STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – OFFICE OF CHIEF COUNSEL
JULY 23, 2013

ITEM 10

SUBJECT

CONSIDERATION OF A PROPOSED ORDER IMPOSING A MANDATORY MINIMUM PENALTY AGAINST MANTINI MANAGEMENT, INC. FOR VIOLATIONS OF LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD ORDERS NO. R4-2003-0111 AND R4-2008-0032.

DISCUSSION

In this proposed Order, the State Water Resources Control Board (State Water Board) imposes administrative civil liability against Mantini Management, Inc. (Mantini) in the amount of $72,000 as a mandatory minimum penalty for violations of waste discharge requirements Order No. R4-2003-0111 (NPDES No. CAG994004, CI No. 7001) and R4-2008-0032 (NPDES No. CAG994004, CI No. 7001) issued by the Los Angeles Regional Water Quality Control Board (Los Angeles Water Board).

Mantini is the property manager for the Detroit Apartments (facility) located at 618 South Detroit Street in Los Angeles. Mantini operates the groundwater dewatering system at the facility. The dewatering system discharges collected groundwater seepage from a basement garage sump and other incidental collected stormwater and wastewater. The dewatering system discharges to a storm water collection system that flows into Ballona Creek, a navigable water of the United States. In California, certain violations of waste discharge requirements that serve as an NPDES permit are subject to mandatory minimum penalties.

On August 25, 2011, the State Water Board's Director of the Office of Enforcement issued Amended Complaint No. OE-2011-0035 to Mantini in the amount of $72,000. On October 19, 2011, this matter was heard in Los Angeles, California before a Hearing Officer of the State Water Board, Vice Chair Frances Spivy-Weber. Mr. Edward Mantini appeared on behalf of Mantini. Mr. Jarrod Ramsey-Lewis and Ms. Mayumi Okamoto appeared for the Prosecution Team.

POLICY ISSUE

Should the State Water Board adopt the proposed Order imposing a mandatory minimum penalty against Mantini?

FISCAL IMPACT

None.

REGIONAL BOARD IMPACT

Adoption of the proposed Order will help the Los Angeles Water Board meet its enforcement obligations.

STAFF RECOMMENDATION

Adopt the proposed Order.

State Water Board action on this item will assist the Water Boards in reaching Goal 6 of the Strategic Plan Update: 2008-2012 to enhance consistency across the Water Boards, on an ongoing basis, to ensure our processes are effective, efficient, and predictable, and to promote fair and equitable application of laws, regulations, policies, and procedures. In particular, approval of this item will assist in fulfilling Objective 6.1 to target consistency improvements in process and policy for Water Board enforcement activities to promote compliance.

D R A F T June 24, 2013

STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD

ORDER WQ 2013-XXXX

In the Matter of Administrative Civil Liability Complaint No. OE-2010-0035
against
Mantini Management, Inc.

Order imposing mandatory minimum penalty for
Violations of Los Angeles Regional Water Quality Control Board
Order Nos. R4-2003-0111 and R4-2008-0032

BY THE BOARD:

I. INTRODUCTION

In this Order, the State Water Resources Control Board (State Water Board) imposes administrative civil liability against Mantini Management, Inc. (Mantini) in the amount of $72,000 as a mandatory minimum penalty for violations of waste discharge requirements Order No. R4-2003-0111 (NPDES No. CAG994004, CI No. 7001) and R4-2008-0032 (NPDES No. CAG994004, CI No. 7001).

On August 25, 2011, the State Water Board's Director of the Office of Enforcement issued Amended Complaint No. OE-2011-0035 (complaint) to Mantini in the amount of $72,000. The complaint alleged violations identified in Exhibit "A" attached hereto and incorporated herein by reference.

On October 19, 2011, this matter was heard in Los Angeles, California before a Hearing Officer of the State Water Board, Vice Chair Frances Spivy-Weber. Mr. Edward Mantini appeared on behalf of Mantini. Mr. Jarrod Ramsey-Lewis and Ms. Mayumi Okamoto appeared for the Prosecution Team.

