



California Regional Water Quality Control Board

San Diego Region



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November 13, 2008

Certified Mail, Return Receipt Requested
7008 1140 0004 9971 8566

Steven Gabriel
Mountain Water Ice Company
2843 Benet
Oceanside, CA 92054

In reply refer to:
Place ID: 245791
RM ID: 354902
File 02-0436:mmata

Dear Mr. Gabriel:

Notice of Violation R9-2008-0156
Mountain Water Ice Oceanside Plant
2843 Benet, Oceanside, CA 92054

Enclosed is Notice of Violation **R9-2008-0156** for failure to comply with effluent limitations established by the California Regional Water Quality Control Board, San Diego Region (Regional Board) within Order R9-2005-0015, Waste Discharge Requirements, NPDES No. CA0108391.

Certain Violations of NPDES Permit Effluent Limitations are Subject to Mandatory Minimum Penalties

1. California Water Code (CWC) Section 13385(h)(1) requires that a mandatory minimum penalty (MMP) of \$3,000 be imposed for each serious violation. CWC Section 13385(h)(2) defines a 'serious' violation, as any waste discharge that violates an effluent limitation contained in waste discharge requirements (applying to surface water discharges) for a Group I pollutant by 40 percent or more or for a Group II pollutant by 20 percent or more.¹
2. CWC Section 13385(i)(1) requires that an MMP of \$3,000 be imposed for each effluent limitation violation (i.e. any waste discharge that violates an effluent limitation contained in waste discharge requirements applying to surface water discharges) beginning with the fourth violation in any six-month period.
3. CWC Section 13385(j) provides limited exceptions to the MMP provisions.

¹ Group I and Group II pollutants are identified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations and Appendices A and B to the State Water Resources Control Board's Water Quality Enforcement Policy (February 2002).

Steven Gabriel
Mountain Water Ice, Oceanside Plant

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November 13, 2008

The Regional Board is required to assess administrative liability for every violation subject to MMPs. The Regional Board intends to issue an administrative civil liability complaint in the near future under separate cover for the violations noted in the NOV and any applicable subsequent violations. While CWC Sections 13385(h) and (i) require certain minimum penalties, CWC Section 13385(c)(1) gives the Regional Board authority to impose liability as high as \$10,000 per day for those violations.

The heading portion of this letter includes a Regional Board code number noted after "In reply refer to:" In order to assist us in the processing of your correspondence please include this code number in the heading or subject line portion of all correspondence and reports to the Regional Board pertaining to this matter. If you have any questions or need further clarification, please contact Michele Mata at 858-467-2981, mmata@waterboards.ca.gov.

Respectfully,



DAVID BARKER
Supervising Water Resources Control Engineer

DB:bk:jh

Enclosure: Notice of Violation R9-2008-0156

cc (via email only):

Ken Greenberg, USEPA, greenberg.ken@epa.gov

Reed Sato, State Water Board, Office of Enforcement, rsato@waterboards.ca.gov

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

IN THE MATTER OF:

Mountain Water Ice Company

**Mountain Water Ice Oceanside Plant
2843 Benet Road
Oceanside, CA 92054**

Place ID: 245791

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**NOTICE OF VIOLATION
R9-2008-0156**

**VIOLATION OF ORDER
R9-2005-0015**

Regulatory Measure: 354902

MOUNTAIN WATER ICE COMPANY IS HEREBY GIVEN NOTICE THAT:

The Mountain Water Ice Company is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, San Diego Region (Regional Board) may impose civil liability pursuant to the Porter-Cologne Water Quality Control Act, §13350 of the California Water Code (CWC).

Basis for Alleged Violations

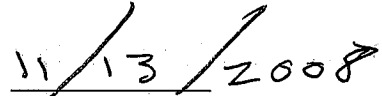
1. Mountain Water Ice Company owns and operates an ice manufacturing facility, located at 2843 Benet Road, Oceanside, California. The facility discharges wastewater to the San Luis Rey River, a water of the United States. Mountain Water Ice Company has failed to comply with effluent limitations established by the California Regional Water Quality Control Board, San Diego Region (Regional Board) within Order R9-2005-0015, Waste Discharge Requirements, NPDES No. CA0108391.

