

San Diego Regional Water Quality Control Board

January 13, 2026

Sent by Email Only

Michelle Peters
Chief Executive Officer
Channelside Water Resources LP
4590 Carlsbad Boulevard,
Carlsbad, CA 92008
mpeters@channelsidedesal.com

In reply refer to:
640063:CSmith

Subject: Settlement Offer No. R9-2026-0016 Related to Violations of Order No. R9-2019-0003 as amended, National Pollutant Discharge Elimination System No. CA0109223 for Channelside Water Resources LP, Claude “Bud” Lewis Carlsbad Desalination Plant, Carlsbad, CA 92008, Discharge to the Pacific Ocean (Settlement Offer)

Michelle Peters:

Channelside Water Resources LP (Discharger) is hereby notified of an alleged violation of Order No. R9-2019-0003 as amended¹ (Order), and of the opportunity to participate in an expedited settlement process to address liability that may be assessed pursuant to California Water Code (Water Code) section 13385.

ALLEGED VIOLATION SUBJECT TO THIS OFFER

As detailed in the attached *Notice of Violation of Order No. R9-2019-0003 as amended, National Pollutant Discharge Elimination System No. CA0109223, Subject to Mandatory Minimum Penalties, Channelside Water Resources LP, Claude “Bud” Lewis Carlsbad Desalination Plant, Carlsbad, CA 92008, Discharge to the Pacific Ocean* (Exhibit A), the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) alleges that the Discharger has violated the Order. Exhibit A is incorporated into and made part of this Settlement Offer by reference.

STATUTORY LIABILITY

The Discharger is subject to the following statutory liabilities:

1. Water Code sections 13385(h) and 13385.1(a) require the assessment of a \$3,000 mandatory minimum penalty for each serious violation as defined in the referenced sections.

¹ Order No R9-2019-0003, as amended by Orders No. R9-2020-0004 and No. R9-2023-0137, NPDES No. CA0109223, *Waste Discharge Requirements for the Poseidon Resources (Channelside) LP Claude “Bud” Lewis Carlsbad Desalination Plant Discharge to the Pacific Ocean*.

2. Water Code section 13385(i) requires the assessment of a \$3,000 mandatory minimum penalty for each non-serious violation within 180 days, as defined in the referenced section, except the mandatory minimum penalty is not applicable to the first three non-serious violations.

The formal enforcement action that the San Diego Water Board uses to assess such liability is an Administrative Civil Liability (ACL) complaint that may also include discretionary penalties² and staff cost,³ followed by a public hearing on the matter. The San Diego Water Board may instead refer such matters to the Attorney General's Office for prosecution. If referred to the Attorney General's Office for prosecution, the Superior Court may assess up to \$25,000 for each day in which the violations occur, and \$25 for each gallon discharged but not cleaned up in excess of 1,000 gallons.

SETTLEMENT OFFER

The Discharger can avoid a formal enforcement action and settle the alleged violation by accepting the San Diego Water Board's ACL Settlement Offer, as detailed herein. The Discharger may accept this Settlement Offer, waive its right to a hearing, and pay the mandatory minimum penalty of **\$3,000** for the alleged violation identified in Exhibit A. If the Discharger accepts this Settlement Offer, the San Diego Water Board, or its delegate, will execute the Settlement Offer, subject to the conditions below. Accordingly, the San Diego Water Board will forego issuance of an ACL complaint, will not refer the violations to the Attorney General's Office, will not charge incurred staff costs, and will waive its right to seek additional discretionary civil liabilities for the violations identified in Exhibit A.

The Expedited Payment Program does not address or resolve liability for any violation that is not specifically identified in Exhibit A regardless of the date that the violation occurred.