II. FACTUAL BACKGROUND

Mantini is the property manager for the Detroit Apartments (facility) located at 618 South Detroit Street in Los Angeles. Mantini operates the groundwater dewatering system at the facility. The dewatering system discharges collected groundwater seepage from a basement garage sump and other incidental collected stormwater and wastewater. The

dewatering system discharges to a storm water collection system that flows into Ballona Creek, a navigable water of the United States. Discharged effluent contains pollutants, which can degrade water quality and impact beneficial uses of water.

Mantini's wastewater discharges from the facility are subject to the requirements and limitations set forth in Water Code section 13376 and Los Angeles Regional Water Quality Control Board (Los Angeles Water Board) Order Nos. R4-2003-0111 (applicable before December 16, 2009) and R4-2008-0032 (applicable on or after December 16, 2009).[1] Water Code section 13376 prohibits the discharge of pollutants to surface waters, except as authorized by waste discharge requirements that implement applicable provisions of the federal Clean Water Act. Water Code section 13377 authorizes the issuance of waste discharge requirements that serve as a National Pollutant Discharge Elimination System (NPDES) permit under the federal Clean Water Act. Order Nos. R4-2003-0111 and R4-2008-0032 set forth the waste discharge requirements and effluent limitations governing the discharges from the facility during the relevant period of time. Order Nos. R4-2003-0111 and R4-2008-0032 serve as NPDES permits.

Mantini's self-monitoring reports noted twenty four (24) effluent limit violations of Order Nos. R4-2003-0111 and R4-2008-0032. The violations are identified in Exhibit "A." Unable to isolate the source(s) of the violations, Mantini connected its discharge to the local sanitary sewer system on or about October 5, 2010.[2]

III. LEGAL AND PROCEDURAL BACKGROUND

A. Applicable NPDES Permit Effluent Limitations

Order Nos. R4-2003-0111 and R4-2008-0032 include the following effluent limitations:

Constituent	Units	Monthly Average	Daily Maximum
Biological Oxygen Demand (BOD)	mg/l	20	30
Chlorine Residual	mg/l	---	0.1

[1] On December 16, 2009, the Executive Officer of the Los Angeles Water Board determined that the waste discharges from Mantini's facility met the conditions to be enrolled under Order No. R4-2008-0032. As of that date, Order No. R4-2008-0032 supersedes Order No. R4-2003-0111, except for enforcement purposes. (Letter from Tracy Egoscue, Los Angeles Water Board, to Edward Mantini (Dec. 16, 2009).)

[2] Inspection Report, p. 5, prepared by Jarrod Ramsey-Lewis, State Water Board (October 19, 2010); see also Hearing Transcript, pp. 15 and 18.

Constituent	Units	Monthly Average	Daily Maximum
Copper[3]	µg/l	10.4/12.5	20.8/24
Methylene Blue Active Substances (MBAS)	mg/l	---	0.5
Oil and Grease	mg/l	10	15
Total Suspended Solids (TSS)	mg/l	50	150

B. Requirement to Impose Mandatory Minimum Penalties

In California, certain violations of waste discharge requirements that serve as an NPDES permit are subject to mandatory minimum penalties.[4] Water Code section 13385, subdivision (h)(1) requires assessment of a mandatory minimum penalty of three thousand dollars ($3,000) for each serious violation. Pursuant to Water Code section 13385, subdivision (h)(2), a "serious violation" is defined as any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant by 20 percent or more, or for a Group I pollutant by 40 percent or more. Appendix A of part 123.45 of title 40 of the Code of Federal Regulations specifies the Group I and II pollutants. Total suspended solids, biological oxygen demand (five-day incubation at 20° C), oil & grease, and MBAS are Group 1 pollutants. Copper and chlorine residual are Group II pollutants.

Water Code section 13385, subdivision (i)(1) specifies that a mandatory minimum penalty of three thousand dollars ($3,000) shall be assessed whenever a discharger violates a waste discharge requirement effluent limitation, by any amount, four or more times in any period of six consecutive months, except that the requirement to assess the mandatory minimum penalty shall not be applicable to the first three violations.

