (assuming the corporate conversion described in paragraph 2(b)(i) below proceeds successfully), shall work diligently and in good faith to obtain approximately \$2.5 million in grants and/or loans from the Department of Public Health ("DPH") that will be used to plan, design, and construct a new drinking water treatment plant to serve treated water to the residents of the Riviera West subdivision. The Central Valley Water Board agrees to help support and encourage the DPH to expeditiously fund this new drinking water treatment plant upgrade project.

#### **2. Administrative Civil Liability Penalty:**

- a. Riviera West hereby agrees to the imposition of an administrative civil liability penalty totaling \$2,844,000 (the "Penalty") in order to resolve the 2008 ACL Complaint and 2013 tentative ACL Order by consent without further administrative or judicial proceedings as set forth herein.
- b. However, this penalty will be suspended while Riviera West successfully and timely does the following:
  - i. A majority of the current shareholders of Riviera West vote on or about 17 August 2013, to approve the conversion of Riviera West from a general stock corporation to a nonprofit mutual benefit corporation, which may be renamed "Harbor View Mutual Water Company"; and
  - ii. The converted corporate entity, a nonprofit mutual benefit corporation, proceeds with the public funding requests currently pending with DPH, valued at approximately \$2.5 million and, upon receipt, uses these funds to plan, design and construct treatment process upgrades at the drinking WTP in order to improve water quality and meet the drinking water standards regulated by DPH.
- c. In the event that a vote is not held or the shareholders **do not** approve the corporate conversion described in subsection (b)(i), the Stipulated Order will be null and void and the Prosecution Team can proceed to seek the \$2,844,000 administrative civil liability against Riviera West, and place this matter on the Central Valley Water Board's next available hearing calendar, unless a further stipulation is reached.
- d. If the vote is held and the shareholders **do** approve the corporate conversion described in subsection (b)(i), the converted nonprofit mutual benefit corporation will have 150 calendar days from the effective date of the nonprofit mutual benefit corporation conversion ("Conversion Effective Date" - defined as the date that the Certificate of Amendment of Articles of Incorporation effecting the conversion is filed

by the Secretary of State, or any later stipulated date) to secure a commitment for funding from DPH and to confirm in writing to the Central Valley Water Board that such funds will be restricted to planning, design and construction of treatment process improvements in order to improve water quality from the WTP. If, at the end of the above mentioned 150-day period, no such written confirmation has been received, the Stipulated Order will be null and void and the Prosecution Team can proceed to seek the \$2,844,000 administrative civil liability against Riviera West or the converted nonprofit corporation, and the Prosecution Team will place this matter on the Central Valley Water Board's next available hearing calendar, unless a further stipulation is reached to extend the time for compliance.

- e. The Parties further agree that so long as Riviera West or the converted nonprofit is in the process of complying with or complies with subsections 2(b)(ii) and 2(d) above:
  - i. From the Agreement Effective Date until and after the Conversion Effective Date, neither the Central Valley Water Board or State Water Resources Control Board, nor its intermediary, agent, or delegate, shall exercise its right or ability to seek payment or collection of any portion of the Penalty under Water Code section 13328 or other provision of law against Riviera West or the converted nonprofit corporation; and
  - ii. After the Conversion Effective Date, the Penalty will not be assessed against the converted nonprofit mutual benefit corporation by the Central Valley Water Board or State Water Resources Control Board, either directly or through an intermediary, agent, or delegate.
- f. Upon submission to the Central Valley Water Board of: 1) a copy of the filed Certificate of Amendment of the Articles of Incorporation effecting the conversion; 2) documentation of the receipt of a commitment of funds from the DPH; and 3) a written commitment by the nonprofit corporation to use the funds received from DPH for upgrading the drinking WTP infrastructure, the Penalty imposed on Riviera West hereunder will be expunged in its entirety and will effectively be considered no longer due or payable.

**3. Publicity:** Should Riviera West or its successors, agents, or subcontractors publicize one or more elements of this Agreement or the improvements to its drinking water treatment facility as a result of the DPH funding, it shall state in a prominent manner that the project is being funded, in part, as a result of the settlement of an enforcement action by the Central Valley Water Board against Riviera West.

**4. Compliance with Applicable Laws:** Riviera West understands that the assessment or payment of an administrative civil liability penalty 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 violations of the law or its current WDR may subject it to further enforcement, including additional administrative civil liability penalties, as applicable.

