

State of California
California Regional Water Board Quality Control Board
Santa Ana Region

IN THE MATTER OF:

Irvine Ranch Water District)	Complaint No. R8-2010-0059
15600 Sand Canyon Avenue)	for
Irvine, CA 92618-3102)	Administrative Civil Liability
)	
Attn: Mr. Paul D. Jones)	

YOU ARE HEREBY GIVEN NOTICE THAT:

1. The Irvine Ranch Water District (hereinafter IRWD or the Discharger) is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Regional Board), may impose administrative civil liability, pursuant to California Water Code (hereinafter "CWC") Section 13385.
2. A hearing concerning this Complaint will be held before the Regional Board within 90 days of the date of issuance of this Complaint, unless, pursuant to CWC Section 13323, IRWD waives its right to a hearing. The waiver procedures are specified in the attached Waiver Form. The hearing in this matter is scheduled for the Regional Board's regular meeting on January 21, 2011, at the City Council Chambers, City of Loma Linda, 25541 Barton Road, Loma Linda, California. IRWD, or its representative, will have the opportunity to appear and be heard and to contest the allegations in this Complaint and the imposition of civil liability by the Regional Board.
3. If a hearing is held on this matter, the Regional Board will consider whether to affirm, reject, or modify the proposed administrative civil liability or whether to refer the matter to the Attorney General for recovery of judicial civil liability. If this matter proceeds to hearing, the Prosecution Team reserves the right to seek an increase in the civil liability amount to cover the costs of enforcement incurred subsequent to the issuance of this Complaint through hearing.

THE COMPLAINT IS BASED ON THE FOLLOWING FACTORS:

4. IRWD owns and operates a sanitary sewer system which consists of 800 miles of pipelines and several lift (pump) stations, and is regulated under the State Water Resources Control Board's General Waste Discharge Requirements for Sanitary Sewer Systems, Water Quality Order No. 2006-0003-DWQ (hereinafter "SSO Order"). Provision C.1 of the SSO Order prohibits the discharge of sanitary sewer overflows to waters of the United

States. Section 13376 of the California Water Code also prohibits the discharge of pollutants to waters of the United States without an NPDES permit.

5. IRWD's sewer system contains sanitary wastewater. Untreated sanitary wastewater contains high levels of bacteria, pathogens, nutrients and other pollutants. If discharged, these pollutants have the potential to impact the beneficial uses of the receiving waters. IRWD is alleged to have violated California Water Code (CWC) §13350 by discharging untreated wastewater to waters of the United States in violation of the prohibition against such discharges contained in the SSO Order. The Discharger also violated Section 13376 of the CWC by discharging pollutants to waters of the United States without filing a report of waste discharge.
6. Provision C. 1 of the SSO Order states, "Any SSO¹ that results in a discharge of untreated or partially treated wastewater (sewage) to waters of the United States is prohibited" And CWC Section 13376 states, "Any person discharging pollutants or proposing to discharge pollutants to within navigable waters of the United States within the jurisdiction of this state shall file a report of the discharge in compliance with the procedures set forth in Section 13260, except that no report need be filed under this section for discharges that are not subject to the permit application requirements of the Federal Water Pollution Control Act, as amended."
7. On July 2, 2010, at approximately 11:30 a.m., an overflow of sewage was reported from IRWD's Newport Coast sanitary sewer pump station due to a crack in a forcemain 12" PVC Tee fitting outside the pump station dry well. The discharge was to the planter area between the street curb (Newport Coast Road) and the pump station from where it was discharged to Buck Gully Creek and into Pacific Ocean. The discharge continued for approximately 10 hours.
8. From 11:30 a.m. to 1:05 p.m., the spill continued at a discharge rate of 200 gallons per minute (gpm). It was not contained and it went into Buck Gully Creek approximately 3 miles inland from Little Corona Del Mar Beach. Then gravel bags were deployed around the spill area and the spill was 93% contained by 1:05 p.m. Approximately 15 gpm continued to leak through the gravel bags into Buck Gully Creek. At 9:30 p.m., the Discharger managed to completely stop the spill with the installation of an emergency bypass line.
9. Finally at 6:00 p.m. a gravel bag containment berm was built along Buck Gully Creek at the entrance to Little Corona Del Mar Beach. The gravel bag containment berm did not provide a complete containment for the spilled sewage. A combined total of 26,725 gallons of untreated sewage were

