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JAN 20 2010

STATE WATER RESOURCES CONTROL BOARD

Office of Enforcement

In the matter of:

Mr. David Chase

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Stipulated Order No. WQ 2010-0003-EXEC
**Adopting A Settlement Agreement
Concerning Proposed Operator
Certification Discipline
(PROPOSED)**

INTRODUCTION:

This Stipulated Order (hereafter "Stipulated Order" or "Order") is entered into by and between the Director of the Office of Enforcement of the State Water Resources Control Board ("State Water Board"), and Mr. David Chase (Collectively "Parties") and is presented to the State Water Board's Executive Director for adoption as an Order by settlement, pursuant to Government Code section 11415.60.

RECITALS:

WHEREAS, Mr. David Chase is certified as a Grade I wastewater treatment plant operator by the State Water Board.

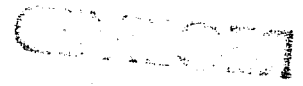
WHEREAS, Mr. Chase as the Director of Public Works and City Engineer for the City of Hughson obtained an operator in training (OIT) certification and submitted an application to the Office of Operator Certification (OOC) for a Grade 1 WWTP operator certification. California Code of Regulations, Title 23, Section 3610 (a) and Water Code section 13627 (e), provides the State Water Board the authority to impose administrative sanctions on certified wastewater treatment plant operators including "reprimand or denial, suspension, probation, or revocation of a certificate" for performing certain acts.

WHEREAS, the Office of Enforcement issued a Letter of Proposed Disciplinary Action on September 22, 2009 alleging that Mr. Chase engaged in certain conduct, which subjects him to discipline pursuant to Water Code section 13627(c)(1) and California Code of Regulations, Title 23, Section 3710(a).

WHEREAS, Mr. Chase began the process of appealing the Office of Enforcement's Letter of Proposed Disciplinary Action and requested more time to complete his appeal.

WHEREAS, the Parties have engaged in settlement negotiations and agree to settle the matter without administrative or civil litigation and by presenting this Stipulated Order to the State Water Board for adoption as an Order by settlement, pursuant to Government Code section 11415.60. The Office of Enforcement believes that the resolution of the alleged violations is fair and reasonable and fulfills its enforcement objectives, that no further action is warranted concerning the specific violations alleged in the Office of Enforcement's initial Letter of Proposed Disciplinary Action, except as provided in the Stipulated Order, and that this Stipulated Order is in the best interest of the public.

Stipulated Order by Settlement concerning Proposed Operator Certification Discipline; David Chase



OFFICIAL

THE DIRECTOR OF THE STATE WATER BOARD OFFICE OF ENFORCEMENT AND MR. DAVID CHASE HEREBY STIPULATE AS FOLLOWS:

- A. The Director of the State Water Board Office of Enforcement and Mr. David Chase (collectively referred to as "The Parties") agree that upon execution by the Executive Director, this Stipulated Order represents a final and binding resolution and settlement of all claims, violations or causes of action alleged in this Order or which could have been asserted by the Office of Enforcement based on the specific facts alleged in the initial Letter of Proposed Disciplinary Action against Mr. David Chase, as of the effective date of this Stipulated Order.
- B. Upon the effective date of this Stipulated Order, Mr. David Chase shall and does release, discharge and covenant not to sue or pursue any civil or administrative claims against the State Water Board, including its officers, agents, directors, employees, contractors, subcontractors, attorneys, representatives, predecessors-in-interest, and successors and assigns for any and all claims or causes of action, of every kind and nature whatsoever, in law and equity, whether known or unknown, suspected or unsuspected, foreseen or unforeseen, which arise out of or are related to this action.
- C. The Parties agree to support, advocate for, and promote the Stipulated Order before the Executive Director.
- D. The Parties covenant and agree that they will not contest the Stipulated Order before the State Water Board, or any court.
- E. This Stipulated Order shall not constitute evidence of, or be construed as, a finding, adjudication, or acknowledgment of any fact, law or liability, nor shall it be construed as admission of violation of any law, rule, or regulation. Mr. Chase expressly denies the allegations in the Letter of Proposed Disciplinary Action and this Stipulated Order. No final finding has been made with respect to the specific facts alleged in the initial Letter of Proposed Disciplinary Action. However, this Stipulated Order may constitute evidence in actions seeking compliance with this Order. This Stipulated Order may be used as evidence of a prior enforcement action in any future enforcement actions by the State Water Board against Mr. Chase.
- F. The Parties agree that Mr. Chase's Grade I Certificate will be returned to the State Water Board. The Parties agree that Mr. Chase will not reapply for an operator in training certificate for a minimum of two years. After two years, Mr. Chase may reapply for an OIT certificate and begin the certification process again, including starting over to receive the necessary operating experience. The parties agree that if Mr. Chase decides to reapply for a Grade I or higher operator certification, then he will need to pass the relevant examination and pay all applicable fees.
- G. In the event that this Stipulated Order does not take effect because it is not approved by the Executive Director, or is vacated in whole or in part by the State Water Board or a court, the Parties acknowledge that they expect to engage in the appeals process described in California Code of Regulations, Title 23, Section 3711 and a Final Division of Financial Assistance Decision and possibly to a contested evidentiary hearing before the State Water Board to determine whether to impose

discipline for the underlying alleged 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: 1) 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 the State Water 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 any contested evidentiary hearing on the Proposed Disciplinary Action in this matter; or 2) laches or delay or other equitable defenses based on the time period that the order or decision by settlement may be subject to administrative or judicial review.

- H. Each person executing this Stipulated Order in a representative capacity represents and warrants that he or she is authorized to execute this Order on behalf of and to bind the entity on whose behalf he or she executes the Order.
- I. This Order shall not be construed against the party preparing it, but shall be construed as if the Parties jointly prepared it and any uncertainty and ambiguity shall not be interpreted against any one party.
- J. This Order shall not be modified by any of the Parties by oral representation made before or after the execution of this Order. All modifications must be made in writing and approved by the State Water Board.
- K. This Order may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterparts shall together constitute one document.

IT IS SO STIPULATED



 Reed Sato
 Director
 State Water Resources Control Board, Office of Enforcement

1/25/10

 Date



 David Chase

1-14-10

 Date

HAVING CONSIDERED THE ALLEGATIONS DESCRIBED ABOVE AND THE PARTIES' STIPULATIONS, THE STATE WATER BOARD FINDS THAT:

- 1. Issuance of this Stipulated Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et seq.), in

accordance with sections 15061(b)(3) and 15321(a)(2), of Title 14 of the California Code of Regulations.

IT IS HEREBY ORDERED, pursuant to section 11415.60 of the California Government Code that

1. David Chase agrees to submit his Grade I Wastewater Treatment Plant Operator Certificate to the State Water Board immediately upon receiving written notice that this Order has taken effect.
2. Mr. Chase agrees to not reapply for an OIT certificate for a minimum of two years. After two years, Mr. Chase may reapply for an OIT certificate and begin the certification process again, including starting over to receive the necessary operating experience. The parties agree that if Mr. Chase decides to reapply for a Grade I or higher operator certification, then Mr. Chase will need to pass the relevant examination and pay all applicable fees.
3. The two year moratorium period commences upon execution of this Order by the Executive Director.



Dorothy Rice
Executive Director

1-27-10

Date