**5. Party Contacts for Communications related to Stipulated Order:**

**For the Central Valley Water Board Prosecution Team:**

Wendy Wyels  
c/o Regional Water Quality Control Board  
Central Valley Region  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670  
(916) 464-4835  
[wwyels@waterboards.ca.gov](mailto:wwyels@waterboards.ca.gov)

**For Riviera-West Mutual Water Company:**

Thomas Smythe  
Board of Directors President  
Riviera-West Mutual Water Company  
8475 Harbor View Drive  
Kelseyville, CA 95451  
[Thomas.Smythe@att.net](mailto:Thomas.Smythe@att.net)

With a copy to:

Melissa Thorme,  
Special Counsel for Respondent  
c/o Downey Brand LLP  
621 Capitol Mall, 18th Floor  
Sacramento, CA 95814  
(916) 520-5376  
[mthorme@downeybrand.com](mailto:mthorme@downeybrand.com)

**6. 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.

**7. Matters Addressed by Stipulation:** After public notice as set forth in Stipulation Paragraph 8 below, and upon the Central Valley Water Board's adoption of this Stipulated Order or signature by the delegated Assistant Executive Officer acting for the Central Valley Water Board, this Order will represent a final and binding resolution and settlement of the violations alleged in the 2008 ACL Complaint and the 2013 tentative ACL Order. The provisions of this Paragraph are expressly conditioned on compliance with the conditions set forth in Stipulation Paragraph 2, above. As set forth in Stipulation Paragraph 13 below, if this stipulation, settlement agreement, or order are challenged and overturned, then the Stipulation and Order become null and void and the Prosecution Team must re-prosecute any further penalties.

**8. Public Notice:** Riviera West understands that this Stipulated Order will be noticed for a 30-day public review and comment period prior to consideration by the Central Valley Water Board, or its delegee. If significant new information is received that reasonably and substantially affects the propriety of presenting this Stipulated Order to the Central Valley Water Board, or its delegee, for adoption, the Executive Officer may unilaterally declare this Stipulated Order null and void and decide not to present it to the Central Valley Water Board, or its delegee, for final signature. Riviera West agrees that it may not rescind or otherwise withdraw its approval of this proposed Stipulated Order, except as set forth herein.

**9. Addressing Objections Raised During Public Comment Period:** The Parties agree that the procedure contemplated for the Central Valley 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.

**10. No Waiver of Right to Enforce:** The failure of the Prosecution Team or Central Valley 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. Except as set forth herein, the failure of the Prosecution Team or Central Valley Water Board to enforce any such provision shall not preclude it from later enforcing the same or any other provision of this Stipulated Order.

**11. 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.

**12. 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 Central Valley Water Board, or its delegee.

**13. If Order Does Not Take Effect:** In the event that this Stipulated Order does not take effect because it is not presented to or approved by the Central Valley Water Board or its delegee, or is challenged and vacated in whole or in part by the State Water Resources Control Board or a court, the Parties acknowledge that they expect to resume the Hearing Procedures where halted due to this Agreement, and proceed to a contested evidentiary hearing before the Central Valley Water Board at the earliest available hearing date to determine whether to assess administrative civil liability penalties for the underlying alleged violations, unless the Parties agree otherwise. For that hearing, the Parties agree that all oral and written statements and agreements made during the course of settlement discussions will not be admissible as evidence, and the Parties agree to waive the following objections based on Riviera West's active engagement in settlement communications in this matter:

- a. Objections related to prejudice or bias of any of the Central Valley Water Board members or their advisors and any other objections that are premised in whole or in part on the fact that the Central Valley 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 Stipulated Order, and therefore may have formed impressions or conclusions prior to any contested evidentiary hearing on the 2008 ACL Complaint or 2013 tentative ACL Order issued in this matter; or

- b. Laches, delay, or other equitable defenses based on the time period from the Agreement Effective Date until the conclusion of the administrative or judicial review to the extent this period was extended by these settlement proceedings. However, Riviera West and the converted nonprofit mutual benefit corporation shall maintain all arguments regarding laches, delay, and all other legal and factual arguments and equitable defenses raised before the execution of the Agreement if this matter proceeds to a hearing in the future.

**14. No Admission of Liability/No Waiver of Defenses:** In settling this matter, Riviera West does not admit to liability or to the truth of the findings or allegations made by the Prosecution Team in the 2008 ACL Complaint, the intervening tentative ACL orders, or the 2013 tentative ACL Order, does not admit to any of the findings in this Stipulated Order, and does not admit to any violation of the Water Code, any Central Valley Water Board Order, or any other federal, state, or local laws or ordinances, but recognizes that this Stipulated Order may be used as evidence of resolution of a prior enforcement action consistent with Water Code section 13327 and the Enforcement Policy. By entering into this agreement, neither Riviera West nor the converted nonprofit corporation have waived any defenses or arguments related to any new enforcement action that may be brought by the Central Valley Water Board under its reserved discretionary enforcement authority in Section II, Recitals, Paragraph 19 above.