¹ SSO=Sanitary sewer overflow

discharged into Buck Gully Creek (from 11:30 a.m. to 9:30 p.m. on July 2, 2010) and eventually to Little Corona Del Mar Beach. According to IRWD reports, an estimated 5,850 gallons of the sewage discharged into Buck Gully Creek were recovered and returned to the collection system, thereby reducing the discharged volume to the Pacific Ocean to 20,875 gallons ($26,725 - 5,850 = 20,875$). IRWD continued to pump from the Buck Gully Creek containment area until 9:30 a.m. on July 4, 2010.

10. At 12:35 p.m. on July 2, 2010, the Orange County Health Care Agency closed Little Corona Del Mar Beach as a precautionary measure. It was reopened in the morning on July 5, 2010. Due to logistic reasons, the Health Care Agency was not able to collect beach water samples the day the spill occurred. The water quality samples collected on July 3 and 4, 2010 did not exceed the state standards.
11. The area where the spilled sewage was discharged into the ocean is located within Robert E. Badham (Newport Coast) Area of Special Biological Significance (ASBS). The Ocean Plan provides special protections for areas designated as ASBSs that include a prohibition on discharge of wastes to ASBSs. The discharge was also in violation of this Ocean Plan prohibition.
12. The Water Quality Control Plan for the Santa Ana River Basin (hereinafter "Basin Plan") designates beneficial uses of waterbodies within the Region. The nearshore zone of the Pacific Ocean along Orange County coastline has designated beneficial uses that include, among others, water contact recreation and non-contact water recreation. Buck Gully Creek is a natural drainage course that conveys urban runoff to the ASBS. The discharge of sewage from IRWD's sanitary sewer system had the potential to impact the designated beneficial uses of the ASBS (Pacific Ocean) and caused the Orange County Environmental Health Care Agency to close Little Corona Del Mar Beach.
13. For the violations cited above, civil liability may be assessed administratively either under CWC Section 13350 or 13385, but not both (see Section 13350(j)). Since the discharge was to waters of the United States, it is appropriate to use CWC Section 13385.
14. Pursuant to CWC §13385, the Regional Board may impose civil liability administratively both on a daily basis [per CWC §13385(c)(1)] and on a per gallon basis [per CWC §13385(c)(2)].
14. CWC §13385(c)(2) states that civil liability on a per gallon basis may not exceed ten dollars (\$10) for each gallon of waste discharged but has not been cleaned up, excluding the first 1,000 gallons. The maximum liability on a per gallon basis for the violation cited above is \$198,750 $\{(20,875 - 1,000) \times \$10 = \$198,750\}$. Based on one day of violation, the penalty

on a per day basis is \$10,000. The total initial assessment before any adjustments is: \$208,750.