We have previously discussed the Porter-Cologne Water Quality Control Act's mandatory minimum penalty provisions. As we observed in our *Escondido Creek Conservancy* order, "the statute removes discretion from the water boards regarding the minimum amount that they must assess when a serious violation has occurred."[5] Water Code section 13385 provides for administrative civil liability that *may* be assessed by discretionary action (subdivisions (c) – (g)), but also identifies certain violations where any civil liability *must* recover minimum penalties of $3,000 for each violation (subdivisions (h) – (*l*)).

[3] Order No. R4-2003-0111 and R4-2008-0032 contain different effluent limitations for copper. Order No. R4-2003-0111 sets the monthly average and daily maximum at 10.4 µg/l and 20.8 µg/l, respectively. Order No. R4-2008-0032 sets the monthly average and daily maximum at 12.5 µg/l and 24 µg/l, respectively.

[4] Throughout the remainder of this Order, a reference to waste discharge requirements means waste discharge requirements adopted pursuant to Water Code section 13377 that serve as an NPDES permit.

[5] State Water Board Order WQ 2007-0010 (*Escondido Creek Conservancy et al.*), p. 4. See also State Water Board, Water Quality Enforcement Policy (2010), p. 23, § VII.

The Water Code establishes four affirmative defenses to the imposition of mandatory minimum penalties. The mandatory minimum penalty provisions do not apply when a violation is caused by (1) an act of war, (2) an unanticipated, grave natural disaster, (3) an intentional act of a third party, or (4) the startup period for certain new or reconstructed wastewater treatment units relying on biological treatment.[6] The discharger bears the burden of proving affirmative defenses.[7] Proof of any of the four defenses with respect to a violation suspends the mandatory minimum penalty provisions of section 13385 for that violation. When a serious violation has occurred, a discharger may avoid the mandatory minimum penalty only by proving one of the available affirmative defenses.[8]

As set forth in Exhibit "A," Mantini reported twenty three (23) serious violations and one (1) non-serious violation. The serious violations are defined as such because measured concentrations of Group I and II pollutants exceeded the applicable effluent limitations listed in Section III.A of this Order by more than 40 percent and 20 percent, respectively. The mandatory minimum penalty for these violations is $69,000. The one (1) non-serious effluent limitation violation is subject to a mandatory minimum penalty of $3,000 because it was the fourth violation in a six-month period.

C. Statute of Limitations

General statutes of limitations do not apply to this administrative proceeding. The statutes of limitations that refer to "actions" and "special proceedings" and that are contained in the California Code of Civil Procedure apply to judicial proceedings, not administrative proceedings.[9] Courts evaluating the issue have consistently found that general statutes of limitations do not apply to administrative proceedings, including administrative enforcement proceedings.[10]

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[6] Wat. Code, § 13385, subd. (j)(1).

[7] *City of Brentwood v. Central Valley Regional Water Quality Control Bd.* (2004) 123 Cal.App.4th 714, 726 (discussing the first three affirmative defenses available under subdivision (j)(1), but leaving open the question with respect to the fourth).

[8] State Water Board Order WQ 2007-0010 (*Escondido Creek Conservancy, et al.*), p. 4. While not relevant to the facts of this case, there are additional conditions under which a discharge that is in compliance with a Cease and Desist Order or Time Schedule Order is exempt from mandatory minimum penalties. (Wat. Code, § 13385, subd. (j)(2).)

[9] Code of Civ. Proc., § 22 (defining action as a judicial proceeding in a court). See *City of Oakland v. Public Employees' Retirement System* (2002) 95 Cal.App.4th 29, 47-48; 3 Witkin, Cal. Proc. (5th ed. 2008) Actions, § 430, p. 546.

[10] See, e.g., *Robert F. Kennedy Medical Center v. Department of Health Services* (1998) 61 Cal.App.4th 1357, 1361-1362; *Little Co. of Mary Hosp. v. Belshé* (1997) 53 Cal.App.4th 325, 329; *Bernd v. Eu* (1979) 100 Cal.App.3d 511, 515; cf. *BP America Production Co. v. Burton* (2006) 127 S.Ct. 638, 644 (reaching similar result that statutes of limitation do not apply to administrative proceedings under federal law absent express statutory provision).

