

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

Mountain Water Ice Company 2
Amended Complaint No. R9-2008-0161

March 30, 2009

IN THE MATTER OF:)
)
MOUNTAIN WATER ICE COMPANY)
)
Facility: Oceanside Ice Plant)
)
Violations of Effluent Limitations in)
Waste Discharge Requirements Order)
No. R9-2005-0015, NPDES No.)
CA0108391)
)
Mailing Address:)
2843 Benet Road)
Oceanside, California 92054)
)
)
Place ID 245791)
WDID No. 9 00000436)

AMENDED
COMPLAINT NO. R9-2008-0161
FOR
ADMINISTRATIVE CIVIL LIABILITY
WITH
MANDATORY MINIMUM PENALTIES

March 30, 2009

MOUNTAIN WATER ICE COMPANY IS HEREBY GIVEN NOTICE THAT:

- Mountain Water Ice Company is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, San Diego Region (Regional Board) must impose civil liability pursuant to Section 13385 of the California Water Code (CWC). The violations alleged herein include violations of effluent limitations in waste discharge requirements for discharges of pollutants from point sources to navigable waters for which the Regional Board is required by statute to impose mandatory minimum penalties (MMP).
- Effluent discharged to the San Luis Rey River from the Oceanside Ice Plant is subject to the Regional Board's Order No. R9-2005-0015, NPDES Permit No. CA0108391. Order No. R9-2005-0015 prescribes effluent limitations for the discharge of defrost water, evaporative condenser overflow, and melted ice to the San Luis Rey River.
- CWC section 13385 requires that an MMP of \$3,000 be imposed for each serious violation of an effluent limitation. CWC section 13385 subdivision (h)(2) defines a 'serious' violation, as any waste discharge that violates an effluent limitation contained in waste discharge requirements (applying to surface water discharges) for a Group I pollutant by 40 percent or more, or for a Group II pollutant by 20 percent or more.

- CWC section 13385(i) also requires that an MMP of \$3,000 be imposed for each violation of an effluent limitation contained in waste discharge requirements (applying to surface water discharges) beginning with the fourth violation in any six-month period.
- In addition to statutorily-mandated MMPs, every violation of an NPDES permit is subject to discretionary liability under CWC section 13385(a)(2), including violations not subject to mandatory minimum penalties under CWC sections 13385(h) or (i).
- The Regional Board hereby expressly reserves the right to, at its sole discretion, withdraw this Complaint for MMPs and reissue a revised Complaint for both MMPs and discretionary administrative civil liabilities arising out of the allegations set forth herein.

ALLEGATIONS

- Effluent Limitation Violations.** Between April 16, 2007 and August 30, 2008, Mountain Water Ice Company reported, pursuant to the Monitoring and Reporting schedule for Order No. R9-2005-0015, effluent sampling results that document eighty four (84) violations of effluent limitations prescribed by Order No. R9-2005-0015. See Attachment 1, *Amended Summary of Reported Effluent Violations*.
- Pursuant to CWC Sections 13385 (h) and (i), the Regional Board must impose mandatory minimum penalties on Mountain Water Ice Company in the amount of two hundred forty three thousand dollars (\$243,000) (\$3,000 for 81 of the 84 reported violations) as described in Attachment 1.

PROPOSED CIVIL LIABILITY

- Pursuant to CWC section 13385(h) and (i), the Regional Board must impose mandatory minimum penalties in the amount of two hundred forty three thousand dollars (\$243,000) on Mountain Water Ice Company. While the Regional Board may elect to impose discretionary civil liability above the mandatory minimum for effluent violations alleged in this Complaint, staff does not recommend it do so at this time.

Dated this 30th day of March 2009

BY THE EXECUTIVE OFFICER



MICHAEL P. MCCANN
Assistant Executive Officer

6002/0E/E

6002/0E/E

Mountain Water Ice Company 3
Amended Complaint No. R9-2008-0161

March 30, 2009

Signed pursuant to the authority
delegated by the Executive
Officer to the Assistant Executive
Officer

Attachment 1: Amended Summary of Effluent Violations

Attachment 1 - AMENDED Summary of Effluent Violations Subject to Mandatory Minimum Penalties
Complaint No. R9-2008-0161
Mountain Water Ice Company