15. CWC §13385(e) specifies factors that the Regional Board shall consider in establishing the amount of civil liability. The Water Quality Enforcement Policy (hereinafter "the Policy") adopted by the State Water Resources Control Board on November 19, 2009, establishes a methodology for assessing administrative civil liability pursuant to this statute. Use of this methodology addresses the factors in CWC section 13385(e). The policy can be found at: http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf
16. Attachment A presents the administrative civil liability derived from the use of the penalty methodology in the Policy. In summary, this amount is based on the following:
 - A. The Policy requires a consideration of the potential for harm from the discharge of untreated sewage. The beach was closed for three days as a precautionary measure; so the impact on beneficial use is considered as moderate (see Page 12 of the Policy). The discharged material posed an above moderate risk, and more than 50% of the discharge was susceptible to cleanup (see Page 13 of the Policy); that gives a total score of 6. Using Table 1 on Page 14 of the Policy, we get a per gallon factor of 0.22, considering this as a major deviation from requirement. With a per gallon factor of 0.22, the per gallon penalty is: $\$198,750 \times 0.22 = \$43,725$.
 - B. Similarly using a per day factor of 0.22 from Table 2 on Page 15 of the Policy, the per day penalty is $\$10,000 \times 0.22 = \$2,200$. The total assessed penalty based on per gallon and per day is: $\$43,725 + \$2,200 = \$45,925$.
 - C. This amount is then adjusted based on the discharger's culpability, cleanup effort and cooperation, and history of violations (see Table 4 on Page 17 of the Policy). According to IRWD's spill incident report, the spill was caused by a failure of a Schedule 80 PVC fitting that was not in conformance with IRWD's Construction Manual (the Construction Manual requires C-900). The report indicates that IRWD staff directed such a change that was not consistent with its own policies.
 - D. IRWD's response to the spill incident was prompt, and they mobilized staff, equipment and mutual aid support from surrounding municipal agencies to control most of the overflowing sewage. They also mobilized contractor resources to make emergency repairs to the forcemain once the bypass system was put into operation.
 - E. However, they failed to implement an effective containment system at the spill site and at the mouth of Buck Gully Creek where it discharged to the ASBS. The containment system at the mouth of Buck Gully Creek was built after 6.5 hours had lapsed from discovery of the spill. With proper planning and implementation, the spill could have been fully contained within the spill site if effective containment berms were built. By using

November 9, 2010

gravel bags, the sewage continued to leak through the containment berms at both locations. As a precautionary measure, IRWD continued to pump from the containment structure at the mouth of Buck Gully Creek for another two days after the spill was fully contained. The Discharger had a number of sewage system overflows in the past few years for which the Regional Board has assessed penalties. After consideration of these factors a value of 0.9 is assigned for culpability, 0.75 for cleanup and cooperation and 1.1 for history of violations (see Page 17, Table 4 of the Policy). Using these values, the adjusted civil liability is \$34,099 ($\$45,925 \times 0.9 \times 0.75 \times 1.1$).

F. CWC Section 13385(e) and the Policy also require consideration of economic benefit or savings, if any, resulting from the violations and other matters as justice may require. Regional Board staff has determined that IRWD did not realize any significant savings because the spill was accidental which could not be predicted (i.e. due to a broken forcemain), nor did they realize any substantial savings in their response to the spill incident.

G. The costs of investigation and enforcement incurred by the Regional Board Prosecution staff are considered as one of the "other factors as justice may require," and should be included in the liability assessed. Investigation costs have been estimated to be \$9,000 (60 hours at \$150 per hour=\$9,000). Staff costs are then added to the proposed liability amount for a total of \$43,099 ($\$34,099 + \$9,000 = \$43,099$).

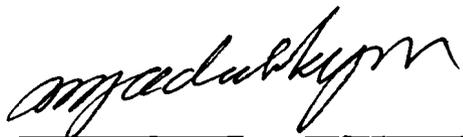
17. After consideration of the above factors, the Division Chief proposes that civil liability be imposed on the Discharger in the amount of forty three thousand ninety-nine dollars (\$43,099) for the discharge of sewage to waters of the United States.

WAIVER OF HEARING

The Discharger may waive its right to a hearing. If the Discharger chooses to do so, please sign the attached Waiver Form and return it in the enclosed preprinted envelope. If the Discharger waives its right to a hearing and pay the assessed amount, the Regional Board may not hold a hearing regarding this complaint.

If you have any questions, please contact Stephen D. Mayville at (951) 782-4992.

