

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

IN THE MATTER OF:

Fallbrook Public Utility District

Violation of Order No. R9-2006-0002,
NPDES Permit No. CA0108031,
*Waste Discharge Requirements for the
Fallbrook Public Utility District
Wastewater Treatment Plant No. 1
Discharge to the Pacific Ocean Via the
Oceanside Ocean Outfall*

Place ID: 224137

**COMPLAINT NO. R9-2010-0140
FOR
ADMINISTRATIVE CIVIL LIABILITY
WITH
MANDATORY MINIMUM PENALTIES**

October 6, 2010

THE FALLBROOK PUBLIC UTILITY DISTRICT IS HEREBY GIVEN NOTICE THAT:

1. The Fallbrook Public Utility District 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 violation alleged herein includes violation 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 Wastewater Treatment Plant No. 1 is subject to the San Diego Water Board's Order No. R9-2006-0002, NPDES Permit No. CA0108031 (Order). The Order prescribes effluent limitations for the discharge of treated wastewater to the Pacific Ocean via the Oceanside 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."

October 6, 2010

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. Settleable Solids is a group I Pollutant, and has an instantaneous maximum effluent limitation of 3.0 mL/L pursuant to the Order.
7. 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

8. On June 10, 2008, Fallbrook Public Utility District reported an instantaneous maximum settleable solids effluent sampling result of 5.0 mL/L for May 6, 2008. This is a "serious violation" because the sampling result exceeds the effluent limitation by 40 percent or more.
9. Pursuant to Water Code section 13385, the San Diego Water Board must impose a mandatory minimum penalty in the amount of three thousand dollars (\$3,000) on the Fallbrook Public Utility District.

Dated this 6th day of October 2010,



JAMES G. SMITH
Assistant Executive Officer

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