

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION**

In the matter of:

Carpinteria Sanitary District

**EVIDENTIARY STIPULATIONS
RELATED TO ACLC NO. R3-2015-
0011**

WDID: 3 420101001

Hearing: May 29, 2015

The Prosecution Team and Carpinteria Sanitary District (jointly, "Parties") hereby give notice that:

The Parties jointly wish to limit the submission of evidence in the ACLC, in order to manage resources effectively. Therefore, they are stipulating to matters not in dispute so that allegations at issue can be decided and briefed. Items detailed herein have been agreed to and considered by counsel for both parties. No evidence on stipulated facts will be admissible in the hearing. See California Evidence Code §§210, 350; *Robinson v. Robinson* (1962) 208 Cal.App.2d 213, 217. There is sound public policy underlying the use of stipulations as a means to more efficiently use the court's time and resources. See generally, *People v. Morris* (1991) 53 Cal.3d 152, 190 (*disapproved on other grounds in People v. Stansbury* (1995) 9 Cal.4th 824, 830).

THEREFORE, IT IS HEREBY STIPULATED by and between the Parties hereto through their respective attorneys of record as follows:¹

1. Carpinteria Sanitary District stipulates to the following paragraphs of ACLC R3-2015-0011: 1-7, 11-33, 35 and 37-41, with the following modifications:
 - a. Paragraph 3: The hearing will be held on May 29, 2015;
 - b. Paragraph 27: "The Discharger originally reported that the October 3, 2012 discharge amount was estimated to be 281,250 gallons. In its 13267 response, based on an assessment of available data, the Discharger's consultant re-estimated the discharge amount as 231,076. However, using effluent data from the Discharger's Supervisory Control and Data
 - c. Acquisition (SCADA) system, the Prosecution Team's calculation of the discharge volume was recalculated at 297,896 gallons. Based on its subsequent review of the relevant data on SCADA that was not previously available to the Discharger, the Discharger agrees with the discharge volume estimate of 297,896 gallons."
 - d. Paragraph 28: "While the Discharger immediately reported the discharge on October 3, 2012, the Discharger did not conduct any sampling,

¹ Any numbering errors in the ACLC are unintentional. On page 7, after the section entitled "Proposed Liability," the final paragraphs should continue with findings 41 and 42.

pursuant to Provision VIII.A.2 of the Monitoring and Reporting Program of Order No. R3-2011-0003 (Attachment E), which provides in pertinent part:

The Discharger **shall monitor** for total coliform, fecal coliforms, and enterococcus at receiving water sampling stations RSW-F and RSW-G as identified in MRP section II above, in addition to three shore sampling stations approved by the Executive Officer, for seven days after loss of disinfection.

(emphasis added). Although this failure to conduct sampling could be considered a violation of the Discharger's permit, it is not included in the proposed administrative liability. In providing notification to the Central Coast Water Board permitting staff, the Discharger was apparently told there was no need to sample after the October 3, 2012 discharge. However, the Discharger is responsible for compliance with the terms of its permit despite verbal directives to the contrary."

2. The Prosecution Team stipulates to strike from ACLC R3-2015-0011 paragraphs 8 through 10 in their entirety and any reference thereto. Similarly, the Prosecution Team stipulates to strike the following language from paragraph 15: "the accuracy of the whistleblower's allegations and," so the final sentence in paragraph 15 will now read, "The scope of the inspection was to inquire about the cause and any corrective actions resulting from the 2012 ocean discharge and the MMP violations."
3. With regard to Attachment A, incorporated by reference to ACLC R3-2015-0011, the Parties stipulate as follows:
 - a. As to Factor 3, susceptibility to cleanup or abatement, is properly "scored" at a 1;
 - b. The volume of the discharge, which does not involve sewage or stormwater, allows the Prosecution Team, in its discretion, to recommend a reduction in the maximum penalty of \$10.00 per gallon to \$2.00 per gallon;
 - c. The volume of the October 3, 2012 discharge was 297,896 gallons;
 - d. The proposed ACLC does not include any non-discharge violations;
 - e. The "history of violations" score is appropriately 1.0;
 - f. Carpinteria Sanitary District has an ability to pay the recommended penalty or a penalty that the Regional Board could order based on the disputed and stipulated factors, which would obviate the need for the Parties to present economic data and witnesses on this subject;
 - g. The Prosecution Team staff time will be billed at \$125 an hour; and
 - h. Carpinteria stipulates to the proposed \$15,000 in MMPs.

4. In regard to Attachment A, incorporated by reference to ACLC R3-2015-0011, the Prosecution Team stipulates to strike and/or modify the following language from the listed paragraphs as follows:
 - a. On page 2, top paragraph, the sentence, "The Discharger did not conduct an extensive investigation into the cause of the failure," shall be stricken, and replaced with the following sentence: "The Discharger conducted an investigation into the cause of the failure, including the failure of a particular pump, but was unable to conclusively determine the actual cause of the pump's failure."
 - b. On page 4, the second paragraph is amended to read as follows: "The Water Quality Enforcement Policy allows discretion to lower the \$10 per gallon maximum amount to \$2 per gallon for high volume discharges, including those involving sewage or stormwater. Here, the Prosecution Team exercised its discretion to reduce the recommended penalty to \$2 per gallon to yield an appropriate penalty for the discharge at issue, which did not involve sewage or stormwater."
 - c. On page 4, under the heading, "Culpability," the sentence beginning, "The Discharger failed to install a low chlorine dosage alarm system. . . ." shall be stricken and replaced with the following sentence, "At the time of the event, the Discharger's chemical disinfection system did not include a low chlorine dosage alarm system that would have immediately notified plant operators of a chlorination failure and thereby, minimize the length of time and volume of the discharge." The sentence immediately following should be modified as follows: "Even though the pump was well-maintained and had no previous failures, such performance is not a guarantee of future success."
 - d. On page 4, under the heading, "Culpability," last paragraph, second sentence, the sentence beginning "This failure to sample is an additional violation. . ." shall be stricken and replaced with the following sentence: "Although this failure to conduct sampling could be considered a violation of the Discharger's permit, it is not included in the proposed administrative liability."
 - e. On page 5, under the heading, "Cleanup and Cooperation," first paragraph, the last three sentences, beginning with "Although the Discharger has been forthright in responding to staff requests, . ." shall be stricken in their entirety and replaced with the following five sentences: "The Discharger originally reported that the October 3, 2012 discharge amount was estimated to be 281,250 gallons. In its 13267 response, based on an assessment of available data, the Discharger's consultant re-estimated the discharge amount as 231,076. However, using effluent data from the Discharger's Supervisory Control and Data Acquisition (SCADA) system, the Prosecution Team's calculation of the discharge volume was recalculated at 297,896 gallons. Based on its subsequent review of the relevant data on SCADA that was not previously available to the

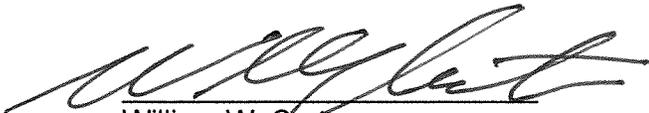
Discharger, the Discharger agrees with the discharge volume estimate of 297,896 gallons.”

Dated this 10th day of April, 2015.



Julie Macedo
Julie Macedo, Senior Staff Counsel
Attorney for Prosecution Team

Dated this 10th day of April, 2015.



William W. Carter
William W. Carter,
Attorney for Carpinteria Sanitary District