ACCEPTANCE OF CONDITIONAL RESOLUTION AND WAIVER OF RIGHT TO HEARING; (proposed) ORDER

City of San Diego
Conditional Early Settlement Offer No. R9-2008-0076
Order No. R9-2003-0050
NPDES No. CA0109029

By signing below and returning this Acceptance of Conditional Resolution and Waiver of Right to Hearing (Acceptance and Waiver) to the San Diego Regional Water Quality Control Board (Regional Water Board), City of San Diego (Discharger) hereby accepts the "Offer to Participate in Expedited Payment Program" and waives the right to a hearing before the Regional Water Board to dispute the allegations of violations described in the Conditional Early Settlement Offer No. R9-2008-0076 (Settlement) which is attached hereto as Exhibit "A" and incorporated herein by reference.

The Discharger agrees that the Settlement shall serve as a complaint pursuant to Article 2.5 of the Water Code and that no separate complaint is required for the Regional Water Board to assert jurisdiction over the alleged violations through its Assistant Executive Officer. The Discharger agrees to pay the penalties authorized by California Water Code section 13385, in the sum of $69,000 (Expedited Payment Amount) which shall be deemed payment in full of any civil liability pursuant to the Water Code sections 13385 and 13385.1 that otherwise might be assessed for the violations described in the Settlement. The Discharger understands that this Acceptance and Waiver waives the Discharger's right to contest the allegations in the Settlement and the amount of civil liability for such violations.

The Discharger understands that this Acceptance and Waiver does not address or resolve liability for any violation that is not specifically identified in the Settlement.

Upon execution by the Discharger, the Acceptance and Waiver shall be returned to:

Compliance Assurance Unit
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, California 92123

The Discharger understands that federal regulations set forth at title 40, Code of Federal Regulations, section 123.27(d)(2)(iii) require the Regional Water Board to publish notice of and provide at least 30 days for public comment on any proposed resolution of an enforcement action. Accordingly, this Acceptance and Waiver, prior to execution by the Assistant Executive Officer of the Regional Water Board, will be published as required by law for public comment.

If no comments are received within the notice period which causes the Assistant Executive Officer of the Regional Water Board to reconsider the Expedited Payment Amount, the Assistant Executive Officer will execute the Acceptance and Waiver. Resolution of these violations by the Regional Water Board will preclude Regional Water Board action for these same violations.

The Discharger understands that if significant comments are received in opposition to the Expedited Payment Amount, the offer on behalf of the Regional Water Board to resolve the violations set forth in the Settlement may be withdrawn. In that circumstance, the Discharger will be advised of the withdrawal and an administrative civil liability complaint may be issued and the matter may be set for a hearing before the Regional Water Board. For such a liability hearing, the Discharger understands that this Acceptance and Waiver executed by the Discharger will be treated as a settlement communication and will not be used as evidence in that hearing.

The Discharger understands that once the Acceptance and Waiver is executed by the Assistant Executive Officer of the Regional Water Board, the full payment required by the deadline set forth below is a condition of this Acceptance and Waiver. The Discharger shall pay the Expedited Payment Amount of $69,000 by a certified check or cashier's check for the full amount payable to "State Water Resources Control Board Cleanup and Abatement Account". The payment will be submitted to the Regional Water Board no later than ten (10) calendar days after the date the Discharger receives written notice of that the Assistant Executive Officer of the Regional Water Board has executed this "Acceptance and Waiver."

I hereby affirm that I am duly authorized to act on behalf of and to bind the Discharger in the making and giving of this Acceptance and Waiver.

Jay M. Goldstone
(Name of Discharger)

By: _____ 8.13.08
(Signed Name) (Date)

Jay M. Goldstone Chief Operating Officer
(Printed or typed name) (Title)

IT IS SO ORDERED PURSUANT TO WATER CODE SECTION 13385

Date: _____

By: _____
MICHAEL McCANN
Assistant Executive Officer
San Diego Regional Water Quality Control Board