OPTIONS FOR RESPONSE TO OFFER

1. If the Discharger accepts this Settlement Offer, the Discharger shall complete and return the attached *Acceptance of Conditional Resolution and Waiver of Right to Hearing for Settlement Offer No. R9-2026-0016, Channelside Water Resources LP, Claude "Bud" Lewis Carlsbad Desalination Plant, Carlsbad, CA 92008, Discharge to the Pacific Ocean* (Acceptance and Waiver, Exhibit B) on or before 5:00 p.m. on February 11, 2026.
 - a. In lieu of paying the mandatory minimum penalty to the State Water Pollution Cleanup and Abatement Account, the Discharger may elect to apply the penalty to fund a supplemental environmental project (SEP). One SEP option is available to the Discharger in this settlement: the SEP Fund to supplement the Southern California Bight Regional Monitoring Program (Bight RMP),

² Water Code section 13385(c) allows for discretionary administrative civil liability of up to \$10,000 for each day in which the violations occur, and \$10 for each gallon discharged but not cleaned up in excess of 1,000 gallons.

³ Water Code section 13385(e) allows for the reimbursement of staff costs.

which is administered by the Southern California Coastal Water Research Project (SCCWRP). This SEP supplements Bight RMP work that would not otherwise be funded by the Bight RMP's existing workplan(s). The RMP⁴ is an ongoing marine monitoring collaboration that examines how human activities have affected the health of more than 1,500 square miles of Southern California's coastal waters. Monitoring objectives are designed to answer questions like "Is it safe to swim?" and "Are fish and shellfish safe to eat?" No funds allocated to the SEP Fund will go to the Water Boards, and the Discharger's obligation to complete the SEP is released upon proof of payment to SCCWRP.

- b. If the Discharger does not choose to contribute to the SEP Fund, they must pay the total mandatory minimum penalty amount to the State Water Pollution Cleanup and Abatement Account.

Both options are represented in the enclosed Acceptance and Waiver.

2. If the Discharger chooses to contest the alleged violation in Exhibit A, the Discharger shall submit a written response that identifies the specific violation and details the basis for the challenge (factual error, affirmative defense, etc.) to the San Diego Water Board on or before 5:00 p.m. on February 11, 2026. The San Diego Water Board will evaluate the contested violation and take one of two actions:
 - a. If the San Diego Water Board determines the violation is not supported, it will expunge the alleged violation, take no further action against the Discharger for the alleged violation, and notify the Discharger in writing of that determination; or
 - b. If the San Diego Water Board determines the alleged violation is meritorious, it will notify the Discharger of that determination. The Discharger will be given 30 days from the date of receipt of the San Diego Water Board determination to either accept the Settlement Offer by completing and returning the Acceptance and Waiver to the San Diego Water Board, or to reject the Settlement Offer.
3. If the Discharger does not respond to or rejects this Settlement Offer, the San Diego Water Board will initiate a formal enforcement action to resolve the alleged violation. In a formal enforcement action, the liability amount sought and/or imposed may exceed the liability amount in this Settlement Offer. Moreover, the staff costs of investigating the violation and proceeding with formal enforcement action are factors that will be considered in assessing the liability amount.

⁴ Information regarding the Bight RMP can be found at the following link:
<https://www.sccwrp.org/about/research-areas/regional-monitoring/southern-california-bight-regional-monitoring-program/>.

CONDITIONS FOR SAN DIEGO WATER BOARD ACCEPTANCE OF RESOLUTION

Pursuant to title 40 of the Code of Federal Regulations, section 123.27(d)(2)(iii), the San Diego Water Board is required to publish and allow the public 30 days to comment on any settlement of an enforcement action addressing alleged violations of the NPDES permit conditions. Upon receipt of the Discharger's Acceptance and Waiver, the San Diego Water Board will publish a notice of the proposed resolution of the violations.

If no comments are received within the 30-day comment period, and unless there are new material facts that become available to the San Diego Water Board, the San Diego Water Board, or its delegate, will execute the Acceptance and Waiver as a stipulated order assessing the uncontested mandatory minimum penalty amount pursuant to Water Code sections 13385(h), 13385(i), 13385.1(a), or any combination thereof.