**15. Waiver of Hearing:** Riviera West has been informed of the rights provided by CWC section 13323(b), and hereby waives its right to a hearing before the Central Valley Water Board prior to the adoption of the Stipulated Order. However, should the conditions in Stipulation Paragraph 2 not be met, and should the matter proceed to the Central Valley Water Board or State Water Resources Control Board for hearing, Riviera West and/or the converted nonprofit mutual benefit corporation do not waive the right to a hearing before the 2013 tentative ACL Order or another Order is imposed.

**16. Waiver of Right to Petition:** Riviera West hereby waives its right to petition the Central Valley 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 Stipulated Order to a California Superior Court and/or any California appellate level court. However, should the Stipulated Order be declared null and void for any of the reasons set forth herein, Riviera West and/or the converted nonprofit mutual benefit corporation do not waive the right to petition or otherwise appeal or challenge a ruling of the Central Valley Water Board or the State Water Resources Control Board on the 2013 tentative ACL Order or another final Order, if imposed. Nothing in this paragraph is intended to create an interim appealable order.

**17. Covenant Not to Sue:** Riviera West covenants not to sue or affirmatively pursue any administrative or civil claim(s) against any state agency or the State of California, their officers,

Central Valley Water Board Members, employees, representatives, agents, or attorneys arising out of or relating to this Stipulated Order, except that this covenant is not intended to, and does not limit Riviera West's rights to sue over other Central Valley Water Board orders (e.g., permits, CDOs, etc.) or limit Riviera West's rights to defend against any additional enforcement or other actions taken by the Central Valley Water Board or its employees, representatives, agents, or attorneys, and shall not release any claims or complaints against any state agency or the State of California, their officers, Central Valley Water Board Members, employees, representatives, agents, or attorneys to the extent such covenant would be prohibited by California Business and Professions Code Section 6090.5 or by any other statute, rule, regulation or legal principle of similar effect.

**18. Central Valley Water Board is Not Liable:** Neither the Central Valley Water Board members nor the Central Valley Water Board staff, attorneys, or representatives shall be liable for any injury or damage to persons or property resulting from acts or omissions by Riviera West, its directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Stipulated Order.

**19. 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.

**20. 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. For purposes of this Agreement, the converted nonprofit corporation will not be considered a third party.

**21. Agreement Effective Date:** This Stipulated Order shall be effective and binding on the Parties upon the date the Central Valley Water Board, or its delegee, signs the Order.

**22. 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  
Central Valley Region

By:



Pamela Crendon,  
Executive Officer

Date: July 24, 2013

SETTLEMENT AGREEMENT AND STIPULATION  
FOR ENTRY OF ORDER  
ORDER NO. R5-2013-~~XXX~~ 0571  
RIVIERA WEST MUTUAL WATER COMPANY

-12-

Riviera-West Mutual Water Company, a California corporation

By: Thomas Smythe  
Thomas Smythe,  
President

Date: July 14, 2013

**APPROVED AS TO FORM:**

State Water Resources Control Board's Office of Enforcement

By: Julie Macedo  
Julie Macedo  
Counsel for Prosecution Team

Date: July 12, 2013

Downey Brand LLP

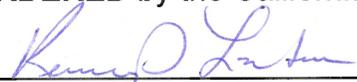
By: Melissa Thorne  
Melissa Thorne  
Special Counsel for  
Riviera West Mutual Water Company

Date: July 12, 2013

**ORDER OF THE CENTRAL VALLEY WATER BOARD:**

1. In adopting this Stipulated Order, the Central Valley 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 Central Valley Water Board's staff in investigating the allegations in the 2008 ACL Complaint and the 2013 tentative ACL Order, or were otherwise provided to the Central Valley Water Board or its delegee by the Parties and members of the public.
2. This is an action to enforce the laws and regulations administered by the Central Valley Water Board. The Central Valley 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 Central Valley Water Board.

Pursuant to CWC section 13323 and Government Code section 11415.60, **IT IS HEREBY ORDERED** by the California Regional Water Quality Control Board, Central Valley Region.