Related to the concept of statute of limitations is an equitable principle of laches. Laches is a court-made, equitable doctrine based on the "principle that those who neglect their rights may be barred from obtaining relief in equity."[11] It is a defense by which a court denies relief to a claimant who has unreasonably delayed or been negligent in asserting a claim, when that delay or negligence has prejudiced the party against whom relief is sought.[12] The defense of laches requires unreasonable delay plus either acquiescence in the act about which plaintiff complains or prejudice to the defendant resulting from the delay.[13] "[L]aches is not available where it would nullify an important policy adopted for the benefit of the public."[14] Further, it is well-settled that the burden to establish laches lies with the party raising it.[15]

Initially, we are not convinced that the doctrine of laches is applicable to a mandatory minimum penalty. As noted above, laches is a court-made, equitable doctrine. We have previously recognized our authority to import equitable principles into our adjudicative decisions.[16] Where the Legislature has spoken, however, equitable and court-made remedies give way to statutory mandates.[17] "Principles of equity cannot be used to avoid a statutory mandate."[18] Here, where there has been a violation subject to statutory mandatory penalties and unless an affirmative defense is proven, the Legislature has imposed an affirmative duty to impose the penalties, thereby depriving the water boards of their discretion to reduce the mandatory minimum penalty.[19] When the Legislature has spoken so clearly, we do not believe the water boards may invoke equitable principles to avoid that result.

Even if we could invoke the doctrine of laches to reduce the penalty, Mantini would fail to carry the burden of proof required by courts. First, as discussed above, the doctrine of laches is not available against a governmental agency where it would nullify an important policy adopted for the benefit of the public. Some courts have considered the

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[11] *Feduniak v. California Coastal Com'n* (2007) 148 Cal.App.4th 1346, 1381.

[12] Black's Law Dict. (7th ed. 1999) p. 879, col. 1.

[13] *Johnson v. City of Loma Linda* (2000) 24 Cal.4th 61, 68.

[14] *Feduniak v. California Coastal Com'n*, *supra*, 148 Cal.App.4th at p. 1381.

[15] *Wells Fargo Bank v. Goldzband* (1997) 53 Cal.App.4th 596, 628.

[16] See, e.g., State Water Board Order WQ 96-04-UST (*Champion/LBS Associates Development Company*), p. 6 (adopting equitable "common fund" doctrine for Underground Storage Tank Cleanup Fund reimbursements).

[17] See *Modern Barber Colleges v. California Employ. St. Com'n* (1948) 31 Cal.2d 720, 727-728 (recognizing the Legislature's ability to define and limit equitable rights and remedies that are not in conflict with the Constitution).

[18] *Ghory v. Al-Lahham* (1989) 209 Cal.App.3d 1487, 1492; see also 13 Witkin, Summary (10th ed. 2005) Equity, § 3, p. 284; *Lass v. Eliassen* (1928) 94 Cal.App. 175, 179 ("Nor will a court of equity ever lend its aid to accomplish by indirection what the law or its clearly defined policy forbids to be done directly.").

[19] Wat. Code, § 13385, subd. (h)(1); *City of Brentwood v. Central Valley Regional Water Quality Control Bd.*, *supra*, 123 Cal.App.4th at p. 720.

possibility that a party might be able to assert laches against a governmental agency despite the existence of a public policy if the party could demonstrate that “manifest injustice" would otherwise result.[20] The Legislature adopted mandatory minimum penalties to promote streamlined, cost-effective enforcement and facilitate water quality protection.[21] The mandatory penalty statute itself evidences a strong legislative policy that certain types of permit violations always result in minimum penalties. There is nothing in the record that would suggest that Mantini has suffered anything remotely approaching a manifest injustice as a result of the delay in prosecuting the mandatory minimum penalty.

Second, Mantini has not proved that the delay in prosecuting the mandatory minimum penalty was either unreasonable or that the water boards acquiesced to Mantini’s violations. Mantini received a notice of violation and was on notice that it could be subject to further enforcement actions.

Finally, Mantini has been on notice of the violations since it received its monitoring data, and has not proven any prejudice to it by delayed prosecution of the action. In fact, because the payment of the mandatory penalty is not due until after final, administrative decisions, Mantini has benefited from the delayed assessment of the mandatory minimum penalty. We find that even if laches was available, Mantini has not satisfied its burden to support a laches defense.

