

SETTLEMENT AGREEMENT AND MUTUAL RELEASE  
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. SB-2007-0004-OE

In the matter of: )  
 )  
**City of Los Angeles** ) Settlement Agreement  
 ) and Mutual Release  
 )  
 )  
\_\_\_\_\_ )

This Settlement Agreement and Release (Agreement) is made by and between the Executive Director of the State Water Resources Control Board (State Water Board) and the City of Los Angeles (City) (collectively referred to as Parties). The Parties enter into this Agreement because it is their collective desire to settle the violations alleged in Administrative Civil Liability Complaint No. SB-2007-0004-OE in order to avoid the expense and uncertainty inherent in an administrative enforcement proceeding and potential litigation. This Agreement will be submitted to the State Water Board, or its delegee, for approval and adoption pursuant to Government Code section 11415.60 as a decision by settlement and will become effective when the State Water Board, or its delegee, issues an order approving the Agreement.

THE UNDERSIGNED PARTIES EXECUTE THIS AGREEMENT WITH REFERENCE TO AND IN CONTEMPLATION OF THE FOLLOWING FACTS:

1. On August 14, 2007, the Executive Director issued Administrative Civil Liability Complaint No. SB-2007-0004-OE ("Complaint"), which proposed to assess administrative civil liability of \$19,000 against the City for certain alleged violations of California Water Code.
2. The Complaint alleged that the City owns and operates the Hyperion Wastewater Treatment Plant (WWTP) located in Los Angeles, California, and that the City employed Mr. Mark Ahlander to operate the Hyperion WWTP between July 1, 2003 and July 31, 2005, during which time Mr. Ahlander did not hold a valid, unexpired operator certificate issued by the State Water Board, as required by California Water Code section 13627.
3. The Parties, through their respective representatives, have reached this settlement for the violations alleged in the Complaint. The general terms of the settlement are that the City will, in exchange for a full and final release of all claims arising out of the specified violations, (1) waive its right to a hearing and pay \$19,000 in administrative civil liability to the State Water Board's Pollution Cleanup and Abatement Account.

NOW, THEREFORE, in exchange for their mutual promises and for other good and valuable consideration specified herein, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

4. The City agrees that the State Water Board has subject matter jurisdiction over the matters alleged in the Complaint and personal jurisdiction over the City.

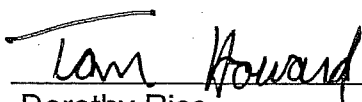
5. The City agrees to waive its right to a hearing on the Complaint and will not contest or otherwise challenge this Agreement before the State Water Board or any court, except as provided in Paragraph 7.
6. The City agrees to pay \$19,000 to the State Water Board Pollution Cleanup and Abatement Account within 30 days of receiving written notice from the State Water Board that it, or its delegee, has adopted an order or decision by settlement pursuant to Government Code section 11415.60 which approves this Agreement.
7. The City enters into this Agreement without the admission of any fact or the adjudication of any issue in this matter, and by entering into this agreement, the City is not admitting to liability for any of the alleged violations.
8. In the event that this Agreement does not take effect, or is vacated in whole or in part by a court, the Parties acknowledge that they expect to proceed to a contested evidentiary hearing for the State Water Board to determine whether to assess administrative civil liabilities for the underlying violations, unless the Parties agree otherwise. The Parties agree that all oral and written statements and agreements made during the course of settlement discussions will not be admissible as evidence in the hearing. The Parties also agree to waive any and all objections related to their efforts to settle this matter, including, but not limited to objections related to prejudice or bias of any of the State Water Board members or their advisors and any other objections that are premised in whole or in part on the fact that Board members or their advisors were exposed to some of the material facts and the Parties' settlement positions, and therefore may have formed impressions or conclusions, prior to conducting the contested evidentiary hearing.
9. Each Party executing this Agreement in a representative capacity represents and warrants that he or she is authorized to execute this Agreement on behalf of and to bind the entity on whose behalf he or she executes the Agreement.
10. This Agreement shall not be construed against any Party preparing it, but shall be construed as if the Parties jointly prepared this Agreement and any uncertainty and ambiguity shall not be interpreted against any one Party.
11. Each Party to this Agreement shall bear all attorney's fees and costs arising from that Party's own counsel in connection with the matters referenced herein, and any other costs incurred in defense or settlement of the proposed enforcement action.
12. This Agreement shall not be modified by any of the Parties by oral representation made before or after the execution of this Agreement. All material modifications must be in writing and signed by the Parties.
13. This Agreement shall be executed as duplicate originals, each of which shall be deemed an original Agreement, and all of which shall constitute one agreement.

