



California Regional Water Quality Control Board

Santa Ana Region



Linda S. Adams
Acting Secretary for
Environmental Protection

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Edmund G. Brown Jr.
Governor

April 28, 2011

Mr. Jonathan Daly, General Manager
Department of Water and Power
City of Corona
815 West 6th Street
Corona, CA 91718

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

EXPEDITED PAYMENT OPTION TO ADDRESS MANDATORY MINIMUM PENALTIES FOR VIOLATIONS OF NPDES PERMIT NO. CA8000383

Dear Mr. Daly:

This is to notify the City of Corona (hereinafter "City"), that the City is alleged to have violated California Water Code (CWC) Sections 13385(h) and (i) for which the Regional Board shall assess mandatory minimum penalties. This letter outlines an expedited methodology for settling the outstanding violations and the mandatory minimum penalties associated with them.

VIOLATIONS AND STATUTORY AND DISCRETIONARY LIABILITIES:

Attachment 1 to this letter identifies the City's violations of its NPDES permit that are subject to mandatory penalties. Pursuant to CWC Section 13385(h) and (i), a mandatory penalty of three thousand dollars (\$3,000) shall be assessed for each serious and non-serious violation, not counting the first three non-serious violations in each six-month period.

As shown in Attachment 1, the City incurred a total of twenty-six reported violations between August 2006 and June 2010. For the forty-seven month period covered by Attachment 1, one non-serious violation that occurred in January 2009 is not subject to mandatory penalty assessment. Twenty-five out of the twenty-six violations are subject to mandatory penalties of \$3,000 for each violation. In accordance with Water Code Section 13385(h) and (i), the total mandatory penalty for the twenty-five effluent limit violations cited in Attachment 1 is seventy-five thousand dollars (25 x \$3,000 = \$75,000).

Alternatively, in accordance with Water Code Section 13385(c), the Regional Board may impose discretionary administrative civil liability for the violations cited in Attachment 1. Although only 26 violations are cited, they represent 184 days of violation (several of the violations are of weekly and monthly limits). Consequently, the maximum administrative civil liability which may be imposed for these violations is \$1,840,000 (\$10,000 per day of violation), plus an additional assessment of \$10 per gallon of effluent discharged during the duration of the violation episode, in excess of the first 1000 gallons of effluent.

California Environmental Protection Agency



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EXPEDITED PAYMENT PROGRAM:

Generally, the Regional Board would issue a formal administrative civil liability complaint to assess these penalties and conduct a public hearing. To conserve the City's as well as Regional Board's staff resources, the State Water Resources Control Board, through its Office of Enforcement, has developed a methodology for the City to settle these types of violations through an expedited payment program. If the City desires to have an expedited settlement as stipulated in Attachment 2, "Acceptance of Expedited Payment and Waiver of Right to a Hearing", the City must sign the Attachment and make a payment of seventy-five thousand dollars (\$75,000) to this office. If the City accepts this option by executing Attachment 2, the City would be also waiving its right to a hearing. The Regional Board will then forgo issuance of a formal administrative complaint and will waive its right to seek additional discretionary civil liabilities for the violations identified in Attachment 1. Please note that the expedited payment option does not address any violation that is not specifically identified in Attachment 1.

CITY'S OPTIONS:

1. Accept this offer for expedited payment by signing and returning Attachment 2 by May 20, 2011. Federal regulations require the Regional Board to publish and seek public comments on any proposed settlement of actions related to NPDES permit violations (40 CFR 123.27(d)(2)(iii)). Upon receipt of the Permittee's acceptance of the expedited payment option (signed Attachment 2), Regional Board staff will publish a notice of the proposed resolution of the violations cited in Attachment 1. If no significant public comments are received within 30 days, the Executive Officer will counter-sign Attachment 2 and it will be returned to you for payment of the mandatory minimum penalty of \$75,000 within 30 days of acceptance by the Executive Officer. If significant public comments are received during the public comment period, Board staff will try to address those comments. If the comments cannot be satisfactorily addressed by staff, the expedited payment option will be withdrawn and a formal administrative complaint may be issued and a public hearing may be scheduled at a regularly scheduled Regional Board meeting.
2. If the Permittee chooses to contest any of the violations cited in Attachment 1, please identify the specific violation and the basis for the challenge (e.g., factual error, affirmative defense, analytical error, etc.) prior to May 20, 2011 and contact Gary Stewart at 951-782-4973. Board staff will evaluate the contested violation and determine that either the violation is not supported and amend Attachment 1, or determine that the alleged violation is meritorious and inform the Permittee of the staff decision. If the Permittee is not satisfied with the staff decision, a formal administrative complaint and a public hearing may be considered.



Mr. Jonathan Daly
City of Corona

-3-

April 28, 2011

If you have any questions about this letter or the attachments, please contact Jane Qiu of my staff at (951) 320-2008 (jqiu@waterboards.ca.gov).