D. CEQA

Issuance of this administrative civil liability 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 15321, subdivision (a)(2), title 14 of the California Code of Regulations. This action is also exempt from the provisions of CEQA in accordance with section 15061, subdivision (b)(3) of title 14 of the California Code of Regulations because there is no possibility that the activity in question may have a significant effect on the environment.

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[20] See *Morrison v. California Horse Racing Bd.* (1988) 205 Cal.App.3d 211, 219 (“Where there is no showing of manifest injustice to the party asserting laches, and where application of the doctrine would nullify a policy adopted for the public protection, laches may not be raised against a governmental agency.”).

[21] *City of Brentwood v. Central Valley Regional Water Quality Control Bd.*, *supra*, 123 Cal.App.4th at p. 725.

IV. CONTESTED ISSUES

A. Owner/Operator Liability

Mantini argues that it should not be liable for compliance with the NPDES permits because it is the property manager at the facility and not the owner. However, the federal NPDES regulations specify that when a facility or activity is owned by one person but is operated by another person, it is the operator's duty to obtain a permit.[22] Pursuant to our regulations, the federal regulations govern the issuance and administration of California's NPDES program.[23]

Accordingly, on January 19, 2005, Mr. Edward Mantini signed an NPDES permit transfer request form requesting that responsibility, including liability, for the NPDES permit (Order No. R4-2003-0111) be transferred from HPG Management, the prior property manager, to Mantini Management, Inc. The owner of the property did not change and was listed on the form as Boonly Investments. This form included a statement that the signatory (Mr. Mantini) to the permit transfer request form understands that he/she will be responsible for compliance with the NPDES permit.[24]

When the Los Angeles Water Board reissued the NPDES permit (Order No. R4-2008-0032), it sent Mr. Mantini a letter acknowledging receipt of a Notice of Intent Form submitted by Mantini Management Inc. to continue coverage under the general permit. This letter and the first page of the Fact Sheet for the NPDES permit are clear that the permit was issued to Mantini Management Inc.[25] There is no evidence in the record that Mantini objected to this. Consequently, Mantini is responsible for compliance with Order Nos. R4-2003-0111 and R4-2008-0032.

V. CONCLUSION

Upon consideration of the record for this matter, the State Water Board concludes that the amount of $72,000 must be imposed on Mantini as a mandatory minimum penalty for the violations identified in this Order.

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[22] 40 C.F.R. § 122.21(b).

[23] Cal. Code Regs., tit. 23, § 2235.2; see also Wat. Code, § 13372.

[24] See Exhibit "B" and Hearing Transcript p. 17.

[25] See Exhibits "C" and "D".

VI. ORDER

IT IS HEREBY ORDERED that, pursuant to Section 13323 of the Water Code, Mantini shall make a payment by check of $72,000 (payable to the State Water Pollution Cleanup and Abatement Account) no later than thirty days after the date of issuance of this Order. The check shall reference the number of this Order. Mantini shall send the original signed check to State Water Resources Control Board, Department of Administrative Services, P.O. Box 1888, Sacramento, CA 95812-1888.

CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on July 23, 2013.

AYE:

NAY:

ABSENT:

ABSTAIN:

_____
Jeanine Townsend
Clerk to the Board

MANDATORY PENALTY ADMINISTRATIVE CIVIL LIABILITY
Mantini Management, Inc. --- Detroit Apartments
CI #7001
EXHIBIT 'A'