14. This Agreement shall become effective immediately on adoption by the State Water Board, or its delegee, of an order approving the Agreement.
15. This Agreement is entered into and shall be construed and interpreted in accordance with the laws of the State of California.

IN WITNESS HEREOF, the Parties hereto have executed this Agreement as of the date set forth below.

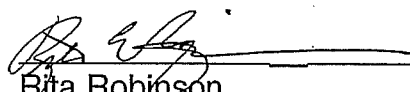
**For the State Water Board:**

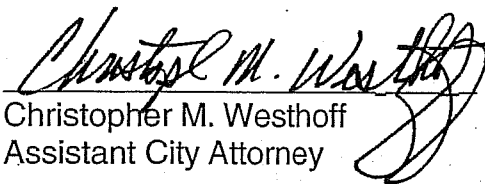
Date: SEP - 4 2007

By:   
Dorothy Rice  
Executive Director

**For the City:**

Date: SEP - 4 2007

By:   
Rita Robinson  
Director, Bureau of Sanitation

Approved as to Form:   
Christopher M. Westhoff  
Assistant City Attorney

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the matter of: )

City of Los Angeles )

WQ ORDER NO. 2007-0007-EXEC  
Imposing Administrative Civil Liability  
Pursuant to Settlement Agreement

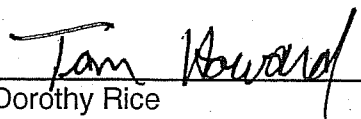
THE STATE OF CALIFORNIA, WATER RESOURCES CONTROL BOARD ("STATE WATER BOARD") FINDS:

1. On August 14, 2007, the Executive Director of the State Water Board issued Administrative Civil Liability Complaint No. SB-2007-0004-OE ("Complaint"), which proposed to assess an administrative civil liability of \$19,000 against the City of Los Angeles (City) for allowing Mr. Mark Ahlander to operate the City's Hyperion Wastewater Treatment Plant for 391 days between July 1, 2003 and July 31, 2005 without having a valid, unexpired wastewater treatment plant operator certificate issued by the State Water Board.
2. By way of Settlement Agreement, the City has waived its right to a hearing and agreed to pay the proposed liability.
3. State Water Board Resolution 2002-0104 delegated authority to the Executive Director to issue a decision or order by settlement of the Complaint under Government Code section 11415.60.
4. In adopting this Stipulated Order, the State Water Board has considered each of the factors prescribed in California Water Code section 13327.
5. The proposed Settlement Agreement of the Complaint by assessment of administrative civil liability in the amount of \$19,000 is in the public interest. This Order and assessment of administrative civil liability provides for the full and final resolution of each of the alleged violations addressed by this Order.
6. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et seq.) in accordance with section 15321, Chapter 3, Title 14, California Code of Regulations.

IT IS HEREBY ORDERED that:

1. Administrative civil liability under California Water Code section 13627.1, subdivision (a) is imposed upon the City of Los Angeles in the amount of \$19,000.

Dated: SEP - 4 2007

  
Dorothy Rice  
Executive Director

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the matter of: )  
 )  
City of Los Angeles ) Complaint No. ACL-SB-2007-0004-OE  
 ) For  
 ) Administrative Civil Liability  
 )

---

YOU ARE HEREBY GIVEN NOTICE THAT:

1. The City of Los Angeles (City) is alleged to have violated requirements for which the California State Water Resources Control Board (State Water Board) may impose liability under section 13627.1 of the California Water Code (CWC).
2. A hearing concerning this Complaint will be held before the State Water Board or State Water Board Hearing Panel within ninety days of the date of issuance of this Complaint, unless the City waives its right to a hearing and pays the recommended administrative civil liability amount of \$19,000.
3. The City, or its representative(s), 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 State Water Board. A notice containing the date, time, and location of the hearing will be mailed to the City not less than 10 days prior to the hearing date.
4. At the hearing, the State Water 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 in a greater amount.