11/09/10
Date



Michael J. Adackapara
Division Chief
Regional Board Prosecution Team

Discharger Name/ID: ACLC R8-2010-0059 Attachment 'A'

			Total Collection System Overflow	
Discharge Violations	Step 1	Potential Harm Factor (Generated from Button)		
	Step 2	Per Gallon Factor (Generated from Button)		
		Gallons	19,875	
		Statutory / Adjusted Max per Gallon (\$)	\$ 10	
		Total		\$ 43,725
		Step 3	Per Day Factor (Generated from Button)	
		Days	1	
		Statutory Max per Day	\$ 10,000	
		Total		\$ 2,200
Non-Discharge Violations	Step 3	Per Day Factor		
		Days		
		Statutory Max per Day		
		Total		\$ -
Initial Amount of the ACL				\$ 45,925.00
Additional Factors	Step 4	Culpability	0.9	\$ 41,332.50
		Cleanup and Cooperation	0.75	\$ 30,999.38
		History of Violations	1.1	\$ 34,099.31
	Step 5	Total Base Liability Amount		\$ 34,099.31
	Step 6	Ability to Pay & to Continue in Business		\$ -
Step 7	Other Factors as Justice May Require		\$ -	
	Staff Costs	\$ 9,000	\$ 9,000.00	
Step 8	Economic Benefit		\$ 9,000.00	
Step 9	Minimum Liability Amount			
	Maximum Liability Amount			
Step 10	Final Liability Amount		\$ 43,099.31	



California Regional Water Quality Control Board

Santa Ana Region



Linda S. Adams
Secretary for
Environmental Protection

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www.waterboards.ca.gov/santaana

Arnold Schwarzenegger
Governor

HEARING PROCEDURE FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R8-2010-0059

ISSUED TO
Irvine Ranch Water District
15600 Sand Canyon Avenue
Irvine, CA 92618-3102
Orange County

SCHEDULED FOR JANUARY 21, 2011

PLEASE READ THIS HEARING PROCEDURE CAREFULLY. FAILURE TO COMPLY WITH THE DEADLINES AND OTHER REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF YOUR DOCUMENTS AND/OR TESTIMONY.

Background

The Division Chief has issued an Administrative Civil Liability (ACL) Complaint pursuant to California Water Code Section 13323 against the Irvine Ranch Water District ("Discharger") alleging that it has violated Water Code Section 13385 by discharging untreated wastewater (sewage) to waters of the United States in violation of California Water Code Section 13376 without first filing a report of waste discharge and obtaining an NPDES permit for such discharges. The Complaint proposes that administrative civil liability in the amount of forty-three thousand ninety-nine dollars (\$43,099) be imposed as authorized by Water Code Section 13385(c). A hearing is currently scheduled to be held before the Regional Board during its January 21, 2011 meeting.

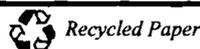
Opportunity for Settlement without a Hearing

This matter may be settled without a hearing if no significant comments are received during the comment period and if the Discharger waives the right to a hearing and agrees to pay the proposed civil liability. The Division Chief will consider comments received to determine the need for any further changes to the Complaint.

Purpose of Hearing

The purpose of the hearing is to consider relevant evidence and testimony regarding the ACL Complaint. At the hearing, the Regional Board will consider whether to issue an administrative civil liability order assessing the proposed liability, or a higher or lower amount, or reject the proposed liability. The public hearing on January 21, 2011 will commence at 9:00 a.m. or as soon thereafter as practical, or as announced in the Regional Board meeting agenda. The meeting will be held at the City Council

California Environmental Protection Agency



Chambers of Loma Linda located at 25541 Barton Road, City of Loma Linda, California. An agenda for the meeting will be issued at least ten days before the meeting and posted on the Regional Board's web page at:

http://www.waterboards.ca.gov/santaana/board_info/agendas/index.shtml.

The agenda will include the final hearing date and location, and the estimated start time for the meeting. Since the start time for this item is uncertain, all interested parties are urged to be present from the start of the Board meeting.

