

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ACL COMPLAINT NO. R5-2005-0523

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT
IN THE MATTER OF
GRIZZLY RANCH DEVELOPMENT, LLC
GRIZZLY CREEK DEVELOPMENT, LLC
PLUMAS COUNTY

This Administrative Civil Liability Complaint (hereafter Complaint) is issued to Grizzly Ranch Development, LLC and Grizzly Creek Development, LLC (hereafter Discharger), based on findings of violations of Clean Water Act Section 301, California Water Code (CWC) section 13376, and the National Pollutant Discharge Elimination System (NPDES) General Construction Storm Water Permit No. CAS000002 (Order No. 99-08-DWQ), pursuant to the provisions of CWC Section 13385, which authorizes the imposition of Administrative Civil Liability.

The Executive Officer of the Regional Water Quality Control Board, Central Valley Region (Regional Board) finds, with respect to the Discharger's acts, or failure to act, the following:

1. The Discharger is the owner and developer of a 1,040-acre single-family home subdivision and golf course (project), near the City of Portola. The project includes 380 residential lots, an 18 hole golf course, some guest cabins, limited commercial space, a clubhouse, golf pro shop, and other auxiliary buildings. Runoff from the project site discharges to several unnamed tributaries of Big Grizzly Creek, and there is some direct discharge to Big Grizzly Creek itself.
2. Big Grizzly Creek is tributary to the Middle Fork of the Feather River, a federally designated wild and scenic river. The existing beneficial uses of Big Grizzly Creek and the Middle Fork of the Feather River are: municipal supply, recreation, warm and cold freshwater habitat, cold water spawning, and wildlife habitat.
3. On 19 August 1999, the State Water Resources Control Board adopted NPDES General Storm Water Construction Permit No. CAS000002, Order No. 99-08-DWQ (General Permit), implementing the Waste Discharge Requirements for Storm Water Discharges Associated with Construction Activity. The General Permit requires that dischargers of storm water to surface waters associated with construction activity, including clearing, grading, and excavation activities, file a Notice of Intent (NOI) to obtain coverage under the General Permit, and to implement Best Available Technology Economically Achievable and Best Conventional Control Technology to prevent storm water pollution or reduce it to the maximum extent practicable.
4. The Discharger submitted an NOI for coverage under the General Permit, and was issued identification number WDID No. 5R32S314271 on 16 October 2000.

5. The General Permit states, in part, the following:

“A. DISCHARGE PROHIBITIONS:

3. Storm water discharges shall not cause or threaten to cause pollution, contamination, or nuisance.

B. RECEIVING WATER LIMITATIONS:

1. Storm water discharges and authorized non-storm water discharges to any surface or ground water shall not adversely impact human health or the environment.
2. The SWPPP developed for the construction activity covered by this General Permit shall be designed and implemented such that storm water discharges and authorized nonstorm water discharges shall not cause or contribute to an exceedance of any applicable water quality standards contained in a Statewide Water Quality Control Plan and/or the applicable RWQCB’s Basin Plan.

C. SPECIAL PROVISIONS FOR CONSTRUCTION ACTIVITY:

2. All dischargers shall develop and implement a SWPPP in accordance with Section A: Storm Water Pollution Prevention Plan. The discharger shall implement controls to reduce pollutants in storm water discharges from their construction sites to the BAT/BCT performance standards.
3. Discharges of non-storm water are authorized only where they do not cause or contribute to a violation of any water quality standard and are controlled through implementation of appropriate BMPs for elimination or reduction of pollutants. Implementation of appropriate BMPs is a condition for authorization of non-storm water discharges. Non-storm water discharges and the BMPs appropriate for their control must be described in the SWPPP. Wherever feasible, alternatives which do not result in discharge of nonstorm water shall be implemented in accordance with Section A.9 of the SWPPP requirements.”