  
\_\_\_\_\_  
(Signature)  
KENNETH D. LANDAU  
ASSISTANT EXECUTIVE OFFICER  
\_\_\_\_\_  
(Print Name and Title)

Date: 4 SEPTEMBER, 2013

**IT IS HEREBY ORDERED THAT:**

1. The Respondent Riviera-West Mutual Water Company, a California corporation ("Riviera West"), shall be assessed an administrative civil liability in the amount of **two million eight hundred forty-four thousand dollars (\$2,844,000)** in mandatory minimum penalties, the total amount of the 2013 tentative ACL Order, in order to resolve the 2008 ACL Complaint and 2013 tentative ACL Order by consent without further administrative or judicial proceedings.
  - a. However, this penalty will be suspended while Riviera West successfully and timely does the following:
    - i. A majority of the current shareholders of Riviera West vote on or about 17 August 2013, to approve the conversion of Riviera West from a general stock corporation to a nonprofit mutual benefit corporation, which may be renamed "Harbor View Mutual Water Company"; and

SETTLEMENT AGREEMENT AND STIPULATION  
FOR ENTRY OF ORDER  
ORDER NO. R5-2013-0571  
RIVIERA WEST MUTUAL WATER COMPANY

- ii. The converted corporate entity, a nonprofit mutual benefit corporation, proceeds with the public funding requests currently pending with the California Department of Public Health (“DPH”), valued at approximately \$2.5 million and, upon receipt, uses these funds to plan, design and construct treatment process upgrades at the drinking water treatment plant (“WTP”) in order to improve water quality and meet the drinking water standards regulated by DPH.
- b. In the event that a vote is not held or the shareholders **do not** approve the corporate conversion described in subsection (b)(i), the Stipulated Order will be null and void and the Prosecution Team can proceed to seek the \$2,844,000 administrative civil liability against Riviera West, and place this matter on the Central Valley Water Board’s next available hearing calendar, unless a further stipulation is reached.
- c. If the vote is held and the shareholders **do** approve the corporate conversion described in subsection (b)(i), the converted nonprofit mutual benefit corporation will have 150 calendar days from the effective date of the nonprofit mutual benefit corporation conversion (“Conversion Effective Date” - defined as the date that the Certificate of Amendment of Articles of Incorporation effecting the conversion is filed by the Secretary of State, or any later stipulated date) to secure a commitment for funding from DPH and to confirm in writing to the Central Valley Water Board that such funds will be restricted to planning, design and construction of treatment process improvements in order to improve water quality from the WTP. If, at the end of the above mentioned 150-day period, no such written confirmation has been received, the Stipulated Order will be null and void and the Prosecution Team can proceed to seek the \$2,844,000 administrative civil liability against Riviera West or the converted nonprofit corporation, and the Prosecution Team will place this matter on the Central Valley Water Board’s next available hearing calendar, unless a further stipulation is reached to extend the time for compliance.
- d. The Parties further agree that so long as Riviera West or the converted nonprofit is in the process of complying with or complies with subsections 2(b)(ii) and 2(d) above:
  - i. From the Agreement Effective Date until and after the Conversion Effective Date, neither the Central Valley Water Board or State Water Resources Control Board, nor its intermediary, agent, or delegate, shall exercise its right or ability to seek payment or collection of any portion of the Penalty under Water Code section 13328 or other provision of law against Riviera West or the converted nonprofit corporation; and
  - ii. After the Conversion Effective Date, the Penalty will not be assessed against the converted nonprofit mutual benefit corporation by the Central Valley Water Board or State Water Resources Control Board, either directly or through an intermediary, agent, or delegate.
- e. Upon submission to the Central Valley Water Board of: 1) a copy of the filed Certificate of Amendment of the Articles of Incorporation effecting the conversion; 2) documentation of the receipt of a commitment of funds from the DPH; and 3) a written commitment by the nonprofit corporation to use the funds received from DPH for upgrading the drinking WTP infrastructure, the Penalty imposed on Riviera West

SETTLEMENT AGREEMENT AND STIPULATION  
FOR ENTRY OF ORDER  
ORDER NO. R5-2013-0571  
RIVIERA WEST MUTUAL WATER COMPANY

hereunder will be expunged in its entirety and will effectively be considered no longer due or payable.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Resources Control Board to review the action in accordance with California Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Resources Control Board must receive the petition by 5:00 p.m., within 30 days after this Order was adopted. If the thirtieth day following the date that this order was adopted falls on a Saturday, Sunday, or state holiday, then the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: [http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

I, Ken Landau, Assistant Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on 4 SEPTEMBER, 2013.



