

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

**Item 5
Doc. 2**

ORDER NO. R9-2010-0144

**ADMINISTRATIVE CIVIL LIABILITY
FOR
MANDATORY MINIMUM PENALTIES
AGAINST
CITY OF ESCONDIDO
HALE AVENUE RESOURCE RECOVERY FACILITY
FOR
VIOLATIONS OF
ORDER NO. R9-2005-0139**

The California Regional Water Quality Control Board, San Diego Region (hereinafter San Diego Water Board), having considered in a public meeting on November 10, 2010, all comments received on the issuance of liability against City of Escondido regarding violations alleged in Complaint No. R9-2010-0132, dated September 29, 2010 (Complaint), having provided public notice thereof and not less than thirty (30) days for public comment, and on the recommendation of administrative assessment of Mandatory Minimum Penalties (MMPs) in the amount of \$6,000 finds as follows:

1. City of Escondido owns and operates the Hale Avenue Resource Recovery Facility (HARRF) located at 1521 South Hale Avenue, Escondido, California.
2. Effluent discharged to the Pacific Ocean from the HARRF is subject to Order No. R9-2005-0139, NPDES Permit No. CA0109215 (Order). The Order prescribes effluent limitations for the discharge of untreated brine wastewater to the Pacific Ocean via the San Elijo Ocean Outfall.
3. City of Escondido has violated provisions of law for which the San Diego Water Board may impose discretionary administrative civil liability pursuant to section 13385(a)(2) of the Water Code because every violation of an NPDES permit is subject to discretionary liability under Water Code section 13385(a)(2). The violations consisted of eight (8) effluent limitation exceedances of waste discharge requirements for discharges of pollutants from point sources to Waters of the United States.
4. City of Escondido has violated provisions of law for which the San Diego Water Board must assess two \$3,000 MMPs pursuant to Water Code section 13385(i), as described in Attachment 1, Reported Violations. Water Code section 13385(i) requires that an MMP of \$3,000 be imposed for each effluent limitation violation beginning with the fourth violation in any six-month period.

5. On October 14, 2010, City of Escondido waived its right to a public hearing before the San Diego Water Board and paid the recommended \$6,000 MMP to the State Water Resources Control Board's Cleanup and Abatement Account.
6. Issuance of this Order is an enforcement action taken by a regulatory agency and is exempt from the provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.) pursuant to section 45321(a)(2), Chapter 3, Title 14 of the California Code of Regulations. This action is also exempt from the provisions of CEQA in accordance with section 15061(b)(3) of Chapter 3, Title 14 of the California Code of Regulations because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.
7. The San Diego Water Board incurred costs totaling \$2,700 which includes investigation, preparation of enforcement documents and communication with City of Escondido regarding the enforcement action.

IT IS HEREBY ORDERED, that pursuant to Water Code Section 13385(i) that civil liability is imposed on City of Escondido in the amount of \$6,000, and that City of Escondido's waiver of its right to a public hearing and offer of \$6,000 in satisfaction of Complaint No. R9-2010-0132 is accepted.

I, David W. Gibson, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order imposing civil liability assessed by the California Regional Water Quality Control Board, San Diego Region, on November 10, 2010.

Tentative

DAVID W. GIBSON
Executive Officer

CIWQS Entries

Regulatory Measure ID 376004

Place ID 720642

Party ID 14960

Violation ID 490705

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632757

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