THIS COMPLAINT IS BASED ON THE FOLLOWING FACTS:

5. The City is the owner of the Hyperion Wastewater Treatment Plant located in Los Angeles, California.
6. The Hyperion Wastewater Treatment Plant is a regulated "wastewater treatment plant" as the term is defined in CWC section 13625.
7. Pursuant to CWC section 13627, supervisors and operators of wastewater treatment plants are required to possess a certificate of appropriate grade issued by the State Water Board.
8. Between July 1, 2003 and July 31, 2005, the City employed Mr. Mark Ahlander as an operator at the Hyperion Wastewater Treatment Plant. During that period, Mr. Ahlander operated the Hyperion Wastewater Treatment Plant for 391 days.
9. Between July 1, 2003 and July 31, 2005, Mr. Ahlander did not hold a valid, unexpired operator certificate issued by the State Water Board, as required.

10. Mr. Ahlander resigned his employment with the City on July 31, 2005, and no longer works as a wastewater treatment plant operator for the City of Los Angeles.

#### POTENTIAL MAXIMUM CIVIL LIABILITY

11. CWC section 13627.1, subdivision (b), provides that civil liability may be administratively imposed by the State Water Board against any person that allows the employment of any person as a wastewater treatment plant operator who does not hold a valid and unexpired certificate of the appropriate grade in an amount not to exceed one hundred dollars (\$100) for each day of violation.
12. The City is alleged to have violated Section 13627.1 by allowing Mr. Mark Ahlander to operate the Hyperion Wastewater Treatment Plant for 391 days without having a valid, unexpired wastewater treatment plant operator certificate issued by the State Water Board.
13. Therefore, the maximum liability for the violations described in paragraph 12, above, pursuant to section 13627.1, subdivision (b), of the CWC is **\$39,100**.

#### CONSIDERATION OF FACTORS

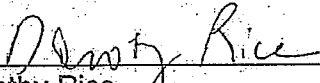
14. Pursuant to CWC section 13327, the State Water Board is required to consider certain factors in determining the amount of civil liability, including the nature, circumstance, extent, and gravity of the violation; whether the discharge is susceptible to cleanup or abatement; the degree of toxicity of the discharge; and with respect to the violator, the ability to pay; the effect on the ability to continue in business; voluntary cleanup efforts; 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.
  - (a) Nature, Circumstance, Extent, and Gravity of the Violations  
Mr. Ahlander operated the Hyperion Wastewater Treatment Plant without proper certification for 391 days. Allowing the operation of wastewater treatment facilities by a non-certified operator is a serious violation of the CWC and associated regulations governing wastewater treatment facility operation. Such conduct undermines the operator certification program administered by the State Water Board, which is designed to ensure proper operation of wastewater treatment facilities by qualified individuals.
  - (b) Susceptibility to Cleanup or Abatement  
While the above violations did not result in a discharge of pollutants requiring cleanup, employment of a non-certified operator could have been abated, particularly once the City became aware Mr. Ahlander was not properly certified.

- (c) Degree of Toxicity  
This factor is not applicable.
- (d) Ability to Pay  
The State Water Board has no indication that the City is unable to pay the proposed liability.
- (e) Effect on Ability to Continue Business  
The State Water Board has no indication that the proposed liability would affect the ability of the City to continue in business.
- (f) Voluntary Cleanup Efforts  
This factor is not applicable.
- (g) Prior History of Violations  
There have been no prior adjudicated violations against the City by the State Water Board related to the operation of the Hyperion Wastewater Treatment Plant.
- (h) Degree of Culpability  
In a letter to the State Water Board's Office of Operator Certification dated March 25, 2005, the City acknowledged that Mr. Ahlander had been working as an operator at the Hyperion Wastewater Treatment Plant without a current and valid certificate. The City admitted to having a Certification Tracking Program at Hyperion since 1993 and stated it had "no excuse" for "not catching [the] expired certification earlier."
- (i) Economic Savings Resulting From the Violations  
There has been no economic savings to the City as a result of the violation.
- (j) Other Matters as Justice May Require  
There is no evidence of any harm to water quality linked to Mr. Ahlander's operation of the Hyperion Wastewater Treatment Plant during the period he lacked proper certification. Failing to take substantive enforcement against the City, however, would undermine regulatory oversight of the operator certification program by the State Water Board. In order to avoid similar noncompliance in the future, the

City has implemented new procedures to verify that its operators hold current and valid certificates.

RECOMMENDED CIVIL LIABILITY

15. After consideration of the factors described above, the Executive Director proposes civil liability be imposed on the City in the amount of \$19,000.

  
\_\_\_\_\_  
Dorothy Rice  
Executive Director

AUG 14 2007  
\_\_\_\_\_  
Date