Violation Date	Violation ID	Constituent	Effluent Limitation	Unit	Permitted Limit	Reported Value	Mandatory Minimum Penalty ¹	Notes ^{1a}
4/16/07	785020	flow	daily maximum flow rate	gallon per day	85,000	99,600	\$0	1st violation in 6-month period
6/18/07	798470	total dissolved solids	maximum daily mass loading	lbs/day	390	472	\$0	3rd violation in 6-month period
6/18/07	798322	total dissolved solids	average monthly mass loading	lbs/day	355	424	\$0	2nd violation in 6-month period
6/18/07	785054	total dissolved solids	maximum daily	mg/L	550	815	\$3,000	serious violation
6/18/07	785052	total dissolved solids	average monthly	mg/L	500	815	\$3,000	serious violation
6/18/07	785069	bromoform	maximum daily	ug/L	6.6	11.0	\$3,000	serious violation
6/23/07	785019	flow	daily maximum flow rate	gallon per day	85,000	85,900	\$3,000	4th or greater Violation in 6-month period
6/28/07	785018	flow	daily maximum flow rate	gallon per day	85,000	87,100	\$3,000	4th or greater Violation in 6-month period
6/30/07	785017	flow	daily maximum flow rate	gallon per day	85,000	86,500	\$3,000	4th or greater Violation in 6-month period
7/1/07	785016	flow	daily maximum flow rate	gallon per day	85,000	86,000	\$3,000	4th or greater Violation in 6-month period
7/2/07	785015	flow	daily maximum flow rate	gallon per day	85,000	87,000	\$3,000	4th or greater Violation in 6-month period
7/3/07	785014	flow	daily maximum flow rate	gallon per day	85,000	107,100	\$3,000	4th or greater Violation in 6-month period
7/5/07	785013	flow	daily maximum flow rate	gallon per day	85,000	87,400	\$3,000	4th or greater Violation in 6-month period
7/6/07	785011	flow	maximum flow rate	gallon per day	85,000	91,500	\$3,000	4th or greater Violation in 6-month period
7/7/07	785010	flow	daily maximum flow rate	gallon per day	85,000	91,100	\$3,000	4th or greater Violation in 6-month period
7/8/07	785009	flow	daily maximum flow rate	gallon per day	85,000	89,900	\$3,000	4th or greater Violation in 6-month period
7/9/07	785008	flow	daily maximum flow rate	gallon per day	85,000	96,000	\$3,000	4th or greater Violation in 6-month period
7/10/07	785007	flow	daily maximum flow rate	gallon per day	85,000	100,400	\$3,000	4th or greater Violation in 6-month period

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Violation Date	Violation ID	Constituent	Effluent Limitation	Unit	Permitted Limit	Reported Value	Mandatory Minimum Penalty ^a	Notes ^b
7/12/07	785006	flow	daily maximum flow rate	gallon per day	85,000	86,800	\$3,000	4th or greater Violation in 6-month period
7/13/07	785005	flow	daily maximum flow rate	gallon per day	85,000	91,500	\$3,000	4th or greater Violation in 6-month period
7/14/07	785004	flow	daily maximum flow rate	gallon per day	85,000	91,700	\$3,000	4th or greater Violation in 6-month period
7/29/07	785003	flow	daily maximum flow rate	gallon per day	85,000	90,500	\$3,000	4th or greater Violation in 6-month period
7/30/07	785002	flow	daily maximum flow rate	gallon per day	85,000	85,400	\$3,000	4th or greater Violation in 6-month period
8/4/07	785001	flow	daily maximum flow rate	gallon per day	85,000	86,300	\$3,000	4th or greater Violation in 6-month period
8/10/07	785000	flow	daily maximum flow rate	gallon per day	85,000	90,800	\$3,000	4th or greater Violation in 6-month period
8/17/07	784999	flow	daily maximum flow rate	gallon per day	85,000	86,200	\$3,000	4th or greater Violation in 6-month period
8/18/07	784998	flow	daily maximum flow rate	gallon per day	85,000	89,700	\$3,000	4th or greater Violation in 6-month period
8/25/07	784997	flow	daily maximum flow rate	gallon per day	85,000	85,900	\$3,000	4th or greater Violation in 6-month period
8/31/07	784996	flow	daily maximum flow rate	gallon per day	85,000	85,700	\$3,000	4th or greater Violation in 6-month period
9/1/07	784995	flow	daily maximum flow rate	gallon per day	85,000	86,800	\$3,000	4th or greater Violation in 6-month period
9/2/07	784994	flow	daily maximum flow rate	gallon per day	85,000	89,300	\$3,000	4th or greater Violation in 6-month period
9/3/07	784993	flow	daily maximum flow rate	gallon per day	85,000	100,300	\$3,000	4th or greater Violation in 6-month period
9/5/07	784992	flow	daily maximum flow rate	gallon per day	85,000	86,000	\$3,000	4th or greater Violation in 6-month period
9/6/07	784990	flow	daily maximum flow rate	gallon per day	85,000	94,500	\$3,000	4th or greater Violation in 6-month period
9/7/07	784989	flow	daily maximum flow rate	gallon per day	85,000	92,800	\$3,000	4th or greater Violation in 6-month period
9/8/07	784988	flow	daily maximum flow rate	gallon per day	85,000	86,200	\$3,000	4th or greater Violation in 6-month period

