

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

ORDER NO. R9-2009-0043

**ADMINISTRATIVE ASSESSMENT OF CIVIL LIABILITY
FOR
MANDATORY MINIMUM PENALTIES
AGAINST
NORTH COUNTY TRANSIT DISTRICT
SPRINTER CROUCH STREET STATION CONSTRUCTION DEWATERING
FOR
VIOLATIONS OF ORDER NO. R9-2001-0096, NPDES NO. CAG919002**

The California Regional Water Quality Control Board, San Diego Region (Regional Board), having received a signed waiver of public hearing, having reviewed the allegations contained in Administrative Civil Liability (ACL) Complaint for Mandatory Minimum Penalties (MMPs) No. R9-2009-0020 dated February 2, 2009, having considered all comments received, and on the recommendation of administrative assessment of civil liability pursuant to Water Code section 13385(h) in the amount of \$15,000, finds as follows:

1. On September 9, 2005, the North County Transit District (NCTD) applied for enrollment under Order No. R9-2001-0096, NPDES No. CAG919002, *General Waste Discharge Requirements for Groundwater Extraction Waste Discharges From Construction, Remediation, and Permanent Groundwater Extraction Projects to Surface Waters within the San Diego Region except for San Diego Bay*, for the temporary discharge of extracted and treated groundwater to Loma Alta Creek from the Sprinter Crouch Street Station Culvert Replacement construction dewatering project in Oceanside. On March 3, 2006, the Regional Board sent an acknowledgement letter of the permit application, specified the discharge requirements for the temporary discharge, and enrolled NCTD under Order No. R9-2001-0096. On April 21, 2006 the Regional Board amended the enrollment to increase the maximum allowable flow rate from 60,000 gallons per day to 432,000 gallons per day based on a request from NCTD dated March 31, 2006.
2. On June 30, 2006, NCTD reported, pursuant to the Monitoring and Reporting schedule for Order No. R9-2001-0096, effluent sampling results that document violations of effluent limitations for nitrogen and phosphorus prescribed by Order No. R9-2001-0096.

3. On August 7, 2006, the Regional Board issued Notice of Violation (NOV) No. R9-2006-0103 to NCTD for violations of the total nitrogen and total phosphorus instantaneous maximum effluent limitations. The NOV indicated that the alleged violations were subject to mandatory minimum penalties (MMPs). In its August 28, 2006 written response to the NOV, NCTD acknowledged the alleged violations and described management measures intended to prevent further violations.
4. On August 30, 2006 NCTD requested termination of enrollment to discharge pursuant to Order No. R9-2001-0096. On January 19, 2007 the Regional Board notified NCTD that enrollment had been terminated and that NCTD remained subject to further enforcement actions for violations that occurred prior to termination.
5. NCTD violated provisions of law for which the Regional Board must impose civil liability pursuant to Water Code section 13385(h). The violations were of effluent limitations in waste discharge requirements for discharges of pollutants from point sources to Waters of the United States. Water Code section 13385(h) requires that a MMP of \$3,000 be imposed for each serious violation.
6. On February 2, 2009, the Assistant Executive Officer issued ACL Complaint No. R9-2009-0020 to NCTD proposing the imposition of \$15,000 in liability for five alleged violations of total nitrogen and total phosphorus effluent limitations as described below in Table 1.


Table 1. Violations subject to Mandatory Minimum Penalties

Violation Date	Violation ID	Parameter	Effluent Limitation	Reported Value (percent over limitation)	Serious Violation Subject to MMP
5/9/2006	427153	Total Nitrogen Instantaneous Maximum	2.0 mg/L	3.3 mg/L (65% over)	Yes
5/9/2006	427146	Total Phosphorus Instantaneous Maximum	0.2 mg/L	0.4 mg/L (100% over)	Yes
5/17/2006	427152	Total Phosphorus Instantaneous Maximum	0.2 mg/L	0.3 mg/L (50% over)	Yes
May 2006	804477	Total Phosphorus Average Monthly Effluent Limitation	0.1 mg/L	0.2 mg/L (100% over)	Yes
May 2006	804476	Total Nitrogen Average Monthly Effluent Limitation	1.0 mg/L	1.8 mg/L (80% over)	Yes

7. On March 4, 2009, NCTD submitted a written waiver of its right to a hearing on this matter along with payment of the liability proposed in Complaint No. R9-2009-0020.
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 of \$2,030 to prosecute the enforcement action; the costs include investigation, preparation of enforcement documents, communicating with the discharger, and preparation of materials for public review and Regional Board consideration.

IT IS HEREBY ORDERED, that pursuant to Water Code section 13385(h) civil liability is imposed on North County Transit District (NCTD) in the amount of \$15,000.

I, John H. Robertus, Executive Officer, do hereby certify that the foregoing is a full, true and correct copy of an Order imposing civil liability by the California Regional Water Quality Control Board, San Diego Region, on April 8, 2009.



JOHN H. ROBERTUS
Executive Officer

CIWQS Entries

Regulatory Measure ID: 360462 (ACL)
Related Reg Msr (NPDES): 302982
Related Reg Msr (NOV): 307069
Place ID: 633406
Party ID: 31651
Violations: 427146, 427152, 427153, 804476, 804477