2. In three monitoring reports submitted from October 25, 2007 through July 31, 2008, Mountain Water Ice Company reported to the Regional Board 87 violations of effluent concentration and flow limitations. The reports also included five reporting violations. Eighty five of the violations are subject to mandatory minimum penalties pursuant to CWC Section 13385, subsections (h) and (i). Attachment 1 provides a summary table of the alleged violations.

3. In addition, the reported mass emission calculations are currently being reviewed. This could result in the discovery of additional violations, including ones subject to mandatory minimum penalties.



DAVID BARKER
Supervising Water Resources Control Engineer



DATE

DB:bk:jh

Enclosure: Summary of Violations

CIWQS Entries:

Reg Msr (NOV): 354902
Related Reg Msr: 133367
Place ID: 245791
Party ID: 29383
WDID: 9 000000436
File No: 02-0436

Attachment 1. Summary of Violations of Order R9-2005-0015¹

Violation ID	Description	Occurrence Date	Subject to MMP	MMP Type
785066	Total Dissolved Solids (TDS) concentration for sample taken 1/17/07 was 705 mg/L. Monthly average TDS limit is 500 mg/L.	1/17/2007	Yes	SERIOUS Group I
785068	TDS concentration for sample taken 1/17/07 was 705 mg/L. Maximum at any time TDS limit is 550 mg/L.	1/17/2007	No	
785064	TDS concentration for sample taken 2/7/07 was 700 mg/L. Monthly average TDS limit is 500 mg/L.	2/7/2007	No	
785065	TDS concentration for sample taken 2/7/07 was 700 mg/L. Maximum at any time TDS limit is 550 mg/L.	2/7/2007	Yes	CHRONIC
785060	TDS concentration for sample taken 3/14/07 was 690 mg/L. Monthly average TDS limit is 500 mg/L.	3/14/2007	Yes	CHRONIC
785062	TDS concentration for sample taken 3/14/07 was 690 mg/L. Maximum at any time TDS limit is 550 mg/L.	3/14/2007	Yes	CHRONIC
785058	TDS concentration for sample taken 4/11/07 was 700 mg/L. Monthly average TDS limit is 500 mg/L.	4/11/2007	Yes	CHRONIC
785059	TDS concentration for sample taken 4/11/07 was 700 mg/L. Maximum at any time TDS limit is 550 mg/L.	4/11/2007	Yes	CHRONIC
785056	TDS concentration for sample taken 5/16/07 was 710 mg/L. Monthly average TDS limit is 500 mg/L.	5/16/2007	Yes	SERIOUS Group I
785057	TDS concentration for sample taken 5/16/07 was 710 mg/L. Maximum at any time TDS limit is 550 mg/L.	5/16/2007	Yes	CHRONIC
785052	TDS concentration for sample taken 6/18/07 was 815 mg/L. Monthly average TDS limit is 500 mg/L.	6/18/2007	Yes	SERIOUS Group I
785054	TDS concentration for sample taken 6/18/07 was 815 mg/L. Maximum at any time TDS limit is 550 mg/L.	6/18/2007	Yes	SERIOUS Group I
785069	Bromoform concentration for sample taken 6/18/07 was 11.0 µg/L. Daily maximum concentration is 6.6 µg/L.	6/18/2007	Yes	CHRONIC
785019	The flow on 6/23/07 was 85,900 gpd. Maximum flow rate is 85,000 gpd	6/23/2007	Yes	CHRONIC
785018	The flow on 6/28/07 was 87,100 gpd. Maximum flow rate is 85,000 gpd	6/28/2007	Yes	CHRONIC
785017	The flow on 6/30/07 was 86,500 gpd. Maximum flow rate is 85,000 gpd	6/30/2007	Yes	CHRONIC
785016	The daily flow rate on 7/1/07 was 86,000 gallons per day. Maximum flow rate is 85,000 gpd	7/1/2007	Yes	CHRONIC
785015	The daily flow rate on 7/2/07 was 87,000 gallons per day. Maximum flow rate is 85,000 gpd	7/2/2007	Yes	CHRONIC
785014	The daily flow rate on 7/3/07 was 107,100 gallons per day. Maximum flow rate is 85,000 gpd	7/3/2007	Yes	CHRONIC

¹ Reported mass emission calculations are currently being reviewed. This could result in the discovery of additional violations, including ones subject to mandatory minimum penalties.

