STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION

In the matter of:

City of Rialto
150 S. Palm Avenue
Rialto, CA 92376

Attention: Mr. Henry T. Garcia

Complaint No. R8-2007-0016
for
Administrative Civil Liability

YOU ARE HEREBY GIVEN NOTICE THAT:

1. The City of Rialto (City) is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), may impose liability under Section 13385(c) of the California Water Code.

2. A hearing concerning this Complaint may be held before the Board within ninety days of the date of issuance of this Complaint. The hearing in this matter will be scheduled for the Board's regular meeting on September 7, 2007, at the City Council Chambers, 25541 Barton Road, City of Loma Linda. You or your representative will have an opportunity to appear and be heard, and to contest the allegations in this Complaint and the imposition of civil liability by the Board. An agenda for the meeting and the staff report relating to this item will be mailed to you not less than 10 days prior to the hearing date.

3. At the hearing, the Board will consider whether to affirm, reject, or modify the proposed administrative civil liability or whether to refer the matter to the Attorney General for recovery of judicial civil liability.

4. The City is a co-permittee under the National Pollutant Discharge Elimination System (NPDES) Permit No. CAS618036, Waste Discharge Requirements for the San Bernardino County Flood Control District, the County of San Bernardino, and the Incorporated Cities of San Bernardino County within the Santa Ana Region, Area-wide Urban Storm Water Runoff, Order No. R8-2002-0012 (MS4 Permit). The current MS4 Permit is the third term of this permit, having been originally adopted in 1990 and renewed in 1996 and 2002.

5. For the first and second terms of the permit, the County of San Bernardino and the incorporated cities (permittees) developed a Drainage Area Management Plan (DAMP). The DAMP included programs and policies that the permittees were required to implement in order to reduce the discharge of pollutants to receiving waters from urban runoff. For the third permit term, permittees included in their

Report of Waste Discharge (ROWD, permit renewal application) a Municipal Storm Water Management Program (MSWMP) that replaced the DAMP. The permittees also made certain performance commitments in the ROWD. The City was a signatory to the ROWD and is bound by the commitments in the ROWD, the MSWMP and the terms and conditions of the MS4 Permit.

6. Section XVIII.3 of the MS4 Permit states, "The MSWMP and its components, as included in the ROWD, including any approved amendments thereto, is hereby made an enforceable component of this Order."

7. Evaluation of compliance with the MS4 Permit is through information provided to Board staff by the City in the annual reports and through audits of the MS4 program. On May 30, 31 and June 1, 2006, Board staff conducted an audit of the City's MS4 program to determine the City's overall compliance with the MS4 Permit. At the conclusion of the audit, Board staff briefly discussed the findings with the City. On September 1, 2006, the City was issued a Notice of Violation (NOV) and an evaluation report was included with the NOV. The following violations were noted during the audit and/or through a review of the annual reports.

8. The City is alleged to have violated the following provisions of the MS4 Permit:

   a. **Section VI (Legal Authority/Enforcement), Subsection 1**: "The permittees shall maintain and enforce adequate legal authority to control contribution of pollutants to the MS4."

   b. **Section VI (Legal Authority/Enforcement), Subsection 2**: "The permittees shall take appropriate enforcement actions against any violators of their codes and/or ordinances in accordance with the formalized enforcement procedures developed by the Management Committee."

   c. **Section VI (Legal Authority/Enforcement), Subsection 3**: "Permittees' ordinances or other local regulatory mechanisms shall include sanctions for violations. Sanctions shall include but are not limited to: monetary penalties, non-monetary penalties, bonding requirements, and/or permit denials/revocations/stays for non-compliance. If the permittees' current ordinances do not have a provision for civil or criminal penalties for violations of their storm drain ordinances, the permittees shall enact such ordinances by March 1, 2004."

   d. **Section VI (Legal Authority/Enforcement), Subsection 4**: "The permittees shall continue to provide notification to Board staff regarding storm water related information gathered during site inspections of industrial and construction sites regulated by the Statewide General Storm Water Permits or sites which should be regulated under the State's General Permits. The notification should include any observed violations of the General Permits, prior history of violations, any enforcement actions taken by the permittee, and any other relevant information."

