



Linda S. Adams  
Secretary for  
Environmental Protection

# California Regional Water Quality Control Board San Diego Region

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<http://www.waterboards.ca.gov/sandiego>

November 14, 2008

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

7008 1140 0004 9971 8672

Mr. Michael T. Thornton, P.E., General Manager  
San Elijo Joint Powers Authority  
2695 Manchester Avenue,  
P.O. Box 1077,  
Cardiff by the Sea, CA 92007-7077

In reply refer to:  
**Place ID: 255265**  
**RM: 352719**  
**CAU:01-0125:jhaas**

Dear Mr. Thornton:

**ADOPTION OF ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R9-2008-0137  
AGAINST SAN ELIJO JOINT POWERS AUTHORITY, SAN ELIJO OCEAN OUTFALL**

Enclosed is Administrative Civil Liability Order R9-2008-0137, adopted on November 12, 2008, by the California Regional Water Quality Control Board, San Diego Region (Regional Board) against San Elijo Joint Powers Authority assessing mandatory minimum penalties in the amount of \$9,000. As you know, the Regional Board directed that \$4,500 of the liability be payable to the State Water Resources Control Board (State Water Board) for deposit into the Cleanup and Abatement Account and \$4,500 of the liability be paid to the Southern California Coastal Waters Research Project (SCCWRP) to support a supplemental environmental project.

Each payment of \$4,500 is due by December 12, 2008. Payment to the State Water Board should be submitted to the Regional Board. Evidence of full payment to SCCWRP must also be submitted to the Regional Board by December 12, 2008. Failure to make each payment may result in the referral to a collection agency or the State of California's Attorney General's office for further enforcement.

You have thirty days to appeal the Regional Board's decision to the State Water Resources Control Board. Information on the appeal process can be obtained at the following website: [www.waterboards.ca.gov](http://www.waterboards.ca.gov). If you choose to appeal, your payment may be delayed until the State Board has made a determination on the matter.

The heading portion of this letter includes a Regional 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 Regional Board pertaining to this matter.

*California Environmental Protection Agency*

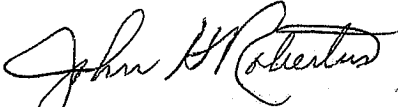
Mr. Michael Thornton  
San Elijo Joint Powers Authority  
ACL Order No. R9-2008-0137

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November 14, 2008

If you have any questions, please contact Jeremy Haas at (858) 467-2735 or by e-mail at [jhaas@waterboards.ca.gov](mailto:jhaas@waterboards.ca.gov).

Respectfully,



JOHN H. ROBERTUS  
Executive Officer

JHR:mja:jh

Enclosure: Administrative Civil Liability Order R9-2008-0137

cc (via email):

Ken Greenberg, Water Division U.S.EPA, [greenberg.ken@epa.gov](mailto:greenberg.ken@epa.gov)

Reed Sato, State Water Board, Office of Enforcement, [rsato@waterboards.ca.gov](mailto:rsato@waterboards.ca.gov)

CIWQS Entries

Regulatory Measure 352719

Place ID 255265

Party ID 39664

Violation IDs: 711583, 449366, 449373



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

**ORDER NO. R9-2008-0137**

**ADMINISTRATIVE ASSESSMENT OF CIVIL LIABILITY  
AGAINST  
SAN ELIJO JOINT POWERS AUTHORITY  
SAN ELIJO OCEAN OUTFALL  
FOR  
VIOLATIONS OF ORDER R9-2005-0100**

The California Regional Water Quality Control Board, San Diego Region (Regional Board), having considered in a public meeting on November 12, 2008, all comments received on the issuance of liability against San Elijo Joint Powers Authority (SEJPA) regarding violations alleged in Complaint R9-2008-0006, dated May 16, 2008, (Complaint), having provided public notice thereof and not less than thirty (30) days for public comment, and on the recommendation for administrative assessment of Civil Liability in the amount of \$9,000 finds as follows:

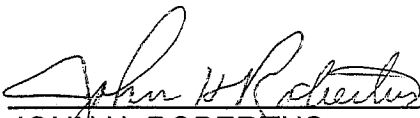
1. SEJPA discharges treated wastewater into the Pacific Ocean that is subject to numeric effluent limitations, contained in Order R9-2005-0100, NPDES Permit No. CA0107999 *Waste Discharge Requirement for the San Elijo Joint Powers Authority, San Elijo Water Reclamation Facility Discharge to the Pacific Ocean Via the San Elijo Ocean Outfall, San Diego County.*
2. Between September 1, 2006 and September 1, 2007, SEJPA reported effluent sampling results to the Regional Board, pursuant to the Monitoring and Reporting schedule for Order R9-2005-0100, documenting violations of effluent limitations prescribed by Order R9-2005-0100.
3. Under California Water Code (CWC) Section 13385 subdivision (h), certain reported effluent violations are subject to mandatory penalties as determined by the following:
  - a. On September 7, 2006 San Elijo discharged effluent with a concentration of settleable solids at 6.0 ml/l, in violation of the instantaneous maximum effluent limitation of 3.0 ml/l as specified in Discharge Specifications B1 of Order No. R9-2005-0100. This violation exceeds the effluent limitation for a Group I pollutant by greater than 40%, and therefore is a serious violation and satisfies the requirements of a mandatory minimum penalty of \$3,000.
  - b. As a result of the high concentration of settleable solids discharged on September 7, 2006, the average settleable solids for the week of September 4 through 10, 2006 was calculated to be 2.2 ml/l, which violated the average weekly effluent limitation of 1.5 ml/l as specified in Discharge Specifications B1 of Order No. R9-2005-0100. This violation exceeds the limitation by greater than 40%, and therefore is a serious violation and satisfies the requirements of a mandatory minimum penalty of \$3,000.

- c. On August 1, 2007 San Elijo discharged effluent with a concentration of settleable solids at 5.0 ml/l, which exceeded the instantaneous maximum effluent limitation of 3.0 ml/l as specified in Discharge Specifications B1 of Order No. R9-2005-0100. This violation exceeds the limitation by greater than 40%, and therefore is a serious violation and satisfies the requirements of a mandatory minimum penalty of \$3,000.
4. Pursuant to CWC Section 13385 (h), the Regional Board must impose mandatory minimum penalties (MMPs) in the amount of nine thousand dollars (\$9,000) on San Elijo Joint Powers Authority.
5. On May 16, 2008, the Assistant Executive Officer issued Administrative Civil Liability Complaint R9-2008-0006 to SEJPA proposing the imposition of \$9,000 in liability for the above violations.
6. In a letter dated August 19, 2008, SEJPA waived its right to a public hearing before the Regional Board regarding the violations alleged in Complaint R9-2008-0006 and proposed to direct a portion of the recommended liability within the Complaint toward a supplemental environmental project (SEP). The proposed SEP would provide \$4,500 to the Southern California Coastal Water Research Project for a study of the contribution of atmospheric deposition of nutrients to coastal harmful algal blooms.
7. CWC Section 13385(l) allows the Regional Board to direct a portion of MMPs toward implementation of SEPs. The proposed SEP satisfies the provisions of Section IV, Part D of the State Water Resources Control Board Water Quality Enforcement Policy (Resolution 96-030 as amended).
8. 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 15321(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.
9. The Regional Board incurred costs totaling \$1,820, which includes investigation, preparation of enforcement documents, evaluation of the proposed SEP, and communication with SEJPA regarding the enforcement action.

**IT IS HEREBY ORDERED**, that pursuant to Section 13385 of the Water Code, that:

1. Civil liability is imposed on the San Elijo Joint Powers Authority (SEJPA) in the amount of \$9,000 to be paid as follows:
  - a. SEJPA shall submit a check to the Regional Board in the amount of \$4,500 payable to the "State Water Resources Control Board" within 30 days of adoption of this Order for deposit into the Cleanup and Abatement Account; and
  - b. SEJPA shall submit payment in the amount of \$4,500 to the Southern California Coastal Water Research Project (SCCWRP) to provide funding in support of the Supplemental Environmental Project (SEP) known as "Atmospheric Deposition and Harmful Algal Blooms," which shall be an element of the Atmospheric Deposition Component of the Bight '08 Survey. The SEJPA shall provide evidence to the Regional Board of payment in full to SCCWRP within 30 days from the date of this Order. Failure to pay the full amount within 30 days from the date of this Order will result in the full amount being immediately due and payable to the State Water Resources Control Board for deposit into the Cleanup and Abatement Account.
2. If the SEJPA publicizes the SEP or the results of the SEP, it will state in a prominent manner that the Project is being undertaken as part of the settlement of an enforcement action by the Regional Board.
3. The Executive Officer is authorized to refer this matter to the Office of the Attorney General for enforcement if the SEJPA fails to comply with paragraphs 1 or 2.
4. Fulfillment of the SEJPA's obligations under this Order constitutes full and final satisfaction of any and all liability for each allegation in Complaint R9-2008-0006.

I, John H. Robertus, 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 12, 2008.

  
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JOHN H. ROBERTUS  
Executive Officer

CIWQS Entries

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