Hearing Procedures

The hearing will be conducted in accordance with this hearing procedure. This hearing procedure has been pre-approved by the Regional Board's Advisory Team in model format. A copy of the general procedures governing adjudicatory hearings before the Regional Board may be found at Title 23 of the California Code of Regulations, Section 648 et seq., and is available at <http://www.waterboards.ca.gov> or upon request. In accordance with Section 648, subdivision (d), any procedure not provided by this Hearing Procedure is deemed waived. Except as provided in Section 648 and herein, subdivision (b), Chapter 5 of the Administrative Procedures Act (commencing with Section 11500 of the Government Code) does not apply to this hearing.

THE PROCEDURES AND DEADLINES HEREIN MAY BE AMENDED BY THE ADVISORY TEAM AT ITS DISCRETION. ANY OBJECTIONS TO THE HEARING PROCEDURE MUST BE RECEIVED BY THE REGIONAL BOARD'S ADVISORY TEAM BY NOVEMBER 19, 2010 OR THEY WILL BE WAIVED. FAILURE TO COMPLY WITH THE DEADLINES AND REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF DOCUMENTS AND/OR TESTIMONY.

Hearing Participants

Participants in this proceeding are designated as either "parties" or "interested persons." Designated parties to the hearing may present evidence and cross-examine witnesses and are subject to cross-examination. Interested persons generally may not submit evidence, cross-examine witnesses, or be subject to cross examination, but may present policy statements. Policy statements may include comments on any aspect of the proceeding, but may not include evidence (e.g., photographs, eye-witness testimony, monitoring data). Interested persons who would like to submit evidence may do so if the evidence is submitted in accordance with the procedures and deadlines for submitting evidence described below. Interested persons who present evidence may be subject to cross-examination. Both designated parties and interested persons may be asked to respond to clarifying questions from the Regional Board, staff or others, at the discretion of the Regional Board.

The following participants are hereby designated as parties in this proceeding:

- (1) Regional Board Prosecution Team

(2) Irvine Ranch Water District, also referred to as the Discharger

Requesting Designated Party Status

Persons who wish to participate in the hearing as a designated party must request party status by submitting a request in writing (with copies to the existing designated parties) so that it is received by 5 p.m. on November 22, 2010 by Advisory Team Attorney David Rice, Davidrice@waterboards.ca.gov. The request shall include an explanation of the basis for status as a designated party (e.g., how the issues to be addressed in the hearing and the potential actions by the Regional Board affect the person), the information required of designated parties as provided below, and a statement explaining why the party or parties designated above do not adequately represent the person's interest. Any opposition to the request must be received by the Advisory Team, the person requesting party status, and all parties by 5 p.m. on November 30, 2010. The parties will be notified by 5 p.m. on December 7, 2010 in writing whether the request has been granted or denied.

Primary Contacts

Advisory Team: **David Rice (email: Davidrice@waterboards.ca.gov)**
Phone: 916-341-5182
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Prosecution Team: **Ann Carroll (email: acarroll@waterboards.ca.gov)**
Phone: 916-322-3227
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Discharger: **Paul D. Jones, General Manager**
Email: (currently not available)
Phone: 949-453-5300
Irvine Ranch Water District
15600 Sand Canyon Avenue
Irvine, CA 92618-3102

Separation of Functions

To help ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the Regional Board (Prosecution Team) have been separated from those who will provide advice to the Regional Board (Advisory Team). Members of the Advisory Team are: David Rice, Staff Counsel, Office of Chief Counsel, State Water Resources Control Board and Kurt Berchtold, Executive Officer, Santa Ana Regional Water Quality Control Board. Members of the Prosecution Team are: Ann Carroll, Staff Counsel, Office of Enforcement, State Water Resources Control Board; Michael Adackapara, Division Chief, Santa Ana Regional Water Quality Control Board; Stephen D. Mayville, Enforcement Unit Chief, Santa Ana Regional Water Quality Control Board. Any members of the Advisory Team who normally supervise any members of the Prosecution Team are not acting as their supervisors in this proceeding, and vice versa. Members of the Prosecution Team may have acted as advisors to the Regional Board in other, unrelated matters, but they are not advising the Regional Board in this proceeding. Members of the Prosecution Team have not had any ex parte communications with the members of the Regional Board or the Advisory Team regarding this proceeding.

