California Regional Water Quality Control Board
Santa Ana Region

Terry Tamminen
Secretary for
Environmental
Protection

3737 Main Street, Suite 500, Riverside, California 92501-3348
Phone (951) 782-4130 - FAX (951) 781-6288
http://waterboards.ca.gov/santaana/

Arnold Schwarzenegger
Governor

November 16, 2004

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Anthony J. Pack, General Manager
Eastern Municipal Water District
P.O. Box 8300
Perris, CA 92572-8300

MANDATORY PENALTIES COMPLAINT NO. R8-2004-0100

Dear Mr. Pack:

Enclosed is a copy of Mandatory Penalties Complaint (MPC) No. R8-2004-0100. The complaint is in response to violations of effluent limitations specified in waste discharge requirements, Order No. 99-5. It was issued pursuant to California Water Code Section 13385 (h) and (i) and proposes the assessment of a penalty of $12,000 for four violations that occurred between January 2004 and February 2004.

Should you wish to waive your right to a public hearing on this matter, please sign the enclosed waiver form and submit it, along with the bottom portion of the attached invoice and a check or money order for the amount of $12,000, by December 2, 2004, to the address on the invoice. If you do not wish to waive your right to a public hearing on this matter, a hearing will be held before the Regional Board at its regularly scheduled meeting on December 20, 2004 in Loma Linda.

Should you have any questions, please contact me at (951) 782-3284, Gary Stewart, Chief of the Board's Surveillance and Enforcement Section, at (951) 782-4379, or Jorge A. Leon, the Regional Board's staff counsel, at (916) 341-5180.

Sincerely,

Gerard J. Thibeault
Executive Officer

Enclosure: Complaint No. R8-2004-0100
Invoice

cc: w/enclosure

U.S. EPA - CWA Compliance Office (WTR-7)
State Water Resources Control Board – Office of the Chief Counsel, Jorge Leon
State Water Resources Control Board – Division of Water Quality
Orange County Coastkeeper
Lawyers for Clean Water
Regional Board

jcl/emwdmpcr8-2004-0100.cov

California Regional Water Quality Control Board
Santa Ana Region

IN THE MATTER OF:	)	
	)	
Eastern Municipal Water District	)	Complaint No. R8-2004-0100
2270 Trumble Road	)	for
Perris, California 92572	)	Mandatory Penalties

YOU ARE HEREBY GIVEN NOTICE THAT:

1. Eastern Municipal Water District (EMWD) is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (Regional Board), must impose mandatory penalties pursuant to California Water Code (Water Code) Section 13385.

2. A hearing concerning this complaint will be held before the Regional Board within 90 days of the date of issuance of this complaint, unless EMWD waives its right to a hearing. Waiver procedures are specified on Page 2 of this complaint. If the hearing in this matter is not waived, the hearing will be held during the Regional Board's regular meeting on December 20, 2004 at the City of Loma Linda Council Chambers, 25541 Barton Road, Loma Linda, California. The meeting will begin at 9:00 a.m. EMWD or its representatives will have an opportunity to appear and be heard and to contest the allegations in this complaint and the imposition of mandatory penalties by the Regional Board.

3. This complaint is based on the following facts:

   a. On June 25, 1999, the Regional Board adopted Waste Discharge Requirements, Order No. 99-5 (NPDES No. CA8000188), for EMWD. On July 1, 2003, the Regional Board adopted Order No. R8-2003-0066, amending Order No. 99-5. These requirements regulate discharges of tertiary treated wastewater from EMWD's regional water reclamation facilities to Temescal Creek.

   b. EMWD submitted self-monitoring reports (January 2004 – April 2004) for their discharge to Temescal Creek, which show effluent limit violations of selenium and cyanide. These violations are summarized on Attachment "A," which is Page 3 of this complaint.

4. Water Code Section 13385 (h) requires the Regional Board to assess a mandatory minimum penalty of three thousand dollars ($3,000) for each serious violation.

5. As shown in Attachment "A", EMWD incurred a total of five violations between January 2004 and February 2004. For the six-month period covered by Complaint No. R8-2004-0100, one non-serious violation that occurred during January 2004 is not subject to a mandatory penalty assessment in accordance with Water Code Section 13385(i). The remaining violations are considered serious as defined under Water Code Section 13385 (h) (2).

6. Four violations out of the total of five violations are subject to mandatory minimum penalties of $3,000 for each violation. In accordance with Water Code Section 13385(h), the mandatory minimum penalties for the five effluent limit violations cited in Attachment "A" are $12,000.

7. In accordance with Water Code Section 13385(c), the Regional Board may impose administrative civil liability for the five violations cited in Attachment "A". The maximum administrative civil liability that may be imposed for these violations is $50,000.

8. The Executive Officer proposes that mandatory penalties of $12,000 be imposed on EMWD by the Regional Board for the violations cited above.

9. You may waive your right to a hearing. If you waive your right to a hearing, please sign the attached waiver, which is Page 4 of this complaint, and return it together with a check payable to the State Water Resources Control Board in the amount of the mandatory penalties proposed in paragraph 8, above. An invoice for this amount is enclosed.

If you have any questions regarding this complaint, please contact the undersigned at (909) 782-3284, or Gary D. Stewart, Surveillance and Enforcement Section Chief, at (909) 782-4379, or the Board's staff counsel, Jorge Leon, at (916) 341-5180.