Violation ID	Description	Occurrence Date	Subject to MMP	MMP Type
785013	The daily flow rate on 7/5/07 was 87,400 gallons per day. Maximum flow rate is 85,000 gpd	7/5/2007	Yes	CHRONIC
785011	The daily flow rate on 7/6/07 was 91,500 gallons per day. Maximum flow rate is 85,000 gpd	7/6/2007	Yes	CHRONIC
785010	The daily flow rate on 7/7/07 was 91,100 gallons per day. Maximum flow rate is 85,000 gpd	7/7/2007	Yes	CHRONIC
785009	The daily flow rate on 7/8/07 was 89,900 gallons per day. Maximum flow rate is 85,000 gpd	7/8/2007	Yes	CHRONIC
785008	The daily flow rate on 7/9/07 was 96,000 gallons per day. Maximum flow rate is 85,000 gpd	7/9/2007	Yes	CHRONIC
785007	The daily flow rate on 7/10/07 was 100,400 gallons per day. Maximum flow rate is 85,000 gpd	7/10/2007	Yes	CHRONIC
785049	TDS concentration for sample taken 7/11/07 was 649 mg/L. Monthly average TDS limit is 500 mg/L.	7/11/2007	Yes	CHRONIC
785050	TDS concentration for sample taken 7/11/07 was 649 mg/L. Maximum at any time TDS limit is 550 mg/L.	7/11/2007	Yes	CHRONIC
785006	The daily flow rate on 7/12/07 was 86,800 gallons per day. Maximum flow rate is 85,000 gpd	7/12/2007	Yes	CHRONIC
785005	The daily flow rate on 7/13/07 was 91,500 gallons per day. Maximum flow rate is 85,000 gpd	7/13/2007	Yes	CHRONIC
785004	The daily flow rate on 7/14/07 was 91,700 gallons per day. Maximum flow rate is 85,000 gpd	7/14/2007	Yes	CHRONIC
785020	The daily flow rate on 4/16/07 was 99,600 gpd. Maximum flow rate is 85,000 gpd	7/16/2007	Yes	CHRONIC
785003	The daily flow rate on 7/29/07 was 90,500 gallons per day. Maximum flow rate is 85,000 gpd	7/29/2007	Yes	CHRONIC
785002	The daily flow rate on 7/30/07 was 85,400 gallons per day. Maximum flow rate is 85,000 gpd	7/30/2007	Yes	CHRONIC
785451	The report was sent in 130 days late for the Jan-Jun 2007 report.	8/1/2007	No	
785001	The daily flow rate on 8/04/07 was 86,300 gallons per day. Maximum flow rate is 85,000 gpd	8/4/2007	Yes	CHRONIC
785000	The daily flow rate on 8/10/07 was 90,800 gallons per day. Maximum flow rate is 85,000 gpd	8/10/2007	Yes	CHRONIC
785047	TDS concentration for sample taken 8/15/07 was 713 mg/L. Monthly average TDS limit is 500 mg/L.	8/15/2007	Yes	SERIOUS Group I
785048	TDS concentration for sample taken 8/15/07 was 713 mg/L. Maximum at any time TDS limit is 550 mg/L.	8/15/2007	Yes	CHRONIC
784999	The daily flow rate on 8/17/07 was 86,200 gallons per day. Maximum flow rate is 85,000 gpd	8/17/2007	Yes	CHRONIC
784998	The daily flow rate on 8/18/07 was 89,700 gallons per day. Maximum flow rate is 85,000 gpd	8/18/2007	Yes	CHRONIC
784997	The daily flow rate on 8/25/07 was 85,900 gallons per day. Maximum flow rate is 85,000 gpd	8/25/2007	Yes	CHRONIC
784996	The daily flow rate on 8/31/07 was 85,700 gallons per day. Maximum flow rate is 85,000 gpd	8/31/2007	Yes	CHRONIC

