

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

IN THE MATTER OF:

City of Escondido
Hale Avenue Resource Recovery Facility
(HARRF)

Violations of Order No. R9-2005-0139,
NPDES Permit No. CA0109215,
*Waste Discharge Requirements for the
City of Escondido, Industrial Brine
Collection System Discharge to the Pacific
Ocean Via the San Elijo Ocean Outfall*

Place ID: 720642

**COMPLAINT NO. R9-2010-0132
FOR
ADMINISTRATIVE CIVIL LIABILITY
WITH
MANDATORY MINIMUM PENALTIES**

September 29, 2010

THE CITY OF ESCONDIDO IS HEREBY GIVEN NOTICE THAT:

1. The City of Escondido (City) is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) must impose civil liability pursuant to section 13385 of the Water Code. 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 San Diego Water Board is required by statute to impose Mandatory Minimum Penalties (MMPs).
2. Effluent discharged to the Pacific Ocean from the City's Hale Avenue Resource Recovery Facility (HARRF) is subject to the San Diego Water Board's Order No. R9-2005-0139, NPDES Permit No. CA0109215 (Order). The Order prescribes effluent limitations for the discharge of untreated brine wastewater to the Pacific Ocean via the San Elijo Ocean Outfall.
3. Water Code section 13385 requires that an MMP of \$3,000 be imposed for each "serious violation" of an effluent limitation. Water Code section 13385 (h)(2) defines a "serious violation" as "any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 20 percent or more or for a Group I pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 40 percent or more."

4. Water Code section 13385(i) requires that an MMP of \$3,000 be imposed for each violation of an effluent limitation contained in waste discharge requirements beginning with the fourth violation in any period of six consecutive months.
5. In addition to statutorily mandated MMPs, every violation of an NPDES permit is subject to discretionary liability under Water Code section 13385(a)(2), including violations not subject to MMPs under Water Code sections 13385 (h) or (i).
6. Total Suspended Solids (TSS) is a group I Pollutant. TSS has an instantaneous maximum effluent limitation of 60.0 mg/L pursuant to the Order.
7. The parameter pH is neither a Group I nor II Pollutant. An effluent limitation has been established for pH in Order No. R9-2005-0139 such that a violation of the effluent limitation is subject to MMPs under Water Code section 13385(i). The parameter pH has an instantaneous minimum effluent limitation of 6.0 Standard Units (SU) pursuant to the Order.
8. The San Diego Water Board hereby expressly reserves the right to, at its sole discretion, withdraw this Complaint for MMPs and reissue a revised Complaint for both MMPs and discretionary administrative civil liabilities arising out of the allegations set forth herein.

ALLEGATIONS

9. Effluent Limitation Violations

~~Between January 1, 2007, and February, 2009, the City reported effluent sampling results documenting eight violations of the Order. Attachment 1, *Reported Violations*, details the violations.~~

10. Pursuant to Water Code section 13385, the San Diego Water Board must impose mandatory minimum penalties in the amount of six thousand dollars (\$6,000) on the City of Escondido.

Dated this 29th day of September 2010,



JAMES G. SMITH
Assistant Executive Officer

Signed pursuant to the authority delegated by the Executive Officer to the Assistant Executive Officer.

Attachment 1: *Reported Violations*

Attachment 1, Reported Violations

MMP ACL Complaint No. R9-2010-0132

Item 5
Doc 3

Violation Date	Violation ID	Constituent	Effluent Limitation	Unit	Permitted Limit	Reported Value	Mandatory Minimum Penalty ¹²	Notes
01/08/2007	490705	pH	Instantaneous Minimum	S.U.	6.0	5.7	\$0	1 st violation in 6-month period
04/16/2007	872943	TSS	Instantaneous Maximum	mg/L	60.0	80.8	\$0	2 nd violation in 6-month period
04/23/2007	632761	TSS	Instantaneous Maximum	mg/L	60.0	76.8	\$0	3 rd violation in 6-month period
06/26/2007	632757	pH	Instantaneous Minimum	S.U.	6.0	5.9	\$3,000	4 th or greater violation in 6-month period
08/20/2007	872945	TSS	Instantaneous Maximum	mg/L	60.0	64.3	\$3,000	4 th or greater violation in 6-month period
12/22/2008	821829	TSS	Instantaneous Maximum	mg/L	60.0	65.5	\$0	1 st violation in 6-month period
12/23/2008	821838	TSS	Instantaneous Maximum	mg/L	60.0	69.6	\$0	2 nd violation in 6-month period
01/05/2009	872949	TSS	Instantaneous Maximum	mg/L	60.0	69.6	\$0	3 rd violation in 6-month period

Total MMP \$6,000

¹ Water Code section 13385(h) requires the assessment of a \$3,000 MMP for each serious violation. A serious violation is and exceedance of a Group I Pollutant effluent limitation by 40 percent or more. TSS is a Group I Pollutant.

² Water Code section 13385(i) requires the assessment of a \$3,000 MMP for the fourth violation and each subsequent violation of an effluent limitation during any period of six consecutive months.