Ex Parte Communications

The designated parties and interested persons are forbidden from engaging in ex parte communications regarding this matter with members of the Advisory Team or members of the Regional Board. An ex parte contact is any written or oral communication pertaining to the investigation, preparation, or prosecution of the Complaint between a member of a designated party or interested person on the one hand, and a Regional Board member or an Advisory Team member on the other hand, unless the communication is copied to all other designated parties (if written) or made in a manner open to all other designated parties (if oral). Communications regarding non-controversial procedural matters are not ex parte contacts and are not restricted. Communications among one or more designated parties and interested persons themselves are not ex parte contacts.

Hearing Time Limits

To ensure that all participants have an opportunity to participate in the hearing, the following time limits shall apply: Each designated party shall have a combined 20 minutes to present evidence, cross-examine witnesses (if warranted), and provide a closing statement; and each interested person shall have 3 minutes to present a non-evidentiary policy statement. Participants with similar interests or comments are requested to make joint presentations, and participants are requested to avoid redundant comments. Participants who would like additional time must submit their request to the Advisory Team so that it is received no later than 5 p.m. on January 5, 2011. Additional time may be provided at the discretion of the Advisory Team (prior to

the hearing) or the Regional Board Chair (at the hearing) upon a showing that additional time is necessary.

Submission of Evidence and Policy Statements

The following information must be submitted in advance of the hearing:

1. All evidence (other than witness testimony to be presented orally at the hearing) that the Designated Party would like the Regional Board to consider. Evidence and exhibits already in the public files of the Regional Board may be submitted by reference as long as the exhibits and their location are clearly identified in accordance with Title 23, CCR, Section 648.3.
2. All legal and technical arguments or analysis.
3. The name of each witness, if any, whom the designated party intends to call at the hearing, the subject of each witness' proposed testimony, and the estimated time required by each witness to present direct testimony.
4. The qualifications of each expert witness, if any.
5. (Discharger only) If the Discharger intends to argue an inability to pay the civil liability proposed in the Complaint (or an increased or decreased amount as may be imposed by the Regional Board), the Discharger should submit supporting evidence as set forth in the "ACL Fact Sheet" under "Factors that must be considered by the Board."

The Prosecution Team shall submit 15 hard copies of its information and one electronic copy of the information to Advisory Team Attorney David Rice so that it is received by 5 p.m. on December 28, 2010.

The remaining designated parties shall submit 15 hard copies of their information and one electronic copy of the information to Advisory Team Attorney David Rice so that they are received by 5 p.m. on December 28, 2010.

Any designated party that would like to submit information that rebuts the information previously submitted by other designated parties shall submit 15 hard copies of their rebuttal information and one electronic copy of the information to Advisory Team Attorney David Rice so that they are received by 5 p.m. on January 5, 2011. Rebuttal information shall be limited to the scope of the information previously submitted by the other designated parties. Rebuttal information that is not responsive to information previously submitted by other designated parties may be excluded.

If the total amount of information submitted by any party is less than 15 pages, that party may submit the information by email, rather than in writing. In addition to the foregoing, each designated party shall submit (1) one copy of the above information to each of the other designated parties so that it is received by 5 p.m. on the deadline specified above.

Interested persons who would like to submit written non-evidentiary policy statements are encouraged to submit them to the Advisory Team as early as possible, but no later than 5 p.m. on December 28, 2010. Interested persons do not need to submit written non-evidentiary policy statements in order to speak at the hearing.

In accordance with Title 23, California Code of Regulations, Section 648.4, the Regional Board endeavors to avoid surprise testimony or evidence. Absent a showing of good cause and lack of prejudice to the parties, the Regional Board may exclude evidence and testimony that is not submitted in accordance with this hearing procedure. Excluded evidence and testimony will not be considered by the Regional Board and will not be included in the administrative record for this proceeding. Power Point and other visual presentations may be used at the hearing, but their content may not exceed the scope of other submitted written material. A copy of such material intended to be presented at the hearing must be submitted to the Advisory Team by 5 p.m. on January 12, 2011 for inclusion in the administrative record. Additionally, any witness who has submitted written testimony for the hearing shall appear at the hearing and affirm that the written testimony is true and correct, and shall be available for cross-examination.