6. Section A: Storm Water Pollution Prevention Plan (SWPPP) of the General Order requires the Discharger to:

“1. Objectives

- a. Identify all pollutant sources including sources of sediment that may affect the quality of storm water discharges associated with construction activity (storm water discharges) from the construction site, and

- b. Identify non-storm water discharges, and
- c. Identify, construct, implement in accordance with a time schedule, and maintain Best Management Practices (BMPs) to reduce or eliminate pollutants in storm water discharges and authorized nonstorm water discharges from the construction site during construction, and
- d. Develop a maintenance schedule for BMPs installed during construction designed to reduce or eliminate pollutants after construction is completed (post-construction BMPs).

2. Implementation Schedule

- a. For construction activity commencing on or after adoption of this General Permit, the SWPPP shall be developed prior to the start of soil-disturbing activity in accordance with this Section and shall be implemented concurrently with commencement of soil-disturbing activities.

5. Source Identification

b. Pollutant Source and BMP Identification

The SWPPP shall include a description of potential sources which are likely to add pollutants to storm water discharges or which may result in nonstorm water discharges from the construction site. Discharges originating from off-site which flow across or through areas disturbed by construction that may contain pollutants should be reported to the RWQCB.

The SWPPP shall:

- (1) Show drainage patterns and slopes anticipated after major grading activities are completed. Runoff from off-site areas should be prevented from flowing through areas that have been disturbed by construction unless appropriate conveyance systems are in place. The amount of anticipated storm water run-on must be considered to determine the appropriateness of the BMPs chosen. Show all calculations for anticipated storm water run-on, and describe all BMPs implemented to divert off-site drainage described in section A. 5 a. (2) (c) around or through the construction project.

c. Additional Information

- (3) The SWPPP shall include the following information regarding the construction site surface area: the size (in acres or square feet), the runoff coefficient before and after construction, and the percentage that is impervious (e.g., paved, roofed, etc.) before and after construction .

6. Erosion Control

At a minimum, the discharger/operator must implement an effective combination of erosion and sediment control on all disturbed areas during the rainy season. These disturbed areas include rough graded roadways, slopes, and building pads. Until permanent vegetation is established, soil cover is the most cost-effective and expeditious method to protect soil particles from detachment and transport by rainfall. Temporary soil stabilization can be the single-most important factor in reducing erosion at construction sites. The discharger shall consider measures such as: covering with mulch, temporary seeding, soil stabilizers, binders, fiber rolls or blankets, temporary vegetation, permanent seeding, and a variety of other measures.

8. Sediment Control

The SWPPP shall include a description or illustration of BMPs, which will be implemented to prevent a net increase of sediment load in storm water discharge relative to preconstruction levels. Sediment control BMPs are required at appropriate locations along the site perimeter and at all operational internal inlets to the storm drain system at all times during the rainy season. Sediment control practices may include filtration devices and barriers (such as fiber rolls, silt fence, straw bale barriers, and gravel inlet filters) and/or settling devices (such as sediment traps or basins). Effective filtration devices, barriers, and settling devices shall be selected, installed and maintained properly. A proposed schedule for deployment of sediment control BMPs shall be included in the SWPPP. These are the most basic measures to prevent sediment from leaving the project site and moving into receiving waters. Limited exemptions may be authorized by the RWQCB when work on active areas precludes the use of sediment control BMPs temporarily. Under these conditions, the SWPPP must describe a plan to establish perimeter controls prior to the onset of rain.

If the discharger chooses to rely on sediment basins for treatment purposes, sediment basins shall, at a minimum, be designed and maintained [with one of 4 listed options].

9. Non-Storm Water Management

Describe all non-storm water discharges to receiving waters that are proposed for the construction project. Non-storm water discharges should be eliminated or reduced to the extent feasible. Include the locations of such discharges and descriptions of all BMPs designed for the control of pollutants in such discharges. Onetime discharges shall be monitored during the time that such discharges are occurring. A qualified person should be assigned the responsibility for ensuring that no materials other than storm water are discharged in quantities which will have an adverse effect on receiving waters or storm drain systems (consistent with BAT/BCT), and the name and contact number of that person should be included in the SWPPP document.

Discharging sediment-laden water which will cause or contribute to an exceedance of the applicable RWQCB's Basin Plan from a dewatering site or sediment basin into any receiving water or storm drain without filtration or equivalent treatment is prohibited.