Violation ID	Description	Occurrence Date	Subject to MMP	MMP Type
784995	The daily flow rate on 9/1/07 was 86,800 gallons per day. Maximum flow rate is 85,000 gpd	9/1/2007	Yes	CHRONIC
784994	The daily flow rate on 9/2/07 was 89,300 gallons per day. Maximum flow rate is 85,000 gpd	9/2/2007	Yes	CHRONIC
784993	The daily flow rate on 9/3/07 was 100,300 gallons per day. Maximum flow rate is 85,000 gpd	9/3/2007	Yes	CHRONIC
784992	The daily flow rate on 9/5/07 was 86,000 gallons per day. Maximum flow rate is 85,000 gpd	9/5/2007	Yes	CHRONIC
784990	The daily flow rate on 9/6/07 was 94,500 gallons per day. Maximum flow rate is 85,000 gpd	9/6/2007	Yes	CHRONIC
784989	The daily flow rate on 9/7/07 was 92,800 gallons per day. Maximum flow rate is 85,000 gpd	9/7/2007	Yes	CHRONIC
784988	The daily flow rate on 9/8/07 was 86,200 gallons per day. Maximum flow rate is 85,000 gpd	9/8/2007	Yes	CHRONIC
784986	The daily flow rate on 9/9/07 was 101,000 gallons per day. Maximum flow rate is 85,000 gpd	9/9/2007	Yes	CHRONIC
784985	The daily flow rate on 9/10/07 was 87,300 gallons per day. Maximum flow rate is 85,000 gpd	9/10/2007	Yes	CHRONIC
784984	The daily flow rate on 9/11/07 was 90,100 gallons per day. Maximum flow rate is 85,000 gpd	9/11/2007	Yes	CHRONIC
785045	TDS concentration for sample taken 9/12/07 was 711 mg/L. Monthly average TDS limit is 500 mg/L.	9/12/2007	Yes	SERIOUS Group I
785046	TDS concentration for sample taken 9/12/07 was 711 mg/L. Maximum at any time TDS limit is 550 mg/L.	9/12/2007	Yes	CHRONIC
784982	The daily flow rate on 9/13/07 was 88,500 gallons per day. Maximum flow rate is 85,000 gpd	9/13/2007	Yes	CHRONIC
784981	The daily flow rate on 5/18/08 was 86,200 gallons per day. Maximum flow rate is 85,000 gpd	9/14/2007	Yes	CHRONIC
785043	TDS concentration for sample taken 10/10/07 was 702 mg/L. Monthly average TDS limit is 500 mg/L.	10/10/2007	Yes	SERIOUS Group I
785044	TDS concentration for sample taken 10/10/07 was 702 mg/L. Maximum at any time TDS limit is 550 mg/L.	10/10/2007	Yes	CHRONIC
787486	January-June 2007 semiannual report did not include the certification statement	10/26/2007	No	
785041	TDS concentration for sample taken 11/13/07 was 656 mg/L. Monthly average TDS limit is 500 mg/L.	11/13/2007	Yes	CHRONIC
785042	TDS concentration for sample taken 11/13/07 was 656 mg/L. Maximum at any time TDS limit is 550 mg/L.	11/13/2007	Yes	CHRONIC
785039	TDS concentration for sample taken 12/12/07 was 822 mg/L. Monthly average TDS limit is 500 mg/L.	12/12/2007	Yes	SERIOUS Group I
785040	TDS concentration for sample taken 12/12/07 was 822 mg/L. Maximum at any time TDS limit is 550 mg/L.	12/12/2007	Yes	SERIOUS Group I