If, however, significant comments are received in opposition to the settlement, this Settlement Offer may be withdrawn. In that case, the Discharger's waiver pursuant to the Acceptance and Waiver will also be treated as withdrawn, and the violation will be addressed in a liability assessment proceeding before the San Diego Water Board, or its delegate. At the liability assessment hearing, the Discharger will be free to make arguments as to the alleged violation, and the Discharger's agreement to accept this Settlement Offer will not in any way be binding or used as evidence against the Discharger. The Discharger will be provided with further information in advance of the liability assessment proceeding.

In the event the Acceptance and Waiver is executed by the San Diego Water Board, or its delegate, full payment of the assessed amount shall be due within 30 calendar days of the San Diego Water Board's, or its delegate's, execution. Failure to pay the full liability within the required time period may subject the Discharger to further liability.

In the subject line of any response, please include the following: **640063:CSmith**. For questions or concerns regarding this letter, please contact Cailynn Smith by phone at (619) 521-3380 or by email at Cailynn.Smith@waterboards.ca.gov.

Respectfully,

Jeremy Haas
Acting Assistant Executive Officer
San Diego Water Board

JH:rm:as:cc:fo:cs

Attachments:

Exhibit A: Notice of Violation of Order No. R9-2019-0003 as amended, NPDES No. CA0109223, Subject to Mandatory Minimum Penalties, Channelside Water Resources LP, Claude “Bud” Lewis Carlsbad Desalination Plant, Carlsbad, CA 92008, Discharge to the Pacific Ocean.

Exhibit B: Acceptance of Conditional Resolution and Waiver of Right to Hearing for Settlement Offer No. R9-2026-0016, Channelside Water Resources LP, Claude “Bud” Lewis Carlsbad Desalination Plant, Carlsbad, CA 92008, Discharge to the Pacific Ocean

cc:

Jeremy Haas, San Diego Water Board, Jeremy.Haas@waterboards.ca.gov
Roger Mitchell, San Diego Water Board, Roger.Mitchell@waterboards.ca.gov
Chiara Clemente, San Diego Water Board, Chiara.Clemente@waterboards.ca.gov
Fisayo Osibodu, San Diego Water Board, Fisayo.Osibodu@waterboards.ca.gov

Tech Staff Info & Use

Order – R9-2019-0003 as amended

NPDES Permit – CA0109223

CIWQS CW Place ID (Carlsbad Desalination Plant) – 640063

CIWQS Party/Organization ID (Channelside Water Resources) – 643843

CIWQS Party/Person ID (Michelle Peters) – 560482

CIWQS Regulatory Measure (Order R9-2019-0003 as amended) – 430584

CIWQS Regulatory Measure (EPL/Settlement Offer No. R9-2026-0016) – 463471

WDID – 9 000001429

EXHIBIT A

**NOTICE OF VIOLATION OF ORDER NO. R9-2019-0003 AS AMENDED,
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT NO.
CA0109223, SUBJECT TO MANDATORY MINIMUM PENALTIES, CHANNELSIDE
WATER RESOURCES LP, CLAUDE “BUD” LEWIS CARLSBAD DESALINATION
PLANT, CARLSBAD, CA 92008, DISCHARGE TO THE PACIFIC OCEAN**

The following table lists the alleged violation subject to mandatory minimum penalties (MMPs) pursuant to Water Code section 13385(h), 13385(i), 13385.1(a), or any combination thereof. For additional information about the alleged violation listed in the table:

1. Refer to the [State Water Resources Control Board Public Reports](#) webpage;
2. Choose the “MMP Report” link located under the “Violations Reports” category;
and
3. Enter the search criteria.