e. **Section VI (Legal Authority/Enforcement), Subsection 5**: "By November 15, 2003, the permittees shall review their storm drain ordinances and provide a report on the effectiveness of their ordinances and their enforcement, in prohibiting [certain] types of discharges to the MS4s ..."

f. **Section VI (Legal Authority/Enforcement), Subsection 7**: "By March 1, 2004, each permittee shall submit a statement (signed by its legal counsel) that the permittee has obtained all necessary legal authority to comply with this Order through adoption of ordinances and/or municipal code modifications."

g. **Section VII (Illegal Discharge/Illicit Connections: Litter, Debris and Trash Control), Subsection 2**: All reports shall be promptly investigated. ...Incidents [of spills, leaks, and/or illegal dumping] that may pose an immediate threat to human health or the environment... shall be reported to the Executive Officer within 24 hours by phone or e-mail, with a written report within 10 days... The permittees may propose a reporting program, including reportable incidents and quantities, jointly with other agencies such as the County Health/Fire Department for approval by the Executive Officer."

h. **Section VIII (Municipal Inspections of Construction Sites), Subsection 1**: "The permittees shall develop by January 31, 2003, an inventory of all construction sites within their jurisdiction for which building or grading permits are issued and activities at the site include: soil movement; uncovered storage of materials or wastes ... regardless of whether the construction site is subject to the California Statewide General NPDES Permit for Storm Water Discharges Associated with Construction Activities (General Permit), or other individual NPDES permit. This database shall be updated prior to each rainy season thereafter."

i. **Section VIII (Municipal Inspections of Construction Sites), Subsection 1**: "This inventory shall be maintained in a computer-based database system and shall include relevant information on site ownership, General Permit Waste Discharge Identification (WDID) # (if any), size, location, etc."

j. **Section VIII (Municipal Inspections of Construction Sites), Subsection 2**: "To establish priorities for inspection requirements under this Order, the permittees shall prioritize construction sites within their jurisdiction as a high, medium, or low threat to water quality."

k. **Section VIII (Municipal Inspections of Construction Sites), Subsection 3, Paragraph c**: "Information [regarding inspections], including at a minimum, inspection dates, inspectors present and the results of the inspection must be maintained in the [computer-based] database [system] ... or must be linked to that database. A copy of this database must be provided to the Regional Board with each annual report."

l. **Section VIII (Municipal Inspections of Construction Sites), Subsection 5**: "Within 24 hours of discovery, the permittees shall provide oral or email notification to the Santa Ana Regional Water Quality Control Board of non-compliant sites, within their jurisdiction, that are determined to pose a threat to human health or the environment ... Following oral notification, a written report must be submitted to the Santa Ana Regional Water Quality Control Board within 10 days... incidences of noncompliance shall be recorded along with the information noted in the written report and the final outcome/enforcement for the incident in the database identified in [the inventory database] and [site inspection information] or must be linked to these databases."

m. **Section VIII (Municipal Inspections of Construction Sites), Subsection 6**: "The inspectors responsible for verifying compliance at construction sites shall be trained in and have an understanding of: federal, state and local water quality laws and regulations as they apply to construction and grading activities; the potential effects of construction and urbanization on water quality; and, implementation and maintenance of erosion control BMPs and sediment control BMPs and the applicable use of both. The permittees shall have adequately trained their inspection staff by December 31, 2002, and on an annual basis, prior to the rainy season, thereafter. Training programs should be coordinated with the Santa Ana Regional Water Quality Control Board and prior notification of training shall be provided to Board staff. New hires or transfers that will be performing construction inspections for the permittees must be trained within one month of starting inspection duties."

n. **Section IX (Municipal Inspections of Industrial Facilities), Subsection 7**: "The permittees shall enforce their ordinances and permits at all industrial facilities as necessary to maintain compliance with this Order. Sanctions for non-compliance must include: monetary penalties, bonding requirements and/or permit denial or revocation."