Sincerely,

Robert L. Holub
Division Chief

Enclosures: Attachment 1 (Effluent Limit Violations of NPDES Permit No. CA8000383, City of Corona WRP No. 1)
Attachment 2 (Acceptance of Expedited Payment and Waiver of Right to a Hearing)

cc: w\enclosures (by electronic mail only):

Board Members

Executive Officer (Regional Board Advisory Team)

State Water Resources Control Board, Office of Chief Counsel – David Rice
(Regional Board Advisory Team Attorney)

State Water Resources Control Board, Division of Water Quality – Liz Haven

State Water Resources Control Board, Office of Enforcement – Reed Sato
(Regional Board Prosecution Team Attorney)

U.S. Environmental Protection Agency, Region 9 (WTR-7) – Ken Greenberg

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ATTACHMENT 1

Effluent Limit Violations of NPDES Permit No. CA8000383

City of Corona WRP No. 1

Permit Limits	Coliform			Dibenzo (a,h) Anthracene	Chlorine Residual		Turbidity		Violations Total	Violations Subject to Mandatory Penalties
	Weekly Avg. 2.2 MPN/100 ml	>23 MPN/100 ml more than twice per month	Daily maximum 240 MPN/100 ml	Daily Maximum 0.098 ug/ml	>0.1 mg/l & >5 mins	>5.0 mg/l	>5 NTU & >72 min	>10 NTU	Number of violations	Number of violations
Month/Year										
Aug-06	1	0	0	0	0	0	0	0	1	1
No violations between Sep-06 and Nov-06										
Dec-06	2	1	0	0	0	0	0	0	3	3
Jan-07	2	1	0	0	0	0	0	0	3	3
Feb-07	1	0	0	0	0	0	0	0	1	1
Mar-07	1	0	0	0	0	0	0	0	1	1
Apr-07	0	0	0	0	1	0	0	0	1	1
May-07	0	0	0	0	1	0	0	0	1	1
No violations between June-07 and Oct-07										
Nov-07	0	0	0	0	2	0	0	0	2	2
Dec-07	0	0	0	0	4	0	0	0	4	4
No violations in Jan-08 and Feb-08										
Mar-08	0	0	1	0	0	0	0	0	1	1
No violations between Apr-08 and Dec-08										
Jan-09	0	[1]	0	0	0	0	0	0	1	0
No violations between Feb-09 and Apr-09										
May-09	0	0	0	(1)	0	0	0	0	1	1
No violations between Jun-09 and Aug-09										
Sep-09	0	1	0	0	0	0	0	0	1	1
No violations between Oct-09 and Jan-10										
Feb-10	0	0	0	0	1	1	0	0	2	2
No violations between Mar-10 and May-10										
Jun-10	0	0	1	0	0	0	1	1	3	3
Violations Total	7	4	2	1	9	1	1	1	26	25

Notes: [] = Non-serious violations waived under this complaint pursuant to Water Code Section 13385(i).

() = Serious violations pursuant to Water Code Section 13385 (h).

Four non-serious limit violations were reported between May-06 and Jul-06 and were assessed mandatory penalties in MPC Order No. R8-2006-0067, therefore, no violations are waived for this MPC prior to Aug-06. Violations that occurred between 3/12/07 and 4/11/07 were exempted pursuant to WC Section 13385(j)(1)(D)(i).



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Attachment 2

ACCEPTANCE OF CONDITIONAL RESOLUTION AND WAIVER OF RIGHT
TO HEARING
City of Corona

Order No. R8-2011-0033

By signing and returning this Acceptance of Conditional Resolution and Waiver of Right to Hearing (Acceptance and Order), the City of Corona (City) hereby accepts the resolution of the mandatory minimum penalty assessments for the violations cited in Attachment 1, Effluent Limit Violations of NPDES Permit No. CA8000383, City of Corona WRP No. 1, for which mandatory minimum penalties shall be assessed by the Regional Board. By signing the Acceptance and Order, the City also waives its right to a hearing before the Regional Board. Attachment 1 is incorporated into this Acceptance and Order by reference.

The City agrees that Attachments 1 and 2 together will serve as a Complaint pursuant to Article 2.5 of the California Water Code (CWC) and that no separate Complaint is required by the Regional Board to assert jurisdiction over the alleged violations. The City agrees to pay the mandatory minimum penalty of \$75,000 as shown in the expedited payment option letter dated April 28, 2011, which shall be deemed payment in full for the violations listed in Attachment 1, pursuant to CWC Section 13385.

The City understands that pursuant to 40 CFR Section 123.27(d)(2)(iii), the Regional Board is required to provide public notice for at least 30 days and seek comments of any settlement agreement with the dischargers related to NPDES permit violations, prior to the Executive Officer executing any settlement agreements such as this Acceptance and Order. The City understands that if significant comments are received, this Acceptance and Order may not be executed and the offer for expedited payment and settlement may be withdrawn and the Regional Board may choose to take formal enforcement action.

The City understands that once this Acceptance and Order is executed by the Executive Officer of the Regional Board, payment is due within 30 days and a check for \$75,000 made payable to the State Water Resources Control Board shall be submitted to the Regional Board office.

CRWQCB, REGION 8
RLH 5/17/11

MAY 12 2011

California Environmental Protection Agency



The City understands that this Acceptance and Order only addresses the violations cited in Attachment 1.

I hereby affirm that I am duly authorized to act on behalf of and to bind the Permittee in the making and execution of this Acceptance and Order.

Jonathan Dill, General Manager - DWP

Name and Title of the Person Signing on behalf of the City of Corona

[Handwritten Signature]

5-10-11

Signature

Date

IT IS SO ORDERED PURSUANT TO CALIFORNIA WATER CODE SECTION 13385

Signature

Date

Kurt V. Berchtold, Executive Officer
Santa Ana Regional Water Quality Control Board

