



California Regional Water Quality Control Board San Diego Region



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November 16, 2010

In reply refer to: Place ID 720642

John Burcham
Deputy Utilities Manager/Wastewater
City of Escondido
1528 South Hale Avenue
Escondido, California 92029

ADOPTION OF ORDER NO. R9-2010-0144 ADMINISTRATIVE CIVIL LIABILITY WITH MANDATORY MINIMUM PENALTIES AGAINST THE CITY OF ESCONDIDO FOR VIOLATIONS OF ORDER NO. R9-2005-0139, NPDES NO. CA0109215

Dear Mr. Burcham:

Enclosed find Order No. R9-2010-0144 for Administrative Civil Liability for Mandatory Minimum Liability (Order) against the City of Escondido (City) adopted on November 10, 2010, by the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board). Adoption of the Order constituted acceptance of the City's proposed settlement of Complaint No. R9-2010-0132 (Complaint) for violations of Order No. R9-2005-0139, Hale Avenue Resource Recovery Facility (HARRF) Brine Discharge. On October 18, 2010, the San Diego Water Board received the City's proposed settlement of the Complaint in the form of a signed waiver of hearing and City check for \$6,000. Therefore, the City has fulfilled the terms of the accepted settlement and no further action is required.

Please contact Mr. Frank Melbourn at (858) 467-2973 or by e-mail at fmelbourn@waterboards.ca.gov if you have any questions concerning this matter. The heading portion of this letter includes a San Diego Water Board code number noted after "In reply refer to:" In order to assist us in the processing of your correspondence please include this code number in the heading or subject line portion of all correspondence and reports to the San Diego Water Board pertaining to this matter.

Respectfully,

DAVID W. GIBSON
Executive Officer

**John Burcham
City of Escondido
HARRF Brine Discharge
Order No. R9-2010-0144
ACL MMP**

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November 16, 2010

DWG:jch:ftm

Enclosure: Order No. R9-2010-0144

cc: Ken Greenberg, U.S. Environmental Protection Agency, greenberg.ken@epa.gov

Order No.	R9-2010-0144
CIWQS Place ID	720642
Reg. Measure No.	376004
Party ID	14960

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

ORDER NO. R9-2010-0144

**ADMINISTRATIVE CIVIL LIABILITY
FOR
MANDATORY MINIMUM PENALTIES
AGAINST
CITY OF ESCONDIDO
HALE AVENUE RESOURCE RECOVERY FACILITY
FOR
VIOLATIONS OF
ORDER NO. R9-2005-0139**

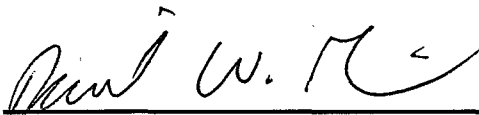
The California Regional Water Quality Control Board, San Diego Region (hereinafter San Diego Water Board), having considered in a public meeting on November 10, 2010, all comments received on the issuance of liability against City of Escondido regarding violations alleged in Complaint No. R9-2010-0132, dated September 29, 2010 (Complaint), having provided public notice thereof and not less than thirty (30) days for public comment, and on the recommendation of administrative assessment of Mandatory Minimum Penalties (MMPs) in the amount of \$6,000 finds as follows:

1. City of Escondido owns and operates the Hale Avenue Resource Recovery Facility (HARRF) located at 1521 South Hale Avenue, Escondido, California.
2. Effluent discharged to the Pacific Ocean from the HARRF is subject to 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. City of Escondido has violated provisions of law for which the San Diego Water Board may impose discretionary administrative civil liability pursuant to section 13385(a)(2) of the Water Code because every violation of an NPDES permit is subject to discretionary liability under Water Code section 13385(a)(2). The violations consisted of eight (8) effluent limitation exceedances of waste discharge requirements for discharges of pollutants from point sources to Waters of the United States.
4. City of Escondido has violated provisions of law for which the San Diego Water Board must assess two \$3,000 MMPs pursuant to Water Code section 13385(i), as described in Attachment 1, Reported Violations. Water Code section 13385(i) requires that an MMP of \$3,000 be imposed for each effluent limitation violation beginning with the fourth violation in any six-month period.

5. On October 14, 2010, City of Escondido waived its right to a public hearing before the San Diego Water Board and paid the recommended \$6,000 MMP to the State Water Resources Control Board's Cleanup and Abatement Account.
6. 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.
7. The San Diego Water Board incurred costs totaling \$2,700 which includes investigation, preparation of enforcement documents and communication with City of Escondido regarding the enforcement action.

IT IS HEREBY ORDERED, that pursuant to Water Code Section 13385(i) that civil liability is imposed on City of Escondido in the amount of \$6,000, and that City of Escondido's waiver of its right to a public hearing and offer of \$6,000 in satisfaction of Complaint No. R9-2010-0132 is accepted.

I, David W. Gibson, 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 November 10, 2010.



DAVID W. GIBSON
Executive Officer

CIWQS Entries
Regulatory Measure ID 376004
Place ID 720642
Party ID 14960
Violation ID 490705
872943
632761
632757
872945
821829
821838
872949

Attachment 1, Reported Violations

MMP ACL Order No. R9-2010-0144

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 an 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.