

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION**

**TENTATIVE**

**ORDER NO. R9-2009-0019**

**ADMINISTRATIVE ASSESSMENT OF CIVIL LIABILITY  
AGAINST  
AMERICA PLAZA OWNERS ASSOCIATION  
ONE AMERICA PLAZA  
FOR  
VIOLATION OF ORDER NO. 2000-90**

The California Regional Water Quality Control Board, San Diego Region (hereinafter Regional Board), having considered in a public meeting on February 11, 2009, all comments received on the issuance of liability against America Plaza Owners Association regarding violations alleged in Complaint No. R9-2008-0127, dated November 25, 2008 (Complaint), having provided public notice thereof and not less than thirty (30) days for public comment, and on the recommendation for administrative assessment of Civil Liability in the amount of \$12,000 finds as follows:

1. America Plaza Owners Association discharges treated wastewater into San Diego Bay that is subject to numeric effluent limitations, contained in Order No. 2000-90, *NPDES No. CAG919001, Waste Discharge Requirements for Temporary Groundwater Extraction and Similar Waste Discharges to San Diego Bay and Storm Drains or Other Conveyance Systems Tributary Thereto.*
2. Between June 2007 and June 2008 America Plaza Owners Association reported effluent sampling results to the Regional Board, pursuant to the Monitoring and Reporting schedule for Order No. 2000-90, documenting violations of effluent limitations prescribed by Order No. 2000-90.
3. Under California Water Code (CWC) Section 13385 subdivision (h), certain reported effluent violations are subject to mandatory penalties as determined by the following:
  - a. On June 16, 2007 America Plaza Owners Association discharged effluent with a concentration of total phenolic compounds at 320 µg/L, in violation of the daily maximum effluent limitation of 120 µg/L as specified in Discharge Specifications B.1 of Order No. 2000-90. This violation exceeds the effluent limitation for a Group II pollutant by greater than 20%, and therefore is a serious violation and satisfies the requirements of a

mandatory minimum penalty of \$3,000.

- b. As a result of the high concentration of total phenolic compounds on June 16, 2007, and because no additional samples were taken during the six month period of January 1 to June 30, 2007, the 6-month median was calculated to be 320 µg/L, which violated the 6-month median effluent limitation of 30 µg/L as specified in Discharge Specifications B.1 of Order No. 2000-90. This violation exceeds the limitation by greater than 20%, and therefore is a serious violation and satisfies the requirements of a mandatory minimum penalty of \$3,000.
  - c. On June 2, 2008 America Plaza Owners Association discharged effluent with a concentration of total phenolic compounds at 220 µg/L, in violation of the daily maximum effluent limitation of 120 µg/L as specified in Discharge Specifications B.1 of Order No. 2000-90. This violation exceeds the effluent limitation for a Group II pollutant by greater than 20%, and therefore is a serious violation and satisfies the requirements of a mandatory minimum penalty of \$3,000.
  - d. As a result of the high concentration of total phenolic compounds on June 2, 2008, and because no additional samples were taken during the six month period of January 1 to June 30, 2007, the 6-month median was calculated to be 220 µg/L, which violated the 6-month median effluent limitation of 30 µg/L as specified in Discharge Specifications B.1 of Order No. 2000-90. This violation exceeds the limitation by greater than 20%, and therefore is a serious violation and satisfies the requirements of a mandatory minimum penalty of \$3,000.
4. Pursuant to CWC Section 13385(h), the Regional Board must impose mandatory minimum penalties in the amount of twelve thousand dollars (\$12,000) on America Plaza Owners Association.
  5. On November 25, 2008, the Assistant Executive Officer issued Administrative Civil Liability Complaint No. R9-2008-0127 to America Plaza Owners Association proposing the imposition of \$12,000 in liability for the above violations.
  6. On January 28, 2009, America Plaza Owners Association waived its right to a public hearing before the Regional Board and agreed to pay the recommended \$12,000 in mandatory minimum penalties to the State Water Resources Control Board's Cleanup and Abatement Account.
  7. Issuance of this Order is an enforcement action taken by a regulatory agency and is exempt from the provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.) pursuant to section 45321(a)(2), Chapter 3, Title 14 of the California Code of Regulations. This

action is also exempt from the provisions of CEQA in accordance with section 15061(b)(3) of Chapter 3, Title 14 of the California Code of Regulations because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

8. The Regional Board incurred costs totaling \$1930, which includes investigation, preparation of enforcement documents and communication with America Plaza Owners Association regarding the enforcement action.

**IT IS HEREBY ORDERED**, that pursuant to Section 13385 of the Water Code, that:

1. Civil liability is imposed on America Plaza Owners Association in the amount of \$12,000.
2. America Plaza Owners Association shall provide payment to the Regional Board in the amount of \$12,000 payable to the State Water Resources Control Board Cleanup and Abatement Account within 30 days of adoption of this Order.
3. Fulfillment of the America Plaza Owners Association's obligations under this Order constitutes full and final satisfaction of any and all liability for each allegation in Complaint No. R9-2008-0127.
4. The Executive Officer is authorized to refer this matter to the Office of Attorney General for enforcement if America Plaza Owners Association fails to comply with Paragraph 2.

I, John H. Robertus, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order imposing civil liability assessed by the California Regional Water Quality Control Board, San Diego Region, on February 11, 2009.

TENTATIVE

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JOHN H. ROBERTUS  
Executive Officer

CIWQS Entries  
Regulatory Measure ID 352040  
Place ID 246018  
Party ID 1503  
Violation IDs: 615203, 778728, 783619, 783976