Effluent Limitation Violations Requiring Mandatory Minimum Penalties

#	Violation Number	Violation Date*	Constituent	Pollutant Group	Limitation Period	Limit	Result/ Average	Units	% Over Limit	Date 180 Days Prior	Effluent Violations in 180 Days**	Serious*** Violation?	Mandatory Fine?	Penalty
1	852075	3/31/09	Cu monthly AVG	II	Monthly	10.4	18	µg/L	73	2-Oct-2008	1	Yes	Yes	$3,000
2	844375	4/15/09	Cu DM	II	Daily	20.8	35	µg/L	68	17-Oct-2008	2	Yes	Yes	$3,000
3	844376	4/30/09	Cu monthly AVG	II	Monthly	10.4	35	µg/L	237	1-Nov-2008	3	Yes	Yes	$3,000
4	844372	5/6/09	MBAS DM	I	Daily	0.5	0.58	mg/L	16	7-Nov-2008	4	No	Yes	$3,000
5	844373	5/6/09	residual chlorine DM	II	Daily	0.1	0.2	mg/L	100	7-Nov-2008	5	Yes	Yes	$3,000
6	844377	5/6/09	Cu DM	II	Daily	20.8	28	µg/L	35	7-Nov-2008	6	Yes	Yes	$3,000
7	844378	5/31/09	Cu monthly AVG	II	Monthly	10.4	28	µg/L	169	2-Dec-2008	7	Yes	Yes	$3,000
8	844379	6/3/09	Cu DM	II	Daily	20.8	96	µg/L	362	5-Dec-2008	8	Yes	Yes	$3,000
9	844380	6/30/09	Cu monthly AVG	II	Monthly	10.4	96	µg/L	823	1-Jan-2009	9	Yes	Yes	$3,000
10	852080	7/1/09	Cu DM	II	Daily	20.8	99	µg/L	376	2-Jan-2009	10	Yes	Yes	$3,000
11	852081	7/31/09	Cu monthly AVG	II	Monthly	10.4	99	µg/L	852	1-Feb-2009	11	Yes	Yes	$3,000
12	858203	10/28/09	Cu DM	II	Daily	20.8	130	µg/L	525	1-May-2009	9	Yes	Yes	$3,000
13	858204	10/31/09	Cu monthly AVG	II	Monthly	10.4	130	µg/L	1150	4-May-2009	10	Yes	Yes	$3,000
14	858178	11/4/09	BOD DM	I	Daily	30	311	mg/L	937	8-May-2009	8	Yes	Yes	$3,000
15	858180	11/4/09	Oil & Grease DM	I	Daily	15	25	mg/L	67	8-May-2009	9	Yes	Yes	$3,000
16	858181	11/4/09	MBAS DM	I	Daily	0.5	38	mg/L	7500	8-May-2009	10	Yes	Yes	$3,000
17	858205	11/4/09	Cu DM	II	Daily	20.8	210	µg/L	910	8-May-2009	11	Yes	Yes	$3,000

MANDATORY PENALTY ADMINISTRATIVE CIVIL LIABILITY
Mantini Management, Inc. --- Detroit Apartments
CI #7001
EXHIBIT 'A'

Effluent Limitation Violations Requiring Mandatory Minimum Penalties

#	Violation Number	Violation Date*	Constituent	Pollutant Group	Limitation Period	Limit	Result/ Average	Units	% Over Limit	Date 180 Days Prior	Effluent Violations in 180 Days**	Serious*** Violation?	Mandatory Fine?	Penalty
18	858175	11/30/09	TSS monthly AVG	I	Monthly	50	88	mg/L	76	3-Jun-2009	11	Yes	Yes	$3,000
19	858177	11/30/09	BOD monthly AVG	I	Monthly	20	311	mg/L	1455	3-Jun-2009	12	Yes	Yes	$3,000
20	858179	11/30/09	Oil & Grease monthly AVG	I	Monthly	10	25	mg/L	150	3-Jun-2009	13	Yes	Yes	$3,000
21	858207	11/30/09	Cu monthly AVG	II	Monthly	10.4	210	µg/L	1919	3-Jun-2009	14	Yes	Yes	$3,000
22	858208	12/2/09	Cu DM	II	Daily	20.8	320	µg/L	1438	5-Jun-2009	14	Yes	Yes	$3,000
23	858209	12/31/09	Cu monthly AVG	II	Monthly	12.5	320	µg/L	2460	4-Jul-2009	13	Yes	Yes	$3,000
24	873703	1/31/10	Cu monthly AVG	II	Monthly	12.5	20.2	µg/L	62	4-Aug-2009	13	Yes	Yes	$3,000

Total Penalty: $72,000

* Violation occurs on sample date or last date of averaging period.
** Includes violations occurring on 'day zero' of the past 180 days.
*** For Group I pollutants, a violation is serious when the limitation for the parameter of concern is exceeded by more than 40%.
For Group II pollutants, a violation is serious when the limitation for the parameter of concern is exceeded by more than 20%.

