

ORDER NO. R2-2015-1001
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), CEMEX Construction Materials Pacific, LLC (CEMEX) hereby accepts the conditional offer to settle alleged violations through payment of mandatory minimum penalties (Conditional Offer) and waives the right to a hearing before the Regional Water Board to dispute the allegations of violations and attached hereto as Exhibit A and incorporated herein by reference.

CEMEX agrees that the attached Exhibit A 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. CEMEX agrees to pay the penalties authorized by Water Code sections 13385 and 13385.1, which shall be deemed payment in full of any civil liability pursuant to the Water Code section 13385 that otherwise might be assessed for the violations described in the attached Exhibit A. CEMEX understands that this Acceptance and Waiver waives its right to contest the allegations in Exhibit A and the amount of civil liability for such violations.

CEMEX 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 CEMEX, the Acceptance and Waiver shall be returned to:

California Regional Water Quality Control Board, San Francisco Bay Region
NPDES Enforcement Section, Regulatory Measure ID No. 398073
Attention: Farhad Azimzadeh
1515 Clay Street, Suite 1400
Oakland, California 94612

CEMEX 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 reject the settlement 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.

**EXHIBIT A
Notice of Violation**

CEMEX Construction Materials Pacific Sunol Aggregates Ponds Treatment System located at
6527 Calaveras Road Sunol, Alameda County

The following table lists alleged permit violation(s) for which CEMEX is subject to civil liabilities pursuant to Water Code sections 13385 and 13385.1. The table shows mandatory minimum penalty (MMP) for the violation(s), and descriptions of the abbreviations that appear in the table.

No	CIWQS Violation ID No.	Violation or Effluent Limitation Description	Date of Occurrence or Monitoring Report Due Date	Effluent Limit or Date Monitoring Report Received	Effluent Result Reported (Percent a Pollutant is over an Effluent Limitation) or Number of Days and Months a Discharge Monitoring Report Overdue	Type of Violation	CWC Section 13385(h) and/or (i) Required MMP
1-8	908803	Late First Quarter 2006 Discharge Monitoring Report Submittal	4/30/2006	1/18/2007	263 days = about eight months	S (See Note 1)	8 x \$3,000 = \$24,000
9-10	798600	Late First Quarter 2007 Discharge Monitoring Report Submittal	4/30/2007	7/18/2007	79 days = about 2 months	S (See Note 1)	2 x \$3,000 = \$6000
11	791364	Late Second Quarter 2008 Discharge Monitoring Report Submittal	7/30/2008	9/5/2008	37 days = about one month	S (See Note 1)	\$3,000
12	835332	Settable Matter Daily Maximum (ml/L/hr)	9/4/2008	0.2	0.4 (100%)	C1, S	\$3,000
13	835331	Settable Matter Daily Maximum (ml/L/hr)	6/9/2009	0.2	0.3 (50%)	C1, S	\$3,000
Total							\$39,000

Legend for Table:

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.

C = Count – The number that follows represents the number of exceedances in the past 180 days, including this violation. A count greater than three (> C3) means that a penalty under Water Code section 13385(i) applies.

S = Serious, which means that a penalty under Water Code section 13385(h) applies when an effluent limitation is exceeded 40 percent or more for a Group I pollutant or 20 percent or more for a Group II pollutant.

Note 1 : Water Code section 13385.1 (a)(l) defines a "serious violation" to include a failure to file a discharge monitoring report required pursuant to section 13383 for each complete period of 30 days following the deadline for submitting the report, if the report is designed to ensure compliance with limitations contained in waste discharge requirements that contain effluent limitations.

Regulatory Measure ID: 398073

Place ID: 252950

WDID No.: 2 019135003