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KEN LANDAU, Assistant Executive Officer

Attachment A: Record of Violations  
/WSW:28-Aug-13

**ATTACHMENT A  
RIVERA WEST MUTUAL WATER COMPANY  
ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R5-2013-0571**

**TABLE 1: MANDATORY PENALTIES FOR FAILURE TO SUBMIT REPORTS**

Record of Violations from 1 January 2004 (when CWC section 13385.1 took effect)  
through 1 August 2007 (when the last monitoring report was due)

	<u>SMR</u>	<u>Due Date</u>	<u># of 30-day Periods Late</u>	<u>MMPs Accrued</u>	<u>Remarks</u>
1	Feb-04	1-Apr-04	40	\$120,000	1
2	Mar-04	1-May-04	39	\$117,000	1
3	Apr-04	1-Jun-04	38	\$114,000	1
4	May-04	1-Jul-04	37	\$111,000	1
5	Jun-04	1-Aug-04	36	\$108,000	1
6	Jul-04	1-Sep-04	35	\$105,000	1
7	Aug-04	1-Oct-04	34	\$102,000	1
8	Sep-04	1-Nov-04	33	\$99,000	1
9	Oct-04	1-Dec-04	32	\$96,000	1
10	Nov-04	1-Jan-05	31	\$93,000	1
11	Dec-04	1-Feb-05	30	\$90,000	1
12	Jan-05	1-Mar-05	29	\$87,000	1
13	Feb-05	1-Apr-05	28	\$84,000	1
14	Mar-05	1-May-05	27	\$81,000	1
15	Apr-05	1-Jun-05	26	\$78,000	1
16	May-05	1-Jul-05	25	\$75,000	1
17	Jun-05	1-Aug-05	24	\$72,000	1
18	Jul-05	1-Sep-05	23	\$69,000	1
19	Aug-05	1-Oct-05	22	\$66,000	1
20	Sep-05	1-Nov-05	21	\$63,000	1
21	Oct-05	1-Dec-05	20	\$60,000	1
22	Nov-05	1-Jan-06	19	\$57,000	1
23	Dec-05	1-Feb-06	18	\$54,000	1
24	Jan-06	1-Mar-06	17	\$51,000	1
25	Feb-06	1-Apr-06	16	\$48,000	1
26	Mar-06	1-May-06	15	\$45,000	1
27	Apr-06	1-Jun-06	14	\$42,000	1
28	May-06	1-Jul-06	13	\$39,000	1
29	Jun-06	1-Aug-06	12	\$36,000	1
30	Jul-06	1-Sep-06	11	\$33,000	1
31	Aug-06	1-Oct-06	10	\$30,000	1
32	Sep-06	1-Nov-06	9	\$27,000	1
33	Oct-06	1-Dec-06	8	\$24,000	1
34	Nov-06	1-Jan-07	7	\$21,000	1
35	Dec-06	1-Feb-07	6	\$18,000	1
36	Jan-07	1-Mar-07	5	\$15,000	1

	<u>SMR</u>	<u>Due Date</u>	<u># of 30-day Periods Late</u>	<u>MMPs Accrued</u>	<u>Remarks</u>
37	Feb-07	1-Apr-07	4	\$12,000	1
38	Mar-07	1-May-07	3	\$9,000	1
39	Apr-07	1-Jun-07	2	\$6,000	1
40	May-07	1-Jul-07	1	\$3,000	1
41	Jun-07	1-Aug-07	0	0	--

Remarks:

1. Serious Violation: Failure to file a discharge monitoring report for each complete period of 30 days following the deadline for submitting the report. The period ends in August 2007, when the last monitoring report required by the WDRs was due.

**VIOLATIONS AS OF: 8/1/2007**  
Group I Serious Violations: 820  
**Total Violations Subject to MPs: 820**

**Mandatory Minimum Penalty = (820 cumulative 30-day violations) x \$3,000 = \$2,460,000**

**TABLE 2: MANDATORY PENALTIES FOR EFFLUENT LIMITATIONS VIOLATIONS**

Record of Violations from 1 December 2003 through 30 June 2006. Because monitoring reports were not submitted prior to December 2003 or after June 2006, it was not possible to determine if there were additional effluent limitation violations during the life of the permit. It is also noted that the monitoring reports were incomplete so there may have been additional violations that were not reported.

