

**ORDER NO. R2-2014-1019**  
**ACCEPTANCE OF CONDITIONAL RESOLUTION**  
**AND WAIVER OF RIGHT TO HEARING**

By signing below and returning this Acceptance of Conditional Resolution and Waiver of Right to Hearing (Acceptance and Waiver) to the Regional Water Quality Control Board (Regional Water Board), SMI Holding LLC (SMI) 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 Notice of Violation which is attached hereto as Exhibit A and incorporated herein by reference.

SMI agrees that the attached Exhibit A shall serve as a complaint pursuant to Article 2.5 of the California Water Code (CWC) and that no separate complaint is required for the Regional Water Board to assert jurisdiction over the alleged violations through its Assistant Executive Officer. SMI agrees to pay the penalties authorized by CWC section 13385, which shall be deemed payment in full of any civil liability pursuant to the CWC sections 13385 and 13385.1 that otherwise might be assessed for the violations described in the attached Exhibit A. SMI understands that this Acceptance and Waiver waives its right to contest the allegations in the Notice of Violation and Exhibit A and the amount of civil liability for such violations.

SMI understands that this Acceptance and Waiver does not address or resolve liability for any violation that is not specifically identified in the attached Exhibit A.

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

Expedited Payment Program  
California Regional Water Quality Control Board, San Francisco Bay Region  
NPDES Enforcement Section, Regulatory Measure ID No. 395846  
Attention: Farhad Azimzadeh  
1515 Clay Street, Suite 1400  
Oakland, California 94612

SMI 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 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 Executive Officer of the Regional Water Board to reconsider the Expedited Payment Amount, the Executive Officer will execute the Acceptance and Waiver. Resolution of these violations by the Regional Water Board will preclude State Water Board action for these same violations.

SMI 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 attached Exhibit A may be withdrawn. In that circumstance, SMI 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 or the State Water Board. For such a liability hearing, SMI understands that this Acceptance and Waiver executed by SMI will be treated as a settlement communication and will not be used as evidence in that hearing.

SMI understands that once the Acceptance and Waiver is executed by the Executive Officer of the Regional Water Board, payment of the amount in full no later than 30 days after the date of the Executive Officer's signature is a condition of this Acceptance and Waiver. In accordance with California Water Code section 13385(n)(1) and California Water Code section 13385.1(c)(1), funds collected for violations of effluent limitations and reporting requirements pursuant to section 13385 and 13385.1 shall be deposited in the State Water Pollution Cleanup and Abatement Account. Accordingly, the liability shall be paid by a cashiers or certified check for \$3,000 made out to the "State Water Pollution Cleanup and Abatement Account" referencing the number of this Order and Regulatory Measure ID Number shown at the bottom of this page. The payment must be submitted to the State Water Resources Control Board, Division of Administrative Services, Accounting Branch 1001 I Street, 18th Floor, Sacramento, California, 95814.

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

SMI Holding LLC

By: Kenneth R. Meyers  
(Signed Name)

5/22/14  
(Date)

Kenneth R. Meyers  
(Printed or typed name)

O'CONNOR  
SUSAN  
Digitally signed by O'CONNOR  
SUSAN  
DN: cn=O'CONNOR SUSAN,  
o=Siemens,  
email=sue.oconnor@siemens.com  
Date: 2014.05.23 13:50:23 -0400

President  
(Title)

Vice President, SMI Holding LLC

IT IS SO ORDERED PURSUANT TO CALIFORNIA WATER CODE SECTION 13385

By: \_\_\_\_\_  
Bruce H. Wolfe  
Executive Officer  
Regional Water Quality Control Board

**Note to SMI: Please return the signed waiver with Exhibit A, together.**

**EXHIBIT A**  
**Notice of Violation**

SMI Groundwater Treatment System located at 10950 N Tantau, Cupertino, Santa Clara County  
Mandatory Minimum Penalties without Regional Water Quality Control Board Hearing

The following table lists this facility's alleged permit exceedance of California Water Code (CWC) Sections 13385(h) and 13385(i) for which the Water Board has not assessed a mandatory minimum penalty. Final calculation of MMP amounts owed, and descriptions of the abbreviations that appear in the table are also listed in the table below.

No	CIWQS Violation ID No.	Date of Occurrence	Effluent Limitation or Violation Description (Unit)	Effluent Limit or Monitoring Report Due Date	Reported Value or Number of Days Overdue	Percent a Group I or Group II Pollutant is over Effluent Limitation	Type of Exceedance	CWC Section 13385(h) and/or (i) Required MMP
1	962961	6/17/2013	1,1-Dichloroethylene Daily Maximum limit is 0.11 ug/L and reported value was 0.50 ug/L.	0.11	0.50	355%	C1, S	\$3,000
<b>Total</b>								<b>\$3,000</b>
<p><b>Legend for Table:</b>            CIWQS = California Integrated Water Quality System database used by the Water Boards to manage violation and enforcement activities.            Violation ID = Identification number assigned to a permit exceedance in CIWQS.            CWC = California Water Code.            C = Count – The number that follows represents the number of exceedances SMI has had in the past 180 days, including this violation. A count greater than three (&gt; C3) means that a penalty under CWC Section 13385(i) applies.            S = Serious, which means that a penalty under CWC Section 13385(h) applies when an effluent limitation is exceeded 40% or more for a Group I pollutant or 20% or more for a Group II pollutant.</p> <p style="text-align: right;">Regulatory Measure ID: 395846            Place ID: 201397            WDID No.: 2 438124002</p>								