Notice of Violation
Subject to Mandatory Minimum Penalties
Channelside Water Resources LP

Table 1. Effluent Violations Subject to Mandatory Penalties

| Violation ID | Occurrence Date | Parameter | Units | Permit Limit | Measured | Period | Comments |
|--------------|-----------------|------------------------|-------|--------------|----------|----------------|----------------------|
| 1123636 | 10/16/2023 | Total Suspended Solids | mg/L | 60 | 108 | 30-Day Average | \$3,000 ¹ |

Depending on the type of MMPs, not all footnotes may be applicable to Table 1:

1. Serious violation: Group 1 pollutants that exceed the effluent limitation by 40% or more.
2. Serious Violation: Group 2 pollutants that exceed the effluent limitation by 20% or more.
3. Non-serious violation not subject to MMPs: the violation falls within the first three violations within a 180-day period.
4. Non-serious violation subject to MMPs: the violation has at least three preceding violations within a 180-day period.

PENALTY AMOUNT

MMP Amount for Serious Effluent Violations

1 Serious Violation × \$3,000 per Serious Violation = \$3,000 MMP Amount

Total Penalty Amount = \$3,000

EXHIBIT B

**ACCEPTANCE OF CONDITIONAL RESOLUTION AND WAIVER OF RIGHT TO
HEARING FOR SETTLEMENT OFFER NO. R9-2026-0016, CHANNELSIDE WATER
RESOURCES LP, CLAUDE “BUD” LEWIS CARLSBAD DESALINATION PLANT,
CARLSBAD, CA 92008, DISCHARGE TO THE PACIFIC OCEAN**

By signing below and returning this *Acceptance of Conditional Resolution and Waiver of Right to Hearing* (Acceptance and Waiver) to the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board), Channelside Water Resources LP (Discharger) hereby accepts the *Offer to Participate in the Expedited Payment Program* and waives the right to a hearing before the San Diego Water Board to dispute the alleged violations identified in Exhibit A of the Settlement Offer, which is attached hereto and incorporated herein by reference.

The Discharger agrees that the Settlement Offer shall serve as a complaint pursuant to Article 2.5 of the Water Code and that no separate complaint is required for the San Diego Water Board to assert jurisdiction over the alleged violation through its Chief Prosecutor. The Discharger agrees to pay the penalty required by Water Code sections 13385(h), 13385(i), 13385.1(a), or any combination thereof, in the sum of **\$3,000** (Penalty Amount), which shall be deemed payment in full of any civil liability pursuant to Water Code section 13385 that otherwise might be assessed for the violations identified in the Settlement Offer. The Discharger understands that this Acceptance and Waiver waives the Discharger's right to contest the allegations in the Settlement Offer and the amount of civil liability for such violation.

The Discharger understands that this Acceptance and Waiver does not address or resolve liability for any violation that is not specifically identified in the Settlement Offer.

Upon execution by the Discharger, the completed Acceptance and Waiver shall be submitted by email to SanDiego@waterboards.ca.gov, attention **640063:CSmith**.

The Discharger understands that federal regulations set forth at title 40 of the Code of Federal Regulations, section 123.27(d)(2)(iii), require the San Diego Water Board to publish notice of and provide at least 30 days for public comment on any proposed resolution of an enforcement action addressing National Pollutant Discharge Elimination System (NPDES) permit violations. Accordingly, this Acceptance and Waiver, prior to execution by the San Diego Water Board, or its delegate, will be published as required by law for public comment.

During the public comment period, if no comments are received that cause the San Diego Water Board, or its delegate, to question the Settlement Offer, the San Diego Water Board, or its delegate, will execute the Acceptance and Waiver.

The Discharger understands that if significant comments are received in opposition to the Settlement Offer, the offer may be withdrawn. In that circumstance, the Discharger will be advised of the withdrawal, and an administrative civil liability complaint may be issued and the matter may be set for a hearing before the San Diego Water Board. For such a liability hearing, the Discharger understands that this Acceptance and Waiver

Acceptance of Conditional Resolution
and Waiver of Right to Hearing for
Settlement Offer No. R9-2026-0016

executed by the Discharger will be treated as a settlement communication and will not be used as evidence in that hearing.