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measured</u>	<u>Period Type</u>	<u>Remarks</u>
1	23-Dec-03	pH	pH Units	≥6.5	6.4	Instantaneous	3
2	23-Dec-03	Dissolved Oxygen	mg/L	≥7.0	ND(<0.1)	Instantaneous	3
3	23-Dec-03	Chlorine	mg/L	0.02	0.57	Daily Maximum	2
4	23-Dec-03	Chlorine	mg/L	0.01	0.57	4-Day	2
5	23-Dec-03	Aluminum	µg/L	750	13,000	1-Hour	1
6	23-Dec-03	Aluminum	µg/L	87	13,000	4-Day	1
7	31-Dec-03	Chlorine	mg/L	0.02	0.35	Daily Maximum	2
8	31-Dec-03	Chlorine	mg/L	0.01	0.35	4-Day	2
9	31-Dec-03	Bromodichloromethane	µg/L	0.56	2.9	Monthly	2
10	31-Dec-03	Dissolved Oxygen	mg/L	≥7.0	ND(<0.1)	Instantaneous	4
11	7-Jan-04	Dissolved Oxygen	mg/L	≥7.0	0.19	Instantaneous	4
12	7-Jan-04	Chlorine	mg/L	0.02	0.45	Daily Maximum	2
13	7-Jan-04	Chlorine	mg/L	0.01	0.45	4-Day	2
14	7-Jan-04	Aluminum	µg/L	87	320	4-Day	1
15	14-Jan-04	Dissolved Oxygen	mg/L	≥7.0	ND(<0.1)	Instantaneous	4
16	14-Jan-04	pH	pH Units	≥6.5	6.2	Instantaneous	4
17	16-Jan-04	Dissolved Oxygen	mg/L	≥7.0	ND	Instantaneous	4
18	16-Jan-04	Chlorine	mg/L	0.02	0.66	Daily Maximum	2
19	16-Jan-04	Chlorine	mg/L	0.01	0.66	4-Day	2
20	21-Jan-04	Chlorine	mg/L	0.02	0.03	Daily Maximum	2
21	21-Jan-04	Chlorine	mg/L	0.01	0.03	4-Day	2

ATTACHMENT A  
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	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measured</u>	<u>Period Type</u>	<u>Remarks</u>
22	21-Jan-04	pH	pH Units	≥6.5	6.4	Instantaneous	4
23	21-Jan-04	Dissolved Oxygen	mg/L	≥7.0	0.11	Instantaneous	4
24	28-Jan-04	Dissolved Oxygen	mg/L	≥7.0	0.19	Instantaneous	4
25	28-Jan-04	Chlorine	mg/L	0.02	0.36	Daily Maximum	2
26	28-Jan-04	Chlorine	mg/L	0.01	0.36	4-Day	2
27	31-Jan-04	Bromodichloromethane	µg/L	0.56	7.0	Monthly	2
28	2-Feb-04	Aluminum	µg/L	87	160	4-Day	1
29	4-Feb-04	Dissolved Oxygen	mg/L	≥7.0	0.16	Instantaneous	4
30	11-Feb-04	Dissolved Oxygen	mg/L	≥7.0	0.12	Instantaneous	4
31	25-Feb-04	Dissolved Oxygen	mg/L	≥7.0	ND(<0.1)	Instantaneous	4
32	29-Feb-04	Bromodichloromethane	µg/L	0.56	7.5	Monthly	2
33	3-Mar-04	Dissolved Oxygen	mg/L	≥7.0	ND(<0.1)	Instantaneous	4
34	3-Mar-04	Aluminum	µg/L	87	220	4-Day	1
35	12-Mar-04	Dissolved Oxygen	mg/L	≥7.0	ND(<0.1)	Instantaneous	4
36	18-Mar-04	Dissolved Oxygen	mg/L	≥7.0	0.4	Instantaneous	4
37	24-Mar-04	Dissolved Oxygen	mg/L	≥7.0	ND(<0.1)	Instantaneous	4
38	31-Mar-04	Dissolved Oxygen	mg/L	≥7.0	ND(<0.1)	Instantaneous	4
39	31-Mar-04	Bromodichloromethane	µg/L	0.56	4.8	Monthly	2
40	14-Apr-04	Dissolved Oxygen	mg/L	≥7.0	0.12	Instantaneous	4
41	22-Apr-04	Dissolved Oxygen	mg/L	≥7.0	0.17	Instantaneous	4
42	28-Apr-04	Dissolved Oxygen	mg/L	≥7.0	ND(<0.1)	Instantaneous	4
43	30-Apr-04	Bromodichloromethane	µg/L	0.56	6.0	Monthly	2
44	5-May-04	Dissolved Oxygen	mg/L	≥7.0	0.12	Instantaneous	4
45	5-May-04	Aluminum	µg/L	87	170	4-Day	1
46	12-May-04	Dissolved Oxygen	mg/L	≥7.0	0.14	Instantaneous	4
47	19-May-04	Dissolved Oxygen	mg/L	≥7.0	ND(<0.1)	Instantaneous	4
48	27-May-04	Dissolved Oxygen	mg/L	≥7.0	ND(<0.1)	Instantaneous	4
49	31-May-04	Bromodichloromethane	µg/L	0.56	6.5	Monthly	2
50	3-Jun-04	Dissolved Oxygen	mg/L	≥7.0	0.7	Instantaneous	4
51	10-Jun-04	Dissolved Oxygen	mg/L	≥7.0	0.7	Instantaneous	4
52	10-Jun-04	Aluminum	µg/L	87	530	4-Day	1
53	18-Jun-04	Dissolved Oxygen	mg/L	≥7.0	ND(<0.1)	Instantaneous	4
54	23-Jun-04	Dissolved Oxygen	mg/L	≥7.0	ND(<0.1)	Instantaneous	4
55	30-Jun-04	Bromodichloromethane	µg/L	0.56	6.6	Monthly	2
56	7-Jul-04	Dissolved Oxygen	mg/L	≥7.0	ND(<0.1)	Instantaneous	4
57	14-Jul-04	Dissolved Oxygen	mg/L	≥7.0	ND(<0.1)	Instantaneous	4
58	21-Jul-04	Dissolved Oxygen	mg/L	≥7.0	ND(<0.1)	Instantaneous	4
59	28-Jul-04	Dissolved Oxygen	mg/L	≥7.0	ND(<0.1)	Instantaneous	4
60	31-Jul-04	Bromodichloromethane	µg/L	0.56	6.3	Monthly	2
61	4-Aug-04	Dissolved Oxygen	mg/L	≥7	ND(<0.1)	Instantaneous	4
62	31-Aug-04	Bromodichloromethane	µg/L	0.56	9.3	Monthly	2