11-16-04
Date

Gerard J. Thibeault
Executive Officer

ATTACHMENT "A"

Constituent	Pemit Limits & Month/Year	Jan-04	Feb-04	VIOLATIONS TOTAL	VIOLATIONS SUBJECT TO MANDATORY MINIMUM PENALTIES
Selenium	Monthly average limit violation	1*	0	1	1
Selenium	Daily maximum limit violation	1*	0	1	1
Selenium	Average Monthly mass rate limit violation	1*	0	1	1
Selenium	Daily mass rate limit violation	[1]	0	1	0
Cyanide	Monthly average limit violation	0	1*	1	1
Violations Total		**4**	**1**	**5**	**4**

Notes: [ ] = Non-serious violations waived under this complaint pursuant to Water Code Section 13385 (i)

* = Serious violations as defined under Water Code Section 13385 (h)

California Regional Water Quality Control Board
Santa Ana Region

IN THE MATTER OF:	)	
	)	
Eastern Municipal Water District	)	Complaint No. R8-2004-0100
2270 Trumble Road	)	for
Perris, California 92572	)	Mandatory Penalties

WAIVER OF HEARING

EMWD agrees to waive its right to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the violations alleged in Complaint No. R8-2004-0100. EMWD has enclosed a check made payable to the State Water Resources Control Board in the amount of $12,000 in settlement of Complaint No. R8-2004-0100. EMWD understands that it is giving up its right to be heard and to argue against allegations made by the Executive Officer in Complaint No. R8-2004-0100, and against the imposition of, and amount of, the mandatory penalties.

_____ _____

Date for EMWD

Please submit this waiver form, bottom portion of the invoice, and the payment ($12,000) to the State Water Resources Control Board at the address on the invoice.

State Water Resources Control Board

Terry Tamminen
Secretary for Environmental Protection

The energy challenge facing California is real.
Every Californian needs to take immediate action to reduce energy consumption.
For a list of simple ways you can reduce demand and cut your energy costs, see our website at http://www.swrcb.ca.gov

Arnold Schwarzenegger
Governor

To:
EASTERN MWD
PO BOX 8300
PERRIS, CA 92572-8300
ATTN: ANTHONY PACK

Invoice No: 54922
Invoice Date: 11/15/2004
Enforcement Action ID: 95188
Enforcement Order No: R8-2004-0100

INVOICE

Milestone ID	Description	Amount	Due Date
62817	LIABILITY AMOUNT	$12,000.00	12/16/2004

TOTAL AMOUNT DUE **$12,000.00**

California Environmental Protection Agency

Recycled Paper

Retain above portion for your records

Please return bottom portion with your payment

Milestone ID	Description	Amount	Due Date
62817	LIABDUE	$12,000.00	12/16/2004

TOTAL AMOUNT DUE **$12,000.00**

EASTERN MWD
PO BOX 8300
PERRIS, CA 92572-8300
ATTN: ANTHONY PACK

Make your check payable to:
State Water Resources Control Board

Mail payment to:
SWRCB ACCOUNTING
ATTN: ENFORCEMENT
P. O. Box 100
SACRAMENTO, CA 95812-0100

Amount Enclosed: $_____

PLEASE PRINT THE FOLLOWING INVOICE NUMBER ON YOUR CHECK: **54922**

Invoice Date: 11/15/2004
Enforcement Action ID: 95188
Enforcement Order No.: R8-2004-0100

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION
3737 MAIN STREET, SUITE 500
RIVERSIDE, CALIFORNIA 92501-3348

NOTICE OF PUBLIC COMMENT PERIOD AND POSSIBLE PUBLIC HEARING
Regarding
Mandatory Minimum Penalties Complaint No. R8-2004-0100
For
Eastern Municipal Water District

Eastern Municipal Water District (EMWD) is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region, must impose Mandatory Minimum Penalties, pursuant to California Water Code Section 13385. EMWD is alleged to have violated selenium and cyanide limits contained in its waste discharge requirements, Order No. 99-5, in January and February, 2004.

On the basis of preliminary staff review and application of lawful standards and regulations, Complaint No. R8-2004-0100 for mandatory minimum penalty was issued to EMWD by the Executive Officer of the Regional Board on November 16, 2004. The complaint proposes a mandatory minimum penalty of $12,000.

The complaint and related documents may be inspected and copied at the Regional Board office at 3737 Main Street, Suite 500, Riverside, California, by appointment between the hours of 9:00 a.m. and 3:00 p.m., Monday through Thursday. Appointments may be scheduled by calling the Regional Board office at (909) 782-4130.

Interested persons are invited to submit written comments on this matter. Comments must be submitted by December 10, 2004.

Unless EMWD waives its right to a public hearing, a hearing on this matter will be held as follows:

DATE:	**December 20, 2004**
TIME:	**9:00 a.m.**
PLACE:	**Loma Linda City Council Chambers** **25541 Barton Road** **Loma Linda, CA**

If a hearing is held, interested persons are invited to attend and express their views regarding this mandatory minimum penalty complaint. Persons making presentations should confine their statements to the issues addressed in the complaint. Oral statements will be heard, but should be brief to allow all interested persons time to be heard. For the accuracy of the record, all testimony (oral statements) should also be submitted in writing.

Any person who is physically handicapped and requires special accommodations to participate in this hearing should contact Catherine Ehrenfeld at (909) 782-3285 no later than December 10, 2004.

Please bring the foregoing to the attention of any persons known to you who may have an interest in this matter.