The Discharger further understands that, in lieu of full payment of the assessed mandatory minimum penalty to the State Water Pollution Cleanup and Abatement Account, the penalty payment may be made by the Discharger toward a supplemental environment project (SEP). The SEP option available to the Discharger is the SEP Fund to supplement the Bight Regional Monitoring Program (Bight RMP), which is administered by the Southern California Coastal Water Research Project (SCCWRP). This SEP Fund supplements Bight RMP work that would not otherwise be funded by the Bight RMP's existing workplan(s). The Discharger further understands that once the Acceptance and Waiver is executed by the San Diego Water Board or its delegate, full payment is due no later than 30 days after the date of execution, as a condition of this Acceptance and Waiver. The Discharger shall pay the assessed civil liability to the State Water Pollution Cleanup and Abatement Account or SCCWRP, for the Bight RMP SEP Fund, in accordance with the payment option selected below.

The Discharger agrees to pay the amounts indicated below, in accordance with the Payment Instructions below. The Discharger understands that the San Diego Water Board will consider the Discharger to have fulfilled its SEP obligation when SCCWRP receives the Discharger's contribution to the SEP Fund.

Payment Instructions:

Only to be completed if this Acceptance Waiver is executed by the San Diego Water Board, or its delegate.

SCCWRP Bight RMP SEP Fund

Payments must be made to SCCWRP and made out to the "Southern California Coastal Water Research Project" with the Settlement Offer Number (R9-2026-0016) written on the check. Payment must be mailed to the following address:

SCCWRP
Attn: Bight RMP SEP Funds
3535 Harbor Blvd., Suite 110
Costa Mesa, CA 92626

State Water Pollution Cleanup and Abatement Account

Payments must be made to the State Water Pollution Cleanup and Abatement Account and made out to the "State Water Pollution Cleanup and Abatement Account" with the Settlement Offer Number (R9-2026-0016) written on the check. Payment must be mailed to the following address:

State Water Resources Control Board, Accounting Office
Attn: ACL Payment
P.O. Box 1888
Sacramento, CA 95812-1888

Acceptance of Conditional Resolution
and Waiver of Right to Hearing for
Settlement Offer No. R9-2026-0016

Verification of Payment

For tracking purposes, a copy of any issued checks must also be provided to the San Diego Water Board via email to SanDiego@waterboards.ca.gov, attention 640063:CSmith, or by mail to:

San Diego Water Board
Attn: 640063:CSmith
2375 Northside Drive, Suite 100
San Diego, CA 92108

Payment Options:

Mark **one** of the “Option” boxes below and fill in the blank fields as appropriate. Electing to pay all or a portion of the assessed liability to the Bight RMP SEP Fund will not change the total amount to be paid.

Option 1: Pay the total assessed mandatory minimum liability (\$3,000) to the Bight RMP SEP Fund.

Or

Option 2: Pay the total assessed mandatory minimum liability (\$3,000) to the State Water Pollution Cleanup and Abatement Account.

Acceptance of Conditional Resolution
and Waiver of Right to Hearing for
Settlement Offer No. R9-2026-0016

SETTLEMENT OFFER NO. R9-2026-0016, EXHIBIT B SIGNATURE PAGE

I hereby affirm that I am duly authorized to act on behalf of and to bind the Discharger in the making and giving of this Acceptance and Waiver.

DISCHARGER

By: _____
Signed Name Date

Printed or Typed Name Title

IT IS SO ORDERED PURSUANT TO WATER CODE SECTION 13323 AND
GOVERNMENT SECTION 11415.60 ON BEHALF OF THE CALIFORNIA REGIONAL
WATER QUALITY CONTROL BOARD, SAN DIEGO REGION

By: _____
DAVID W. GIBSON Date
Executive Officer