o. **Section IX (Municipal Inspections of Industrial Facilities), Subsection 8:** "Within 24 hours of discovery, the permittees shall provide oral or email notification to the Santa Ana Regional Water Quality Control Board of non-compliant facilities, within their jurisdiction, that are determined to pose a threat to human health or the environment... Following oral notification, a written report must be submitted to the Santa Ana Regional Water Quality Control Board within 10 days... incidences of noncompliance shall be recorded along with the information noted in the written report and the final outcome/enforcement for the incident in the [inventory] database."

p. **Section IX (Municipal Inspections of Industrial Facilities), Subsection 9:** "The inspectors responsible for verifying compliance at industrial and commercial facilities shall be trained in and have an understanding of: federal, state and local water quality laws and regulations as they apply to industrial activities; the

potential effects of industrial discharge and urbanization on water quality; and implementation and maintenance of pollutant control BMPs. The permittees shall have adequately trained their inspection staff by July 1, 2003, and on an annual basis thereafter. Training programs should be coordinated with the Santa Ana Regional Water Quality Control Board and prior notification of training shall be provided to Board staff. New hires or transfers that will be performing industrial and commercial inspections for the permittees must be trained within one month of starting inspection duties."

q. **Section X (Municipal Inspections of Commercial Facilities), Subsection 1:** "The permittees shall develop by July 1, 2003, an inventory of [certain] commercial facilities/companies ... within their jurisdiction. This database must be updated on an annual basis. This inventory must be maintained in a computer-based database system and must include relevant information on ownership, size, location, etc."

r. **Section X (Municipal Inspections of Commercial Facilities), Subsection 2:** "To establish priorities for inspection requirements under this Order, the permittees shall prioritize commercial facilities/companies within their jurisdiction as a high, medium, or low threat to water quality..."

s. **Section X (Municipal Inspections of Commercial Facilities), Subsection 3:** "The permittees shall conduct commercial facility inspections for compliance with its ordinances and permits."

t. **Section X (Municipal Inspections of Commercial Facilities), Subsection 4:** "After July 1, 2003, the permittees shall establish inspection frequencies and priorities as determined by the threat to water quality prioritization..."

u. **Section X (Municipal Inspections of Commercial Facilities), Subsection 5:** "By July 1, 2004, all high priority sites shall have been inspected at least once."

v. **Section X (Municipal Inspections of Commercial Facilities), Subsection 6:** "Information including at a minimum, inspection dates, inspectors present and the results of the inspection must be maintained in the database identified in Section X.1, above, or must be linked to that database. A copy of this database must be provided to the Regional Board with each annual report."

w. **Section X (Municipal Inspections of Commercial Facilities), Subsection 7:** "The permittees shall enforce their ordinances and permits at commercial facilities. Sanctions for non-compliance must include: monetary penalties, bonding requirements and/or permit denial or revocation."

x. **Section X (Municipal Inspections of Commercial Facilities), Subsection 8:** "Within 24 hours of discovery, the permittees shall provide oral or email notification to the Santa Ana Regional Water Quality Control Board of

noncompliant facilities, within their jurisdiction, that are determined to pose a threat to human health or the environment... Following oral notification, a written report must be submitted to the Santa Ana Regional Water Quality Control Board within 10 days... incidences of non-compliance shall be recorded along with the information noted in the written report and the final outcome/enforcement for the incident in the [inventory] database."

y. **Section X (Municipal Inspections of Commercial Facilities), Subsection 9:** "The inspectors responsible for ensuring compliance at commercial facilities shall be trained in and have an understanding of: federal, state and local water quality laws and regulations as they apply to industrial and commercial activities; the potential effects of industrial discharge and urbanization on water quality; and, implementation and maintenance of pollutant control BMPs. The permittees shall have adequately trained their inspection staff by July 1, 2003 and on an annual basis thereafter. Training programs should be coordinated with the Santa Ana Regional Water Quality Control Board and prior notification of training shall be provided to Board staff. New hires or transfers that will be performing commercial inspections for the permittees must be trained within one month of starting inspection duties."