Violation ID	Description	Occurrence Date	Subject to MMP	MMP Type
785070	Bromoform concentration for sample taken 12/12/07 was 13.8 µg/L. Daily maximum concentration is 6.6 µg/L.	12/12/2007	Yes	CHRONIC
785037	TDS concentration for sample taken 01/02/2008 was 696 mg/L. Monthly average TDS limit is 500 mg/L.	1/2/2008	Yes	CHRONIC
785038	TDS concentration for sample taken 01/02/08 was 696 mg/L. Maximum at any time TDS limit is 550 mg/L.	1/2/2008	Yes	CHRONIC
785810	The report was sent in 85 days late for the Jul-Dec 2007 report.	2/1/2008	No	
785035	TDS concentration for sample taken 02/20/2008 was 798 mg/L. Monthly average TDS limit is 500 mg/L.	2/20/2008	Yes	SERIOUS Group I
785036	TDS concentration for sample taken 02/20/08 was 798 mg/L. Maximum at any time TDS limit is 550 mg/L.	2/20/2008	Yes	SERIOUS Group I
785032	TDS concentration for sample taken 03/12/2008 was 806 mg/L. Monthly average TDS limit is 500 mg/L.	3/12/2008	Yes	SERIOUS Group I
785034	TDS concentration for sample taken 03/12/08 was 806 mg/L. Maximum at any time TDS limit is 550 mg/L.	3/12/2008	Yes	SERIOUS
785030	TDS concentration for sample taken 04/16/2008 was 810 mg/L. Monthly average TDS limit is 500 mg/L.	4/16/2008	Yes	SERIOUS
785031	TDS concentration for sample taken 04/16/08 was 810 mg/L. Maximum at any time TDS limit is 550 mg/L.	4/16/2008	Yes	SERIOUS
785027	TDS concentration for sample taken 05/14/2008 was 800 mg/L. Monthly average TDS limit is 500 mg/L.	5/14/2008	Yes	SERIOUS
785028	TDS concentration for sample taken 05/14/08 was 800 mg/L. Maximum at any time TDS limit is 550 mg/L.	5/14/2008	Yes	SERIOUS
784942	The daily flow rate on 5/18/08 was 87,200 gallons per day. Maximum flow rate is 85,000 gpd	5/18/2008	Yes	CHRONIC
784941	The daily flow rate on 5/24/08 was 86,200 gallons per day. Maximum flow rate is 85,000 gpd	5/24/2008	Yes	CHRONIC
785024	TDS concentration for sample taken 06/04/2008 was 854 mg/L. Monthly average TDS limit is 500 mg/L.	6/4/2008	Yes	SERIOUS
785025	TDS concentration for sample taken 06/04/08 was 854 mg/L. Maximum at any time TDS limit is 550 mg/L.	6/4/2008	Yes	SERIOUS
785072	Bromoform concentration for sample taken 06/04/08 was 14.7 µg/L. Daily maximum concentration is 8.63 µg/L.	6/4/2008	Yes	CHRONIC
785075	Bromoform concentration for sample taken 06/04/08 was 14.7 µg/L. Monthly average Bromoform concentration limit is 4.3 µg/L.	6/4/2008	Yes	CHRONIC

Violation ID	Description	Occurrence Date	Subject to MMP	MMP Type
785452	The pH level was recorded at 8.66, which exceeded effluent limit of 8.50	6/4/2008	Yes	CHRONIC
784940	The daily flow rate on 6/15/08 was 100,600 gallons per day. Maximum flow rate is 85,000 gpd	6/15/2008	Yes	CHRONIC
784939	The daily flow rate on 6/21/08 was 95,500 gallons per day. Maximum flow rate is 85,000 gpd	6/21/2008	Yes	CHRONIC
784938	The daily flow rate on 6/22/08 was 96,000 gallons per day. Maximum flow rate is 85,000 gpd	6/22/2008	Yes	CHRONIC
784937	The daily flow rate on 6/24/08 was 87,100 gallons per day. Maximum flow rate is 85,000 gpd	6/24/2008	Yes	CHRONIC
784936	The daily flow rate on 6/25/08 was 85,900 gallons per day. Maximum flow rate is 85,000 gpd	6/25/2008	Yes	CHRONIC
784935	The daily flow rate on 6/27/08 was 89,900 gallons per day. Maximum flow rate is 85,000 gpd	6/27/2008	Yes	CHRONIC
784933	The daily flow rate on 6/28/08 was 108,200 gallons per day. Maximum flow rate is 85,000 gpd	6/28/2008	Yes	CHRONIC
784932	The daily flow rate on 6/30/08 was 106,200 gallons per day. Maximum flow rate is 85,000 gpd	6/30/2008	Yes	CHRONIC
787515	July-December 2007 semiannual report did not include the certification statement	7/11/2008	No	
787533	January-June 2008 semiannual report did not include the certification statement	7/31/2008	No	