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	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measured</u>	<u>Period Type</u>	<u>Remarks</u>
63	3-Sep-04	Aluminum	µg/L	750	840	1-hour	4
64	3-Sep-04	Aluminum	µg/L	87	840	4-Day	1
65	3-Sep-04	Dissolved Oxygen	mg/L	≥7.0	0.12	Instantaneous	4
66	8-Sep-04	Dissolved Oxygen	mg/L	≥7.0	0.16	Instantaneous	4
67	15-Sep-04	Dissolved Oxygen	mg/L	≥7.0	ND(<0.1)	Instantaneous	4
68	22-Sep-04	Dissolved Oxygen	mg/L	≥7.0	0.1	Instantaneous	4
69	29-Sep-04	Dissolved Oxygen	mg/L	≥7.0	ND<0.1	Instantaneous	4
70	30-Sep-04	Bromodichloromethane	µg/L	0.56	8.6	Monthly	2
71	6-Oct-04	Dissolved Oxygen	mg/L	≥7.0	ND(<0.1)	Instantaneous	4
72	15-Oct-04	Dissolved Oxygen	mg/L	≥7.0	ND(<0.1)	Instantaneous	4
73	20-Oct-04	Dissolved Oxygen	mg/L	≥7.0	ND(<0.1)	Instantaneous	4
74	20-Oct-04	pH	pH Units	6.5	6.3	Instantaneous	4
75	27-Oct-04	Dissolved Oxygen	mg/L	≥7.0	ND(<0.1)	Instantaneous	4
76	31-Oct-04	Bromodichloromethane	µg/L	0.56	7.4	Monthly	2
77	10-Nov-04	Dissolved Oxygen	mg/L	≥7.0	0.1	Instantaneous	4
78	10-Nov-04	pH	pH Units	≥6.5	6.4	Instantaneous	4
79	17-Nov-04	Dissolved Oxygen	mg/L	≥7.0	ND(<0.1)	Instantaneous	4
80	24-Nov-04	Dissolved Oxygen	mg/L	≥7.0	0.1	Instantaneous	4
81	1-Dec-04	Dissolved Oxygen	mg/L	≥7.0	0.1	Instantaneous	4
82	8-Dec-04	Dissolved Oxygen	mg/L	≥7.0	0.17	Instantaneous	4
83	15-Dec-04	Dissolved Oxygen	mg/L	≥7.0	0.13	Instantaneous	4
84	22-Dec-04	Dissolved Oxygen	mg/L	≥7.0	ND(<0.1)	Instantaneous	4
85	29-Dec-04	Dissolved Oxygen	mg/L	≥7.0	ND(<0.1)	Instantaneous	4
86	31-Dec-04	Bromodichloromethane	µg/L	0.56	2.7	Monthly	2
87	19-Jan-05	Dissolved Oxygen	mg/L	≥7.0	0.14	Instantaneous	4
88	19-Jan-05	Aluminum	µg/L	87	120	4-Day	4
89	26-Jan-05	Dissolved Oxygen	mg/L	≥7.0	0.11	Instantaneous	4
90	31-Jan-05	Bromodichloromethane	µg/L	0.56	6.4	Monthly	2
91	2-Feb-05	Dissolved Oxygen	mg/L	≥7.0	0.23	Instantaneous	4
92	9-Feb-05	Dissolved Oxygen	mg/L	≥7.0	0.21	Instantaneous	4
93	16-Feb-05	Dissolved Oxygen	mg/L	≥7.0	0.14	Instantaneous	4
94	28-Feb-05	Bromodichloromethane	µg/L	0.56	6.2	Monthly	2
95	31-Mar-05	Bromodichloromethane	µg/L	0.56	8.3	Monthly	2
96	13-Apr-05	Aluminum	µg/L	87	96	4-Day	4
97	30-Apr-05	Bromodichloromethane	µg/L	0.56	10.2	Monthly	2
98	4-May-05	Aluminum	µg/L	87	120	4-Day	4
99	18-May-05	Aluminum	µg/L	87	310	4-Day	1
100	31-May-05	Bromodichloromethane	µg/L	0.56	9.4	Monthly	2
101	30-Jun-05	Bromodichloromethane	µg/L	0.56	7.6	Monthly	2
102	13-Jul-05	Dissolved Oxygen	mg/L	≥7.0	0.84	Instantaneous	4
103	13-Jul-05	Aluminum	µg/L	87	100	4-Day	4