z. **Section XII (New Development), Subsection A (General Requirements), Part 3**: "The permittees shall review and revise the storm water management program and implement any changes in the program, as necessary, in order to require construction site dischargers to reduce pollutants in runoff from construction sites during all construction phases... the program shall address.... procedures for reporting non-compliance."

aa. **Section XII (New Development), Subsection A (General Requirements), Part 4, Subpart (e)**: "The permittees shall review and revise the storm water management program and implement any changes in the program, as necessary in order to require industrial/commercial site dischargers to reduce pollutants in runoff from new industrial/commercial sites [including]... Enforcement of local ordinances and other requirements for industrial/commercial sites."

bb. **Section XII (New Development), Subsection A (General Requirements), Part 4, Subpart (f)**: "The permittees shall review and revise the storm water management program and implement any changes in the program, as necessary in order to require industrial/commercial site dischargers to reduce pollutants in runoff from new industrial/commercial sites [including]... Procedures for reporting non-compliance."

cc. **Section XII (New Development), Subsection A (General Requirements), Part 7**: "By July 1, 2004, the permittees shall review their watershed protection principles and policies in their General Plan or related documents (such as Development Standards, Zoning Codes, Conditions of Approval, Development

Project Guidance) to ensure that [certain] principles and policies are properly considered and are incorporated into these documents. The findings of this review and the actions taken by the permittees shall be reported to the Regional Board by November 15, 2004."

dd. **Section XVI (Program Management/MSWMP Review), Subsection 4**: "The Management Committee will continue to meet at least 11 times a year ... Each permittee's designated representative or a designated alternate should attend not less than 9 out of 11 meetings."

ee. **Section XVII (Fiscal Resources)**: "The permittees shall provide adequate funding for administration, implementation and enforcement of the areawide storm water management program elements and local storm water programs."

ff. **Section XVII (Fiscal Resources)**: "The permittees shall prepare and submit a unified fiscal analysis to the Executive Officer of the Regional Board. The fiscal analysis shall be submitted with the Annual Report each year and shall, at a minimum, include the following: 1. Each permittee's expenditures for the previous fiscal year[;] 2. Each permittee's budget for the current fiscal year[;] 3. A description of the source of funds[;] and[,] 4. Each permittee's estimated budget for the next fiscal year."

9. This Complaint is based on the following facts. The violations noted are based on the program evaluation conducted by Board staff on May 30, 31 and June 1, 2006 and/or the 2003-04 and 2004-05 annual reports.

a. Section VI.1 of the MS4 Permit requires the City to maintain and enforce adequate legal authority to control the discharge of pollutants to its MS4s. Chapter 12.60 of Rialto's Municipal Code addresses protections for the quality of water entering the MS4s. It was last revised in December 1993. The City had neither reviewed this ordinance nor certified that this ordinance met the requirements specified in the MS4 Permit by the deadline specified in the Permit.

b. Section VI.2 of the MS4 Permit requires the City to take appropriate enforcement actions against violators of its codes. The County of San Bernardino MS4 Management Committee developed enforcement guidance procedures and distributed them to the co-permittees. The City has not implemented these procedures and was unaware of the guidance document. No formal enforcement reporting mechanism has been implemented by the City, including the online inspection report database developed by the Management Committee.

c. Section VI.3 of the MS4 Permit required that, by March 1, 2004, the City should review and, if necessary, amend City ordinances or other local regulatory mechanisms to include sanctions for violations, including monetary penalties, non-monetary penalties, bonding requirements, and/or permit denials/revocations/stays for non-compliance. The City's code is general in

scope and does not have any monetary sanctions for violations associated with construction activity.

d. Section VI.4 of the MS4 Permit requires the City to provide notification to Board staff regarding storm water related information gathered during site inspections of industrial and construction sites regulated by the Statewide General Storm Water Permits or sites which should be regulated under the State's General Permits. The City has not established a procedure for reporting infractions noted during its inspections to Board staff.