Violation period ending the last day of January 2010

Group I Violations Subject to MMPs:	7	Group I Violations Assessed MMP:	7
Group II Violations Subject to MMPs:	17	Group II Violations Assessed MMP:	17
Other Effluent Violations Subject to MMPs:	0	Other Effluent Violations Assessed MMP:	0
Total Violations Subject to MMP:	24	Total Violations Assessed MMP:	24
Violations Exempt from MMPs:	0		
Total Effluent Violations:	24		

Mandatory Minimum Penalty = (23 Serious Violations + 1 Non-Serious Violations) x $3,000 = $72000

EXHIBIT B

State of California
California Regional Water Quality Control Board, Los Angeles Region

AA 1/26
EL

NPDES PERMIT TRANSFER REQUEST

NPDES Permit No: CAG994004 CI No. 7001

Facility Location: 618 S. Detroit Street Los Angles, CA 90036
Street Address City State Zip code

I hereby request the transfer of the above-referenced NPDES permit, including the transfer of responsibility, coverage, and liability for such permit, in accordance with the following:

TRANSFER FROM:	TRANSFER TO:
Detroit Apartments Facility Name	Detroit Apartments New Facility Name
Boonly Investments Owner	Boonly Investments' New Owner
HPG Management Operator	Mantini Management, Inc. New Operator

TRANSFER EFFECTIVE DATE: 1/1/05

X
Signature of Owner/Authorized Representative

X agent
Title

Date: X 1/19/05

2005 JAN 25 PM 2:13
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD LOS ANGELES REGION

I understand that I am responsible for compliance with the above-referenced NPDES permit. I certify that:

1. I have reviewed the NPDES permit;
2. The facility construction and nature/amount of discharges from the facility have not substantially changed; and
3. I will notify the Regional Board of any material change in the facility and/or of the discharge, or any future change in the facility owner or operator.

Signature of New Owner/Authorized Representative

Manager
Title

Date: 1/19/05 Telephone No.: (310) 899-1887

Mailing Address: 528 Arizona Ave., #218 Santa Monica, CA 90401
Street Address City State Zip Code

Edward Mantini
Name of Facility Contact Person

(310) 899-1887
Telephone No.

Contact Person Mailing Address:

528 Arizona Ave., Suite 218 Santa Monica, CA 90401
Street Address City State Zip Code

California Regional Water Quality Control Board

Los Angeles Region

Recipient of the 2001 *Environmental Leadership Award* from Keep California Beautiful

Linda S. Adams
Agency Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: http://www.waterboards.ca.gov/losangeles

Arnold Schwarzenegger
Governor

December 16, 2009

CERTIFIED MAIL NO. 7005 0390 0000 4141 4747
RETURN RECEIPT REQUESTED

Mr. Edward Mantini
Mantini Management, Inc.
528 Arizona Ave., #218
Santa Monica, CA 90401

Dear Mr. Mantini:

CONTINUATION OF COVERAGE UNDER GENERAL NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM AND WASTE DISCHARGE REQUIREMENTS—MANTINI MANAGEMENT, INC., DETROIT APARTMENTS, 618 S. DETROIT STREET, LOS ANGELES, CALIFORNIA (NPDES NO. CAG994004, CI–7001)

We have completed our review of your Notice of Intent (NOI) Form completed on dated October 10, 2008, submitted in order to continue enrollment under the General NPDES Permit. Discharge of the groundwater generated from the above-referenced facility is currently regulated under NPDES General Permit No. CAG994004 (Order No. R4-2003-0111) adopted by this Board on August 7, 2003.

Based on the attached Fact Sheet and other information provided, we have determined that the groundwater discharge meets the conditions to be regulated under Order No. R4-2008-0032, *General National Pollutant Discharge Elimination System and Waste Discharge Requirements for Discharges of Groundwater from Construction and Project Dewatering to Surface Waters in Coastal Watersheds of Los Angeles and Ventura Counties*, adopted by this Board on June 5, 2008. Your existing enrollment under Order No. R4-2003-0111, which was issued to you on August 20, 2004, is superseded by this new permit.