Violation Date	Violation ID	Constituent	Effluent Limitation	Unit	Permitted Limit	Reported Value	Mandatory Minimum Penalty ^a	Notes ^b
9/9/07	784986	flow	daily maximum flow rate	gallon per day	85,000	101,000	\$3,000	4th or greater Violation in 6-month period
9/10/07	784985	flow	daily maximum flow rate	gallon per day	85,000	87,300	\$3,000	4th or greater Violation in 6-month period
9/11/07	784984	flow	daily maximum flow rate	gallon per day	85,000	90,100	\$3,000	4th or greater Violation in 6-month period
9/13/07	784982	flow	daily maximum flow rate	gallon per day	85,000	88,500	\$3,000	4th or greater Violation in 6-month period
9/14/07	784981	flow	daily maximum flow rate	gallon per day	85,000	86,200	\$3,000	4th or greater Violation in 6-month period
12/12/07	785039	total dissolved solids	total average monthly	mg/L	500	822	\$3,000	serious violation
12/12/07	785040	dissolved solids	total maximum daily	mg/L	550	822	\$3,000	serious violation
12/12/07	785070	bromofom	maximum daily	ug/L	6.6	13.8	\$3,000	serious violation
5/18/08	784942	flow	daily maximum flow rate	gallon per day	85,000	87,200	\$3,000	4th or greater Violation in 6-month period
5/24/08	784941	flow	daily maximum flow rate	gallon per day	85,000	86,200	\$3,000	4th or greater Violation in 6-month period
6/4/08	798337	total dissolved solids	average monthly mass loading	lbs/day	355	488	\$3,000	serious violation
6/4/08	785025	total dissolved solids	total maximum daily	mg/L	550	854	\$3,000	serious violation
6/4/08	785024	total dissolved solids	total average monthly	mg/L	500	854	\$3,000	serious violation
6/4/08	785452	pH	range	standard units	6.5-8.5	8.66	\$3,000	4th or greater Violation in 6-month period
6/4/08	798487	bromofom	average monthly mass loading	lbs/day	0.003	0.008	\$3,000	serious violation
6/4/08	785072	bromofom	maximum daily	ug/L	8.63	14.7	\$3,000	serious violation
6/4/08	785075	bromofom	average monthly	ug/L	4.3	14.7	\$3,000	serious violation
6/15/08	784940	flow	daily maximum flow rate	gallon per day	85,000	100,600	\$3,000	4th or greater Violation in 6-month period
6/21/08	784939	flow	daily maximum flow rate	gallon per day	85,000	95,500	\$3,000	4th or greater Violation in 6-month period

