CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

IN THE MATTER OF:	)	
	)	COMPLAINT NO. R9-2005-0265
CITY OF ESCONDIDO	)	FOR
HALE AVENUE RESOURCE RECOVERY	)	ADMINISTRATIVE CIVIL LIABILITY
FACILITY	)	
NONCOMPLIANCE WITH ORDER NOS.	)	December 30, 2005
99-72; R9-2003-0394; 93-70; AND CEASE	)	
AND DESIST ORDER NO. 96-31	)	

THE CITY OF ESCONDIDO IS HEREBY GIVEN NOTICE THAT:

1. The City of Escondido is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, San Diego Region (Regional Board) may impose civil liability pursuant to the Porter-Cologne Water Quality Control Act, Water Code sections 1350 and 13385 et seq. The violations alleged herein include violations of effluent limitations in waste discharge requirements for discharges of pollutants from point sources to navigable waters for which the Regional Board must impose mandatory minimum penalties.

ALLEGATIONS

Hale Avenue Resource Recovery Facility (HARRF) Order No. 99-72

2. **The City of Escondido Violated Effluent Limitations Contained in Discharge Specification B.1.a. of Order No. 99-72**

   Between May 3, 2004 and August 17, 2004, the City violated the Maximum at Any Time, Weekly Average and Monthly Average carbonaceous oxygen demand and total suspended solids effluent limitations prescribed in Order No. 99-72 three hundred and ninety-three times (393).

3. **The City of Escondido Violated the Effluent Flow Limitation Contained in Prohibition A.5 of Order No. 99-72**

   Between January 3, 2005 and March 13, 2005, the City violated the effluent flow limitation prescribed in Order No. 99-72 forty seven times (47).

4. **The City of Escondido Discharged Secondary Treated Effluent into Escondido Creek and San Elijo Lagoon in Violation of Prohibition A.1 of Order No. 99-72**

   On February 28, 2005, the City discharged 73,500 gallons of secondary treated effluent from the Escondido Land Outfall into Escondido Creek and San Elijo Lagoon.

Wet Weather Discharge to Escondido Creek Order No. R9-2003-0394

5. **The City of Escondido Violated Effluent Limitations Contained in Discharge Specification B.1.d. and B.1.g. of Order No. R9-2003-0394**

   Between January 9, 2005 and February 25, 2005, the City violated the Daily Average turbidity, Daily Maximum nitrite and nitrogen effluent limitations prescribed in Order No. R9-2003-0394 eleven times (11).

6. **The City of Escondido Discharged Secondary Treated Effluent into Escondido Creek and San Elijo Lagoon in Violation of Discharge Specification B.5 of Order No. R9-2003-0394**

   On January 11 and 12, 2005, the City discharged 280,000 gallons of secondary treated effluent into Escondido Creek, San Elijo Lagoon, and the Pacific Ocean.

Cease and Desist Order No. 96-31

7. **The City of Escondido Failed to Comply with Reporting Requirements Contained in Directive No. 4 of Cease and Desist Order No. 96-31.**

   The City failed to submit fourteen (14) semi-annual status reports.

8. **The City of Escondido Failed to Comply with the Final Compliance Date Contained in Directive No. 2 of Cease and Desist Order No. 96-31.**

   The City failed to complete implementation of measures to terminate all unauthorized discharges to Escondido Creek and tributaries thereto by June 16, 2003.

9. **The City of Escondido Failed to Comply with Reporting Requirement Contained in Directive No. 2 of Addendum No. 1 to Cease and Desist Order No. 96-31.**

   The City submitted the final compliance report one hundred thirty eight (138) days late.

Reclamation Requirements Order No. 93-70

10. **The City of Escondido Violated Effluent Limitations Contained in Discharge Specification B.1 of Order No. 93-70**

    Between January 9, 2005 and October 2, 2005, the City violated the Daily Average turbidity and Daily Maximum manganese effluent limitations prescribed in Order No. 93-70 sixteen times (16).

RECOMENDED CIVIL LIABILITY

11. Based on consideration of the factors listed in sections 13327 and 13385 of the CWC, it is recommended the Regional Board impose civil liability on the City of Escondido in the amount of $1,797,150, based on the following:

    a. $1,170,000 in mandatory minimum penalties for violations of effluent limitations contained in Discharge Specification B.1.a. of Order No. 99-72 described in paragraph No.2.

    Pursuant to CWC section 13385, the maximum liability is $10,000 per day of violation and $10 per gallon discharged and not cleaned up, minus the first 1,000 gallons. Based on the number of days violations were reported (93) and the average monthly effluent flow rates reported during the days of violation, the maximum liability is $12,833,000,000.

    b. $132,000 in mandatory minimum penalties for violations of the effluent flow limitation contained in Prohibition A.5 of Order No. 99-72 described in paragraph No. 3.

    Pursuant to CWC section 13385, the maximum liability is $10,000 per day of violation and $10 per gallon discharged and not cleaned up, minus the first 1,000 gallons. Based on the number of days violations were reported (47) and the effluent flow rate reported during the days of violation, the maximum liability is $719,000,000.

    c. $82,500 for the violation of Prohibition A.1 of Order No. 99-72 described in paragraph No. 4.

    Pursuant to CWC section13385, the maximum liability is $10,000 per day of violation and $10 per gallon discharged and not cleaned up, minus the first 1,000 gallons. Based on the number of days the discharge occurred (1) and the discharge volume reported, the maximum liability is $735,000.

    d. $33,000 in mandatory minimum penalties for the violations of effluent limitations contained in Discharge Specification B.1.d. and B.1.g. of Order No. R9-2003-0394 described in paragraph No. 5.

    Pursuant to CWC section 13385, the maximum liability is $10,000 per day of violation and $10 per gallon discharged and not cleaned up, minus the first 1,000 gallons. Based on the number of days violations were reported (11) and effluent flow rate reported on the days of violation, the maximum liability is $3,420,110,000.

e. $299,000 for the violation of Discharge Specification B.5 of Order No. R9-2003-0394 described in paragraph No. 6;

Pursuant to CWC section 13385, the maximum liability is $10,000 per day of violation and $10 per gallon discharged and not cleaned up, minus the first 1,000 gallons. Based on the number of days of violation (2) and the discharge volume reported, the maximum liability is $2,810,000.

f. $47,450 for failure to comply with reporting requirements contained in Directive No. 4 of Cease and Desist Order No. 96-31 described in paragraph No. 7;

Pursuant to CWC section 13350, the maximum liability is $5,000 per day of violation. Based on the number of days of violation (2556), the maximum liability is $12,780,000.

g. $13,800 for the failure to comply with reporting requirement contained in Directive No. 2 of Addendum No. 1 to Cease and Desist Order No. 96-31 described in paragraph No. 8.

Pursuant to CWC section 13350, the maximum liability is $5,000 per day of violation. Based on the number of days of violation (138), the maximum liability is $690,000.

h. $14,700 for failure to comply with the final compliance date contained in Directive No. 2 of Cease and Desist Order No. 96-31 described in paragraph No. 9.

Pursuant to CWC section 13350, the maximum liability is $5,000 per day of violation. Based on the number of days of violation (153), the maximum liability is $765,000.

i. $4,800 for the violations of effluent limitations contained in Discharge Specification B.1 of Order No. 93-70 described in paragraph No. 10.

Pursuant to CWC section 13350, the maximum liability is $5,000 per day of violation or $10 per gallon discharged. Based on the flow rate on days violations were reported, the maximum liability is $97,600,000.

Dated this 30th day of December 2005

ARTHUR L. COE
Assistant Executive Officer