Enclosed are your Waste Discharge Requirements, which also serve as your NPDES permit, consisting of Order No. R4-2008-0032 and Monitoring and Reporting Program No. CI-7001. The discharge limitations in Part V.1. Tables 1 and 6 of Order No. R4-2008-0032 for the specific constituents listed on the Table with the enclosed Fact Sheet are applicable to your discharge. The groundwater discharge flows into Ballona Creek. Therefore, the discharge limitations in Attachment B of Order No. R4-2008-0032 are not applicable to your discharge.

The Monitoring and Reporting Program requires you to implement the monitoring program on the effective date of coverage under this permit. All monitoring reports should be sent to the Regional Board, ATTN: Information Technology Unit. When submitting monitoring or technical reports to the Regional Board per these requirements, please include a reference to "Compliance File No. CI-7001 and NPDES No. CAG994004", which will assure that the reports are directed to the appropriate file and staff. Also, please do not combine other reports with your monitoring reports. Submit each type of report as a separate document.

To avoid future annual fees, please submit written request for termination of your enrollment under the general permit in a separate letter, when the project has been completed and the permit is no longer needed. Be aware that the annual fee covers the fiscal year billing period beginning July 1 and ending June 30, the following year. You will pay full annual fee if your request for termination is made after the beginning of new fiscal year beginning July 1.

We are sending a copy of Order No. R4-2008-0032 only to the applicant. For those on the mailing list, please refer to the Board Order previously sent to you. A copy of the Order will be furnished to anyone who requests it, or it can be obtained at our web site address: http://www.waterboards.ca.gov/losangeles/board_decisions/adopted_orders/.

If you have any questions, please contact Gensen Kai at (213) 576-6651.

Sincerely,

Tracy J. Egoscue
Executive Officer

Enclosures:

Order No. R4-2008-0032, General NPDES Permit No. CAG994004
Fact Sheet
Monitoring and Reporting Program for No. CI-7001

cc: Environmental Protection Agency, Region 9, Permit Section (WTR-5)
U.S. Army Corps of Engineers
U.S. Fish and Wildlife Services, Division of Ecological Services
NOAA, National Marine Fisheries Service
California Department of Fish and Game, Marine Resources, Region 5
Los Angeles County, Department of Public Works, Waste Management Division
Los Angeles County, Department of Health Services
City Manager, City of Los Angeles
Jae Kim, Tetratech

STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION
320 West 4th Street, Suite 200, Los Angeles, California 90013

FACT SHEET
WASTE DISCHARGE REQUIREMENTS
FOR
MANTINI MANAGEMENT, INC.
(DETROIT APARTMENTS)

NPDES NO. CAG994004
CI-7001

FACILITY ADDRESS	FACILITY MAILING ADDRESS
618 S. Detroit Street Los Angeles, California	528 Arizona Ave., #218 Santa Monica, CA 90401

PROJECT DESCRIPTION:

Mantini Management, Inc. (Discharger) manages the Detroit Apartments located at 618 S. Detroit Street, Los Angeles (See Figure 1 for site location). The Discharger discharges groundwater seepage from the building's footing drainage under general NPDES permit No. CAG994004. The dewatering is necessary to protect the integrity of the building structure from rising groundwater. The Discharger has submitted a Notice of Intent dated October 10, 2008, to continue enrollment under the general NPDES permit.

VOLUME AND DESCRIPTION OF DISCHARGE:

Up to 2,000 gallons per day of groundwater is being discharged from the facility to Discharge Point 001 (Latitude: 34° 03' 50", Longitude: 118° 20' 40") which flows into Ballona Creek, a water of the United States.

APPLICABLE EFFLUENT LIMITATIONS

Based on the information provided in the NPDES Application Supplemental Requirements, the following constituents listed in the Table below have been determined to show reasonable potential to exist in the discharge. The groundwater discharge flows into Ballona Creek. Therefore, Ballona Creek mandatory Total Maximum Daily Load limitations are applicable to the discharge, and the discharge limitations in Attachment B of Order No. R4-2008-0032 are not applicable to your discharge. The receiving water is designated as MUN (P* Potential) beneficial use, therefore, effluent limitations for Other Waters apply as appropriate.