Request for Pre-hearing Conference

A designated party may request that a pre-hearing conference be held before the hearing in accordance with Water Code Section 13228.15. A pre-hearing conference may address any of the matters described in subdivision (b) of Government Code Section 11511.5. Requests must contain a description of the issues proposed to be discussed during that conference, and must be submitted to Stephen D. Mayville (smayville@waterboards.ca.gov), with a copy to all other designated parties, by November 29, 2010.

Evidentiary Objections

Any designated party objecting to written evidence or exhibits submitted by another designated party must submit a written objection to the Advisory Team and all other designated parties so that it is received by 5 p.m. on January 18, 2011. The Advisory Team will notify the parties about further action to be taken on such objections and when that action will be taken.

Evidentiary Documents and File

The Complaint and related evidentiary documents are on file and may be inspected or copied at the Regional Board office at 3737 Main Street, Suite 500, Riverside, CA 92501 by contacting August Lucas (email: alucas@waterboards.ca.gov; phone: 951-782-7961). This file shall be considered part of the official administrative record for this hearing. Other submittals received for this proceeding will be added to this file and will become a part of the administrative record absent a contrary ruling by the Regional

Board Chair. Many of these documents are also posted on-line at:
http://www.waterboards.ca.gov/santaana/public_notices/enforcement_actions.shtml.
Although the web page is updated regularly, to assure access to the latest information,
you may contact Kirk Larkin (klarkin@waterboards.ca.gov).

Questions

Questions concerning this proceeding may be addressed to the Advisory Team Attorney
David Rice (Davidrice@waterboards.ca.gov).

IMPORTANT DEADLINES

(Note: the Regional Board is required to provide a hearing within 90 days of issuance of
the Complaint (Water Code Section 13323). The Advisory Team will generally adhere
to this schedule unless the discharger waives that requirement.)

- | | |
|--------------------|--|
| November 9, 2010: | Prosecution Team issues ACL Complaint to Discharger and
Advisory Team, sends Hearing Procedure to Discharger and
Advisory Team, and publishes Public Notice. |
| November 19, 2010: | Deadline for objections, if any, to proposed Hearing
Procedure. |
| November 22, 2010: | Deadline for requests for designated party status |
| November 30, 2010: | Discharger's deadline for waiving right to hearing. |
| November 30, 2010: | Deadline for oppositions to requests for designated party
status. |
| December 7, 2010: | Advisory Team issues decision on requests for designated
party status, if any. |
| December 28, 2010: | Prosecution Team's deadline for all information required
under "Submission of Evidence and Policy Statements." |

- December 28, 2010: Remaining Designated Parties' Deadline for all information required under "Submission of Evidence and Policy Statements."
- December 28, 2010: Interested Persons' deadline for written non-evidentiary policy statements
- January 5, 2011: All Designated Parties' deadline for rebuttal information, and requests for additional time at the hearing, if any.
- January 12, 2011: All presentation materials, such as PowerPoint, and evidentiary objections.
- January 18, 2011: All parties deadline for objections to presentation materials.
- January 21, 2011: Public Hearing.



Michael J. Adackapara
Division Chief
Regional Board Prosecution Team

11/09/10
Date



California Regional Water Quality Control Board

Santa Ana Region



3737 Main Street, Suite 500, Riverside, California 92501-3348
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Linda S. Adams
Secretary for
Environmental Protection

Arnold Schwarzenegger
Governor

WAIVER FORM FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R8-2010-0059

(If the Irvine Ranch Water District wishes to choose any of the following waiver options, this form should be appropriately filled, signed and returned to the Regional Board office in the enclosed pre-printed envelope by **November 30, 2010**.)