e. Section VI.5 of the MS4 Permit requires the City to review its storm drain ordinances and provide a report by November 15, 2003 on the effectiveness of its ordinances and their enforcement in prohibiting [certain] types of discharges to the MS4s. The City has not provided a report on the effectiveness of its ordinances. Board staff noted that the City allows discharge from swimming pools to enter the storm drain system without developing control measures for such discharges.

f. Section VI.7 of the MS4 Permit required the City, by March 1, 2004, to submit a statement signed by its legal counsel that the permittee had obtained all necessary legal authority to comply with the MS4 Permit. An April 7, 2004 letter from the City attorney stated that the stormwater ordinance adopted by the City in December 1993 provides the necessary authority to enforce the provisions of the current Permit. The ordinance does not have any monetary sanctions for violations associated with construction activity (also see Paragraph v., below).

g. Section VII.2 of the MS4 Permit requires the City to report to the Executive Officer incidents that may pose an immediate threat to human health or the environment. An initial report is required within 24 hours and a written report within 10 days. In the event that incidents are identified, Rialto's Fire Department makes the initial notification to the Executive Officer. However, there is no mechanism in place to submit the required follow-up written report.

h. Section VIII.1 of the MS4 Permit required the City, by January 31, 2003, to develop a computer-based inventory of all construction sites and to update it prior to each rainy season. The City did not develop an inventory of construction sites by the deadline specified in the Permit.

i. Section VIII.2 of the MS4 Permit required the City to prioritize each construction site as high, medium, or low threat to water quality. The City did not classify the construction sites into these priority classes.

j. Section VIII.3(c) of the MS4 Permit requires the City to maintain inspection reports in a computer-based database system or link inspection reports to the database and to provide a copy of the database to Board staff with each annual report. The City does not maintain inspection reports.

k. Section VIII.5 of the MS4 Permit requires the City to provide oral or email notification to Board staff regarding non-compliant construction sites within its jurisdiction that are determined to pose a threat to human health or the environment, followed by a written report within 10 days. Such incidences are required to be inventoried in a database. In the event that incidences are identified, Rialto's Fire Department makes the initial notification to Board staff. However, there is no mechanism in place to submit the required follow-up written report or maintain an inventory of reports.

l. Section VIII.6 of the MS4 Permit requires training for inspectors responsible for verifying compliance at construction sites. The initial training was to be completed by December 31, 2002 and annually thereafter. The construction site inspector had not been provided ongoing training.

m. Section IX.7 of the MS4 Permit requires the City to enforce its ordinances and permits at all industrial facilities as necessary to maintain compliance with the MS4 Permit. The City does not inspect industrial facilities in order to determine compliance with its ordinances and permits.

n. Section IX.8 of the MS4 Permit requires the City to provide oral or email notification to Board staff of non-compliant facilities within its jurisdiction that are determined to pose a threat to human health or the environment, followed by a written report within 10 days. Such incidences are required to be inventoried in a database. In the event that incidences are identified, Rialto's Fire Department makes the initial notification to Board staff. However, there is no mechanism in place to submit the required follow-up written report or maintain an inventory of reports.

o. Section IX.9 of the MS4 Permit requires training for inspectors responsible for verifying compliance at industrial facilities. The initial training was to be completed by July 1, 2003 and annually thereafter. There is no staff assigned to inspect industrial facilities.

p. Section X.1 of the MS4 Permit requires the City to develop a computer-based database inventory of [certain] commercial facilities by July 1, 2003 and update the database annually. The City has not developed such an inventory.

q. Section X.2 of the MS4 Permit requires the City to prioritize commercial facilities as having a high, medium, or low threat to water quality. The City has not established such a priority system for commercial facilities.

r. Section X.3 of the MS4 Permit requires the City to conduct commercial facility inspections for compliance with its ordinances and permits. Commercial facility inspections were not conducted.

s. Section X.4 of the MS4 Permit required the City to establish inspection frequencies and priorities for commercial facilities by July 1, 2003, as determined by the threat to water quality prioritization. Inspection frequencies and priorities were not established.