	<u>Date</u>	<u>Violation Type</u>	<u>Units</u>	<u>Limit</u>	<u>Measured</u>	<u>Period Type</u>	<u>Remarks</u>
104	31-Jul-05	Bromodichloromethane	µg/L	0.56	2.8	Monthly	2
105	5-Aug-05	Dissolved Oxygen	mg/L	≥7.0	6.2	Instantaneous	4
106	5-Aug-05	Aluminum	µg/L	87	220	4-Day	1
107	18-Aug-05	Dissolved Oxygen	mg/L	≥7.0	6.7	Instantaneous	4
108	24-Aug-05	Dissolved Oxygen	mg/L	≥7.0	5.4	Instantaneous	4
109	31-Aug-05	Bromodichloromethane	µg/L	0.56	5.0	Monthly	2
110	21-Sep-05	Dissolved Oxygen	mg/L	≥7.0	6.7	Instantaneous	4
111	21-Sep-05	Aluminum	µg/L	87	90	4-Day	4
112	30-Sep-05	Bromodichloromethane	µg/L	0.56	6.3	Monthly	2
113	5-Oct-05	Dissolved Oxygen	mg/L	≥7.0	6.7	Instantaneous	4
114	5-Oct-05	Aluminum	µg/L	87	430	4-Day	1
115	12-Oct-05	Dissolved Oxygen	mg/L	≥7.0	4.2	Instantaneous	4
116	31-Oct-05	Bromodichloromethane	µg/L	0.56	3.6	Monthly	2
117	2-Nov-05	Dissolved Oxygen	mg/L	≥7.0	6.6	Instantaneous	4
118	2-Nov-05	Aluminum	µg/L	87	200	4-Day	1
119	30-Nov-05	Bromodichloromethane	µg/L	0.56	3.9	Monthly	2
120	31-Dec-05	Bromodichloromethane	µg/L	0.56	4.37	Monthly	2
121	11-Jan-06	Aluminum	µg/L	87	200	4-Day	1
122	31-Jan-06	Bromodichloromethane	µg/L	0.56	2.44	Monthly	2
123	1-Feb-06	Aluminum	µg/L	87	170	4-Day	1
124	28-Feb-06	Bromodichloromethane	µg/L	0.56	5.2	Monthly	2
125	1-Mar-06	Aluminum	µg/L	87	160	4-Day	1
126	31-Mar-06	Bromodichloromethane	µg/L	0.56	4.32	Monthly	2
127	12-Apr-06	Aluminum	µg/L	87	170	4-Day	1
128	30-Apr-06	Bromodichloromethane	µg/L	0.56	3.97	Monthly	2
129	7-Jun-06	Aluminum	µg/L	87	170	4-Day	1
130	30-Jun-06	Bromodichloromethane	µg/L	0.56	2.63	Monthly	2

Remarks:

1. Serious Violation: For Group I pollutants that exceed the effluent limitation by 40 percent or more.
2. Serious Violation: For Group II pollutants that exceed the effluent limitation by 20 percent or more.
3. Non-serious violation falls within the first three violations in a six-month period, thus is not subject to mandatory minimum penalties.
4. Non-serious violation subject to mandatory minimum penalties.

<b><u>VIOLATIONS AS OF:</u></b>	<b><u>8/1/2007</u></b>
Group I Serious Violations:	17
Group II Serious Violations:	41
Non-Serious Exempt from MPs:	2
Non-serious Violations Subject to MPs:	70
<b><u>Total Violations Subject to MPs:</u></b>	<b><u>128</u></b>

**Mandatory Minimum Penalty = (58 Serious Violations + 70 Non-Serious Violations) x \$3,000 = \$384,000**  
**Total Mandatory Minimum Penalty = \$2,460,000 + \$384,000 = \$2,844,000**