11. Maintenance, Inspection, and Repair

The SWPPP shall include a discussion of the program to inspect and maintain all BMPs as identified in the site plan or other narrative documents throughout the entire duration of the project. A qualified person will be assigned the responsibility to conduct inspections. The name and telephone number of that person shall be listed in the SWPPP document. Inspections will be performed before and after storm events and once each 24-hour period during extended storm events to identify BMP effectiveness and implement repairs or design changes as soon as feasible depending upon field conditions.

12. Training

Individuals responsible for SWPPP preparation, implementation, and permit compliance shall be appropriately trained, and the SWPPP shall document all training. This includes those personnel responsible for installation, inspection, maintenance, and repair of BMPs. Those responsible for overseeing, revising, and amending the SWPPP shall also document their training. Training should be both formal and informal, occur on an ongoing basis when it is appropriate and convenient, and should include training/workshops offered by the SWRCB, RWQCB, or other locally recognized agencies or professional organizations.

13. List of Contractors/Subcontractors

The SWPPP shall include a list of names of all contractors, (or subcontractors) and individuals responsible for implementation of the SWPPP.”

7. Section B: Monitoring Program and Reporting Requirements of the General Order states, in part, the following.

“3. Site Inspections

Qualified personnel shall conduct inspections of the construction site prior to anticipated storm events, during extended storm events, and after actual storm events to identify areas contributing to a discharge of storm water associated with construction activity. The name(s) and contact number(s) of the assigned inspection personnel shall be listed in the SWPPP. Pre-storm inspections are to ensure that BMPs are properly installed and maintained; post-storm inspections are to assure that the BMPs have functioned adequately. During extended storm events, inspections shall be required each 24-hour period. Best Management Practices (BMPs) shall be evaluated for adequacy and proper implementation and whether additional BMPs are required in accordance with the terms of the General Permit (see language in Section A. 11. Maintenance, Inspection, and Repair)...”

8. Section 301 of the Clean Water Act and Section 13376 of the CWC prohibit the discharge of pollutants to surface waters except in compliance with an NPDES permit.

9. The Discharger violated Discharge Prohibition A.3 and Receiving Water Limitations B.1 and B.2 of the General Permit. These violations were caused by the failure of the Discharger to properly implement and maintain effective Best Management Practices, which led to the discharge of pollutants to waters of the United States from the site. The Discharger also violated Special Provisions for Construction Activity C.2 and C.3 and those requirements of the Storm Water Pollution Prevention Plan (SWPPP) described in Findings 6 and 7 above. Pursuant to CWC Section 13385 (a)(2), (c)(1), and (c)(2), civil liability may be imposed based on the following facts:

- Regional Board staff notified the Discharger by letter of their responsibility to comply with the General Permit on 13 September 2002 and 11 September 2003.
- On 28 May 2004, the State of California Department of Fish and Game (DFG) contacted Regional Board staff to relay information regarding an inspection of the site they had performed on 27 May 2004. DFG indicated that they had serious concerns about potentially illegal stream crossings, inadequate erosion control, and sediment in streambeds.
- On 1 June 2004, Regional Board staff contacted the Discharger and informed them that photographs from the DFG inspection showed sediment deposits in seasonal streams and a lack of appropriate erosion and/or sediment control measures at the site.
- In response to the DFG and several citizen complaints, Regional Board staff inspected the site on 10 June 2004 with a DFG Warden. During the inspection many areas with inadequate erosion and sediment control were noted. Previous discharges of sediment to local streams, due to pond dewatering, were confirmed (this dewatering was conducted without a dewatering permit on three occasions-5 April, 13 April, and 19 May 2004). In addition, some areas of wetlands at the site were covered with soil from construction activity. During the inspection, the Discharger was warned that his erosion and sediment control efforts were inadequate, and that several storm water Best Management Practices were improperly deployed. The Discharger was also shown the areas where soil from construction activities had been placed in wetlands, in violation of the Discharger's 401-Water Quality Certification per Section 401 of the Clean Water Act.
- On 29 June 2004 Regional Board staff met with the Discharger to discuss inadequate site erosion and sediment control measures. The Discharger was shown many photographs of their site illustrating erosion and sediment control deficiencies, and was informed of their exposure to administrative civil liability for violations of the General Permit.
- On 12 July 2004, the Discharger contacted Regional Board staff by telephone to indicate that the problems identified in our 29 June 2005 meeting were being addressed.