t. Section X.5 of the MS4 Permit required the City to inspect all high priority commercial sites at least once by July 1, 2004. These inspections were not conducted.

u. Section X.6 of the MS4 Permit requires the City to record inspection reports in the inventory database or link those to the database. A copy of this database is to be provided to the Board with each annual report. The inspection reports were not developed, and no inspection report database was submitted with the annual reports.

v. Section X.7 of the MS4 Permit requires the City to enforce its ordinances and permits at commercial facilities. Sanctions for non-compliance must include: monetary penalties, bonding requirements and/or permit denial or revocation. The City's Municipal Code does not include bonding requirements.

w. Section X.8 of the MS4 Permit requires the City to provide oral or email notification to Board staff of non-compliant facilities within its jurisdiction that are determined to pose a threat to human health or the environment, followed by a written report within 10 days. Such incidences are required to be inventoried in a database. In the event that incidences are identified, Rialto's Fire Department makes the initial notification to Board staff. However, there is no mechanism in place to submit the required follow-up written report or maintain an inventory of reports.

x. Section X.9 of the MS4 Permit requires training for inspectors responsible for verifying compliance at commercial facilities. The initial training was to be completed by July 1, 2003 and annually thereafter. The City has neither assigned staff for the inspection of industrial facilities, nor has staff attended the required training.

y. Section XII.3 of the MS4 Permit requires the City to review and revise its storm water management program and to implement any changes in the program necessary to require construction site dischargers to reduce pollutants in runoff from construction sites during all construction phases and to report non-compliance. The City has not developed its own storm water management program.

z. Sections XII.A.4(e) and XII.A.4(f) of the MS4 Permit requires the City to review and revise the storm water management program and to implement changes in the program necessary to reduce pollutants in runoff from new industrial/commercial sites, and to cite procedures for reporting non-compliance. The City has not

developed its own storm water management program and does not report non-compliance.

aa. Section XII.A.7 of the MS4 Permit required the City, by July 1, 2004, to review its watershed protection principles and policies in its General Plan to ensure that certain principles and policies are properly considered and are incorporated into these documents and to report the findings of the review to Board staff by November 15, 2004. The City did not review its General Plan by the specified deadline.

bb. Section XVI.4 of the MS4 Permit requires the City to attend not less than nine (9) Management Committee meetings each year. The 2004-2005 annual report indicates that the City only attended five (5) out of twelve (12) meetings.

cc. Section XVII of the MS4 Permit requires the City to provide adequate funding for administration, implementation and enforcement of the area-wide storm water program and local storm water programs. The City contributed to the area-wide storm water management program elements, but failed to adequately fund its local program. The City did not provide adequate staffing to implement the MS4 Permit.

dd. Section XVII of the MS4 Permit requires the City to prepare and submit information needed for a unified fiscal analysis report. The City did not provide this information to the Principal Permittee for the 2003-04 and 2004-05 annual reports.

10. A Notice of Violation was issued to the City on September 1, 2006 that identified the above stated Permit violations.

11. Section 13385(a)(2) of the Water Code provides that any person who violates waste discharge requirements shall be civilly liable. Section 13385(a)(3) provides that any person who violates monitoring, inspection, reporting and recordkeeping requirements shall be civilly liable. Section 13385(c) provides that civil liability may be administratively imposed by a regional board in an amount not to exceed ten thousand dollars ($10,000.00) for each day each violation occurs.

12. Pursuant to Section 13385(c), the maximum penalty that can be assessed for the violations cited above is shown in the table below. Some of the violations that could have been remedied by a single action (e.g., developing a computerized database for construction, industrial and commercial facilities) are grouped together and only significant violations were considered in calculating the maximum penalties in the table below.