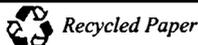
By signing this waiver, I affirm and acknowledge the following:

I am duly authorized to represent the Irvine Ranch Water District (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint No. R8-2010-0059 (hereinafter "Complaint"). I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the Regional Board shall be conducted within 90 days after the party has been served [with the complaint]. The person who has been issued a complaint may waive the right to a hearing."

(**OPTION 1: Check here if the Discharger waives the hearing requirement and will pay the liability in full.**)

- a. I hereby waive any right the Discharger may have to a hearing before the Regional Board.
- b. I certify that the Discharger will remit payment for the proposed civil liability in the full amount of **forty-three thousand ninety-nine dollars (\$43,099)** by check that references "ACL Complaint No. R8-2010-0059." made payable to the "State Water Pollution Cleanup and Abatement Account". Payment must be received by the Regional Board by December 30, 2010 or the Regional Board may adopt an Administrative Civil Liability Order requiring payment.
- c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after the 30-day public notice and comment period. Should the Regional Board receive significant new information or comments from any source (excluding the Regional Board's Prosecution Team) during this comment period, the Regional Board's Division Chief may withdraw the Complaint, return payment, and issue a new complaint. I understand that this proposed settlement is subject to approval by the Executive Officer for the Regional Board, and that the Regional Board may consider this proposed settlement in a public meeting or hearing. I also understand that approval of the settlement will result in the Discharger having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
- d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

California Environmental Protection Agency



**WAIVER FORM
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R8-2010-0059**

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

(OPTION 3: Check here if the Discharger waives the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines. Attach a separate sheet with the amount of additional time requested and the rationale.) I hereby waive any right the Discharger may have to a hearing before the Regional Board within 90 days after service of the Complaint. By checking this box, the Discharger requests that the Regional Board delay the hearing and/or hearing deadlines so that the Discharger may have additional time to prepare for the hearing. It remains within the discretion of the Regional Board to approve the extension.

(OPTION 4: Check here if the Discharger waives the hearing requirement and will submit a proposed supplemental environmental project. If the proposal is rejected, the Discharger will pay the liability in full.)

- a. I hereby waive any right the Discharger may have to a hearing before the Regional Water Board.
- b. I certify that the Prosecution Team has authorized the Discharger to submit a proposed Supplemental Environmental Project in lieu of payment of \$17,049.50 (50% of [assessed amount minus staff costs]). I agree to submit the proposal and the remainder of the proposed civil liability (\$26,049.50) within 60 days of the date of the Complaint. I understand that the proposal must conform to the requirements specified in the State Water Resources Control Board's Water Quality Enforcement Policy and the Statewide Policy on Supplemental Environmental Projects. If I receive written notice from the Prosecution Team that the Discharger has failed to timely submit a proposal or that the Prosecution Team has rejected the proposal, I certify that the Discharger will remit the balance of the proposed civil liability in the amount of \$17,049.50 by check that references "ACL Complaint No. R8-2010-0050" made payable to the State Water Pollution Cleanup and Abatement Account within fifteen days of the notice. If payment is not timely received, the Regional Board may adopt an Administrative Civil Liability Order requiring payment.
- c. I understand the acceptance or rejection of the proposed supplemental environmental project and payment of the remainder of the proposed civil liability constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after the 30-day public notice and comment period. Should the Regional Board receive significant new information or comments from any

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**WAIVER FORM
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source (excluding the Water Board's Prosecution Team) during this comment period, the Regional Board's Division Chief may withdraw the complaint, return payment, and issue a new complaint. I understand that this proposed settlement is subject to approval by the Executive Officer of the Regional Board, and that the Regional Board may consider this proposed settlement in a public meeting or hearing. I also understand that approval of the settlement will result in the Discharger having waived the right to contest the allegations in the Complaint and the imposition of civil liability.

- d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

(Print Name and Title)

(Signature)

(Date)



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MR. PAUL D. JONES, GEN.MGR.
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