- Based upon the 10 June 2004 inspection, Regional Board staff issued a Notice of Violation (NOV) to the Discharger on 10 August 2004 for: 1) violations of the General Permit and SWPPP; 2) the violations of the CWC and Clean Water Act due to the pond dewatering performed without a permit; and 3) the 401 Water Quality certification violation. The NOV reiterated the lack of adequate erosion and sediment control and the improper deployment of storm water BMPs. The Discharger was notified in the NOV that violation of the General Permit could result in significant administrative civil liabilities and of the potential amount of those liabilities (up to \$10,000 per day per violation and \$10 per gallon of pollutant discharged in excess of 1,000 gallons).
 - Regional Board staff again notified the Discharger, by letter, of their responsibility to comply with the General Permit on 14 September 2004.
 - On 17 November 2004, Regional Board staff contacted the Discharger by telephone regarding photographs taken by Plumas County staff on that day. The Discharger was informed that these photographs indicated continued lack of adequate erosion and sediment control. The Discharger was reminded of potential administrative civil liabilities for failure to comply with the terms of the General Permit.
 - The site had significant snow cover from the end of December 2004 through most of March 2005, and therefore any erosion control measures were hidden from view. On 22 and 23 March 2005, staff inspected the site and observed the direct and indirect discharge of storm water causing very high turbidities and sediment loads in Big Grizzly Creek and its tributaries. Background turbidity in a stream up gradient of the site was approximately 2 nephelometric turbidity units (NTUs) and settleable solids concentrations were nondetectable. Turbidity of the primary tributary stream discharging from the site was approximately 1,400 NTUs, and stream settleable solids were measured at 0.8 mL/1000 mL. This tributary stream discharges to Big Grizzly Creek approximately 0.25 miles from the downstream sample location. Therefore, the discharge of sediment from construction activities caused turbidity in the receiving water hundreds of times greater than the water quality objective, and thus caused pollution, a violation of Prohibition A.3. The Discharge adversely impacted the environment, which is a violation of Receiving Water Limitations B.1 and B.2.
 - On 29 March 2005, staff returned for a site inspection. This inspection revealed that discharge of highly turbid water had ceased but that the Discharger remained in violation of the General Permit requirement to maintain adequate erosion and sediment control on all disturbed surfaces (Section A: Storm Water Pollution Prevention Plan, Objectives, No. 1.c).
10. The Discharger is alleged to have violated provisions of law for which the Regional Board may impose liability under Sections 13385 (c)(1) and (2) of the CWC.
11. Section 13385 of the CWC states, in part:

- “(a) Any person who violates any of the following shall be liable civilly in accordance with this section:
(2) Any waste discharge requirements or dredged and fill material permit.*

- (5) Any requirements of Sections 301, 302, 306, 307, 308, 318, or 405 of the Federal Water Pollution Control Act as amended.*

- “(c) Civil liability may be imposed administratively by the state board or a regional board pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 in an amount not to exceed the sum of both the following:*

- (1) Ten thousand dollars (\$10,000) for each day in which the violation occurs.*
- (2) Where there is discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) times the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.”*

- “(e) In determining the amount of liability imposed under this section, the regional board, the state board, or the superior court, as the case may be, shall take into account the nature, circumstances, extent, and gravity of the violation, or violations, 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 its ability to continue its business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefits or saving, 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 the economic benefits, if any, derived from the acts that constitute the violation..”*

12. The quantity of sediment-laden and/or turbid storm water discharged from the subject site for two separate days (22 and 23 March 2005), during which discharge was directly observed, is estimated at 1,700,000 gallons. The volume discharge results in a potential administrative civil liability of up to \$16,990,000 pursuant to CWC Section 13385(c)(2). Runoff volume from the site was calculated by obtaining measurements of the stream cross section at a discharge structure through which the main tributary to Big Grizzly Creek was flowing, and an estimate of the velocity of the stream through the structure. Additional days of discharge likely occurred based on precipitation data, temperature records, evidence of significant erosion, and observed snow melt; however, these additional days were not considered in the calculation of the amount of administrative civil liability. In addition, there were other turbid streams running off-site, but those streams were smaller and staff was unable to obtain quantitative information on the volume of waste discharged off-site. Run-on to the site that commingled with on-site storm water was considered negligible due to the limited watershed up gradient of the discharge, revealed by reference to topographic maps of the site as well as

Regional Board staff observations of the low flow in the up gradient streams. Therefore, discharge from the site was generated almost exclusively onsite, and was not increased by run-on upstream of the site.