Maximum Penalties for Significant Violations

Serial #	Permit Provisions Violated	Number of Days of Violation	Maximum Penalty @$10,000/day of Violation	Remarks
1.	VI.1	37	$370,000	From 3/1/04 to 4/7/04
2.	VI.2	1,496	$14,960,000	Up to 6/1/06
3.	VI.5	928	$9,280,000	From 11/15/03 to 6/1/06
4.	VII.2, VIII.5, IX.8, X.8	1,496	$14,960,000	Reporting Violations Up to 6/1/06
5.	VIII.1, X.1	1,216	$12,160,000	Computerized databases 1/31/03 to 6/1/06
6.	VIII.2, X.2	1,216	$12,160,000	Prioritization for inspections
7.	VIII.3, X.3	1,216	$12,160,000	Inspections
8.	VIII.6, IX.9, X.9	1,064	$10,640,000	Training 7/1/03 to 6/1/06
9.	XII.A.7	699	$6,990,000	Watershed Protection Principles, 7/1/04 to 6/1/06
10.	XVII	1,496	$14,960,000	Funding
Total Maximum			$108,640,000	

As indicated in the table above, the maximum penalty for the significant violations cited above is $108,640,000.

13. Board staff spent a total of 113 hours investigating the City's compliance with the MS4 Permit (@$70/hour, the total cost for staff time is $7,910). The City saved at least $143,500 by not hiring adequate staff to manage the NPDES program under the MS4 Permit from the issuance of the MS4 Permit on April 26, 2002 to November 13, 2006 (date new employees were hired).

14. Section 13385(e) specifies factors that the Board shall consider in establishing the amount of civil liability. These factors include: nature, circumstances, extent, and gravity of the violation; and, with respect to the discharger, the ability to pay; any prior history of violations; the degree of culpability; economic benefit or savings, if any, resulting from the violation; and other matters that justice may require. At a minimum, liability shall be assessed at a level that recovers economic benefits, if any, derived from the acts that constitute the violation. These factors are evaluated in the table below.

Factor	Comment
A. Nature, Circumstances, Extent, and Gravity of Violation	The City has failed to fully implement a number of programs under the MS4 Permit that would have reduced the discharge of pollutants from the City's MS4 systems to waters of the U.S.
B. Culpability	The discharger was a signatory to the Report of Waste Discharge and has been a permittee under the municipal storm water program since 1990. The discharger is required to comply with the terms and conditions of the MS4 Permit.
C. Economic Benefit or Savings	The discharger saved at least $143,500 by not having adequate staffing to manage the storm water program.
D. Prior History of Violations	There have been no previous violations noted for the City.
E. Other Factors	Board staff spent approximately 113 hours conducting the audit, reviewing the City submittals and other submittals (@ $70 per hour, the total cost for staff time is $7,910).
F. Ability to Pay	The City has not provided any information to indicate that it is unable to pay the proposed amount.

After consideration of these factors, the Executive Officer proposes that civil liability be imposed on the City of Rialto in the amount of $157,727 for the violations cited above ($143,500 in cost savings + staff cost of 7,910).

WAIVER OF HEARING

The City may waive its right to a hearing. If the City chooses to do so, please sign the attached waiver form and return it, together with a check payable to the State Water Resources Control Board, for the amount of civil liability proposed under Paragraph 14, above, to Regional Board's office in the enclosed preprinted envelope.

If you have any questions, please contact Milasol Gaslan at (951) 782-4419. For legal questions, contact the Regional Board's legal counsel, Erik Spiess, at (916) 341-5167.

7/17/07
Date

Gerard J. Thibeault
Executive Officer

In the matter of:	Complaint No. R8-2007-0016 for Administrative Civil Liability
City of Rialto **150 S. Palm Avenue** **Rialto, CA 92376** Attention: Mr. Henry T. Garcia	

WAIVER OF HEARING

I agree to waive the right of the City of Rialto to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the violations alleged in Complaint No. R8-2007-0016. I have enclosed a check for $157,727 made payable to the State Water Resources Control Board. I understand that I am giving up the right of the City of Rialto to be heard and to argue against allegations made by the Executive Officer in this complaint, and against the imposition of, and the amount of, the liability proposed.

_____ _____

Date for the City of Rialto