Violation Date	Violation ID	Constituent	Effluent Limitation	Unit	Permitted Limit	Reported Value	Mandatory Minimum Penalty ^a	Notes ^b
6/22/08	784938	flow	daily maximum flow rate	gallon per day	85,000	96,000	\$3,000	4th or greater Violation in 6-month period
6/24/08	784937	flow	daily maximum flow rate	gallon per day	85,000	87,100	\$3,000	4th or greater Violation in 6-month period
6/25/08	784936	flow	daily maximum flow rate	gallon per day	85,000	85,900	\$3,000	4th or greater Violation in 6-month period
6/27/08	784935	flow	daily maximum flow rate	gallon per day	85,000	89,800	\$3,000	4th or greater Violation in 6-month period
6/28/08	784933	flow	daily maximum flow rate	gallon per day	85,000	108,200	\$3,000	4th or greater Violation in 6-month period
6/30/08	784932	flow	daily maximum flow rate	gallon per day	85,000	106,200	\$3,000	4th or greater Violation in 6-month period
7/1/08	809402	flow	daily maximum flow rate	gallon per day	85,000	102,300	\$3,000	4th or greater Violation in 6-month period
7/2/08	809403	flow	daily maximum flow rate	gallon per day	85,000	109,000	\$3,000	4th or greater Violation in 6-month period
7/3/08	809404	flow	daily maximum flow rate	gallon per day	85,000	97,800	\$3,000	4th or greater Violation in 6-month period
7/4/08	809405	flow	daily maximum flow rate	gallon per day	85,000	94,700	\$3,000	4th or greater Violation in 6-month period
7/7/08	809406	flow	daily maximum flow rate	gallon per day	85,000	91,900	\$3,000	4th or greater Violation in 6-month period
7/8/08	809407	flow	daily maximum flow rate	gallon per day	85,000	101,300	\$3,000	4th or greater Violation in 6-month period
7/9/08	809408	flow	daily maximum flow rate	gallon per day	85,000	90,500	\$3,000	4th or greater Violation in 6-month period
7/10/08	809411	flow	daily maximum flow rate	gallon per day	85,000	87,400	\$3,000	4th or greater Violation in 6-month period
7/11/08	809412	flow	daily maximum flow rate	gallon per day	85,000	87,100	\$3,000	4th or greater Violation in 6-month period
7/13/08	809413	flow	daily maximum flow rate	gallon per day	85,000	89,500	\$3,000	4th or greater Violation in 6-month period

Violation Date	Violation ID	Constituent	Effluent Limitation	Unit	Permitted Limit	Reported Value	Mandatory Minimum Penalty ^a	Notes ^b
7/14/08	809414	flow	daily maximum flow rate	gallon per day	85,000	91,600	\$3,000	4th or greater Violation in 6-month period
7/15/08	809415	flow	daily maximum flow rate	gallon per day	85,000	85,200	\$3,000	4th or greater Violation in 6-month period
7/17/08	809416	flow	daily maximum flow rate	gallon per day	85,000	89,700	\$3,000	4th or greater Violation in 6-month period
7/20/08	809417	flow	daily maximum flow rate	gallon per day	85,000	99,800	\$3,000	4th or greater Violation in 6-month period
7/21/08	809418	flow	daily maximum flow rate	gallon per day	85,000	88,500	\$3,000	4th or greater Violation in 6-month period
7/24/08	809419	flow	daily maximum flow rate	gallon per day	85,000	89,400	\$3,000	4th or greater Violation in 6-month period
7/25/08	809420	flow	daily maximum flow rate	gallon per day	85,000	87,200	\$3,000	4th or greater Violation in 6-month period
8/8/08	809421	flow	daily maximum flow rate	gallon per day	85,000	106,000	\$3,000	4th or greater Violation in 6-month period
8/10/08	809422	flow	daily maximum flow rate	gallon per day	85,000	90,000	\$3,000	4th or greater Violation in 6-month period
8/15/08	809423	flow	daily maximum flow rate	gallon per day	85,000	99,300	\$3,000	4th or greater Violation in 6-month period
8/17/08	809424	flow	daily maximum flow rate	gallon per day	85,000	104,700	\$3,000	4th or greater Violation in 6-month period
8/29/08	809428	flow	daily maximum flow rate	gallon per day	85,000	85,400	\$3,000	4th or greater Violation in 6-month period
8/30/08	809429	flow	daily maximum flow rate	gallon per day	85,000	94,500	\$3,000	4th or greater Violation in 6-month period
							\$243,000	

^a CWC Section 13385(h) requires that an MMP of \$3,000 be imposed for each serious violation. Serious violations are based on:
 a. Total dissolved solids (TDS) and Flow are Group 1 pollutants.
 A serious violation occurs when the discharge exceeds Group I effluent limitations by 40 percent or more, and
 b. Bromofom is a Group II pollutant.

A serious violation occurs when the discharge exceeds Group II effluent limitations by 20 percent or more.

^b CWC Section 13385(i) requires the assessment of a \$3,000 MMP for the fourth violation and each subsequent violation during any six-month period.