13. The Discharger violated Discharge Prohibition A.3, Receiving Water Limitations B.1 and B.2, and Special Provision for Construction Activity C.2 on 22 March and 23 March 2003. It is likely these General Permit conditions were violated on additional days prior and subsequent to Regional Board staff inspections, but such violations are not considered in the calculation of the amount of administrative civil liability. The potential administrative civil liability for these eight observed violations for both days is \$80,000 (four individual violations for each of two days).
14. The Discharger violated several items of Section A: Storm Water Pollution Prevention Plan of the General Permit. The Discharger did not implement, in accordance with a time schedule, and maintain, BMPs (Section A., Objectives-1.c); had not implemented the SWPPP concurrently with commencement of soil-disturbing activities (Section A., Implementation Schedule-2.a); failed to maintain an effective combination of erosion and sediment control on disturbed soil (Section A., Item 6-Erosion Control); and did not deploy sediment control BMPs at appropriate locations along the site perimeter and at all operation internal inlets to the storm drain system at all times during the rainy season (Section A., Item 8-Sediment Control), on 22 March 2005, 23 March 2005, and 29 March 2005. It is likely these General Permit conditions were violated on additional days prior to Regional Board staff inspections, but such violations cannot be verified. The Discharger has continued to violate this condition subsequent to the Regional Board staff inspection on 29 March 2005, although they attempted to stabilize the site with erosion control mats, hydroseeding, wood chips, and other means. The most recent inspection of the site was performed on 21 July 2005. Although the site was stabilized over a great majority of disturbed surfaces on that date, unstabilized roads, cut banks, and fills remained. In addition, hydroseeding had failed to germinate in many areas, apparently due to insufficient watering. Violations subsequent to 29 March 2005 are not considered in this ACL Complaint, but may be considered in subsequent enforcement actions. The potential administrative civil liability for the violations of these four SWPPP requirements on 22, 23, and 29 March 2005 is \$120,000 (four individual violations for each of three days).
15. The amount of sediment discharged to the tributaries of Big Grizzly Creek and observations of the status of erosion and control measures demonstrate that the Discharger also failed to comply with the following requirements of Section A of the General Permit: prevent runoff from off-site areas from flowing through areas that have been disturbed by construction unless appropriate conveyance systems are in place (Section A, Source Identification-No. 5.b. (1)); inspect BMPs (Section A, No. 11-Maintenance, Inspection and Repair); properly train individuals responsible for SWPPP preparation, implementation, and permit compliance (Section A, Training-No. 12); and adequately inspect the site (Section B, Site Inspections-No. 3). These violations are considered to be four separate,

single violations. The potential administrative civil liability for these four violations is \$40,000.

16. Upon review of the Discharger's SWPPP after the March 2005 inspections, Regional Board staff noted that the Discharger had failed to fulfill the requirements of Special Provisions for Construction Activity C.3, and Section A, Items 1.a, 1.b, 1.d, 5.c.(3), Item 9 (Non Storm Water Management), and Item 13 (List of Contractors/Subcontractors). The potential administrative civil liability for these seven violations of the General Permit is \$70,000.
17. Regional Board staff has spent a total of 350 hours investigating this incident and preparing the Complaint. The total cost for staff time is \$31,900 based on the salaries of the individual staff, including overhead costs.
18. The economic benefit for the Discharger's failure to comply with the General Permit is \$248,000 based upon typical costs for erosion and sediment controls applied to the site. To determine this economic benefit, the SWPPP plans were analyzed to determine the total number of acres of soil disturbance that lacked adequate erosion and sediment control at the time of the 22 March 2005 inspection. These areas were categorized into three classes: 1) areas needing erosion control blankets (18.7 acres at \$8,000 per acre, or \$149,600); 2) areas needing straw mulching (11.1 acres at \$ 3,000 per acre, or \$33,300); and 3) roads that were not adequately stabilized (12.1 acres of roads using a cost for gravel of \$20 per yard and assuming an addition of two inches of gravel to all roads, or 3,254 yards of gravel at a cost of \$65,080). Although staff do not dictate erosion control methods, the above methods are reasonable for the site in accordance with standard practice and the California Stormwater Quality Association "*Stormwater Best Management Practice Handbook*." Costs for erosion control blankets and straw mulching were obtained from the CalTrans October 2003 "*Construction Site Best Management Practices Manual*."
19. The Discharger is not being assessed an Administrative Civil Liability for the violations discovered on the inspection of 10 June 2004 because there was no discharge that day, and that day was the first occasion that any warnings were issued to the Discharger.
20. The Discharger is not being assessed an Administrative Civil Liability for the failures to obtain a permit for dewatering of the pond in accordance with CWC Section 13376, Clean Water Act Section 301, and Item C. 3 of the Special Provisions for Construction Activity as the Plumas County District Attorney has filed criminal charges for those violations.
21. The proposed Administrative Civil Liability Complaint assessment exceeds the economic benefit to the Discharger.
22. Pursuant to CWC Section 13385(c), the Discharger is subject to a total maximum civil liability of \$17,300,000, which includes daily discharge violations and the liability for the volume discharged to surface water.

23. Issuance of this Complaint to enforce CWC Division 7, Chapter 5.5 is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et. seq.), in accordance with Title 14 California Code of Regulations, Enforcement Actions by Regulatory Agencies, Section 15231(a)(2).

GRIZZLY RANCH DEVELOPMENT, LLC, AND GRIZZLY CREEK DEVELOPMENT LLC ARE HEREBY GIVEN NOTICE THAT:

1. The Executive Officer of the Regional Board proposes the assessment of Administrative Civil Liability in the amount of \$600,000. The amount of the liability proposed is based on a review of the factors cited in Water Code Section 13385 presented in Finding No. 11, and the State Water Resources Control Board's Water Quality Enforcement Policy.
2. A hearing before the Regional Board on this matter will be held within 90 days of the date of this Complaint unless the Discharger agrees to waive a hearing and pay the proposed civil liability in full.
3. If a hearing in this matter is held, the Regional Board will consider whether to affirm, reject, or modify (reduce or increase) the proposed Administrative Civil Liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. The Discharger may waive the right to a hearing. If you wish to waive the hearing, please sign the waiver and return it with a check made payable to the State Water Pollution Cleanup and Abatement Account in the amount of the civil liability, to the Regional Board's Redding office **within 30 days of the date of this complaint**. Any waiver will not be effective until 30 days from the date of this complaint to allow interested persons to comment on this action.

THOMAS R. PINKOS, Executive Officer

Date

**WAIVER OF HEARING FOR
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2005-**

By signing this waiver, I affirm and acknowledge the following:

1. I am duly authorized to represent Grizzly Ranch Development, LLC and Grizzly Creek Development, LLC (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint No. R5-2005-0523 (hereinafter "Complaint");
2. I am informed of the right provided by California Water Code Section 13323, subdivision (b), to a hearing within ninety (90) days of issuance of the Complaint;
3. I hereby waive the Discharger's right to a hearing before the California Regional Water Quality Control Board, Central Valley Region, within ninety (90) days of the date of issuance of the Complaint; and
4. I certify that the Discharger will remit payment for the civil liability imposed in the amount of Six hundred thousand dollars (**\$600,000**) by check, which contains a reference to "ACL Complaint No. R5-2005-0523" and is made payable to the "*State Water Pollution Cleanup and Abatement Account.*"
5. I understand the payment of the above amount constitutes a settlement of violations alleged in the Complaint that will not become final until after a public comment period.
6. I understand that the Executive Officer has complete discretion to modify or terminate this settlement.
7. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

(Print Name and Title)

(Signature)

(Date)