

ORDER NO. R2-2016-1005

**ACCEPTANCE OF CONDITIONAL RESOLUTION
AND WAIVER OF RIGHT TO HEARING**

for

**SMI Holding Groundwater Treatment Facility located at
487 East Middlefield Road, Mountain View, Santa Clara County
NPDES Permits CAG912002 and CAG912003
Regulatory Measure ID 404694**

By signing below and returning this Acceptance of Conditional Resolution and Waiver of Right to Hearing (Acceptance and Waiver) to the Regional Water Quality Control Board (Regional Water Board), SMI Holding LLC (Discharger) hereby accepts the conditional offer to settle alleged violation(s) through payment of mandatory minimum penalties (Conditional Offer) and waives the right to a hearing before the Regional Water Board to dispute the alleged violation(s) set forth in Exhibit A attached hereto and incorporated herein by reference.

The Discharger agrees that Exhibit A shall serve as a complaint pursuant to Article 2.5 of the Water Code and that no separate complaint is required for the Regional Water Board to assert jurisdiction over the alleged violation(s) through its Assistant Executive Officer. The Discharger agrees to pay the penalties authorized by Water Code sections 13385 and 13385.1, which shall be deemed payment in full of any civil liability pursuant to Water Code section 13385 that otherwise might be assessed for the violation(s) described in Exhibit A. The Discharger understands that this Acceptance and Waiver waives its right to contest the allegation(s) in Exhibit A and the amount of civil liability for such violation(s).

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

Upon execution by the Discharger, the Acceptance and Waiver shall be returned to:

California Regional Water Quality Control Board, San Francisco Bay Region
NPDES Wastewater Enforcement Section
Attention: Farhad Azimzadeh
1515 Clay Street, Suite 1400
Oakland, California 94612

The Discharger understands that federal regulations set forth at title 40, Code of Federal Regulations, section 123.27(d)(2)(iii) require the Regional Water Board to publish notice of and provide at least 30 days for public comment on any proposed resolution of an enforcement action. Accordingly, this Acceptance and Waiver, prior to execution by the Executive Officer of the Regional Water Board, will be published as required by law for public comment.

If no comments are received within the notice period which causes the Executive Officer of the Regional Water Board to reject the settlement amount, the Executive Officer will execute the Acceptance and Waiver. Resolution of these violations by the Regional Water Board will preclude State Water Resources Control Board (State Water Board) action for the same violation(s).

The Discharger understands that if significant comments are received in opposition to the Conditional 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 Regional Water Board or the State Water Board. For such a liability hearing, the Discharger understands that this Acceptance and Waiver executed by the Discharger will be treated as a settlement communication and will not be used as evidence in that hearing.

The Discharger understands that funds collected for violations of effluent limitations and reporting requirements pursuant to section 13385 and 13385.1 shall be deposited in the State Water Pollution Cleanup and Abatement Account.

The Discharger understands that in lieu of full payment of the assessed mandatory minimum penalty to the State Water Pollution Cleanup and Abatement Account, it may elect to pay a portion towards a supplemental environment project (SEP). There is currently only one SEP option, which is the SEP Fund to supplement the Regional Monitoring Program (RMP). This SEP Fund will supplement RMP studies that would not otherwise be conducted through the Regional Water Board's annually approved RMP cost allocations. The guiding principal of the RMP is to collect data and communicate information about water quality in the San Francisco Estuary in support of management decisions to restore and protect beneficial uses of the region's waters. Information about the RMP is at <http://www.sfei.org/rmp>. Funding for the RMP is managed and administered by the non-profit San Francisco Estuary Institute. No funds will go to the Regional Water Board. The Regional Water Board will consider the Discharger to have fulfilled its obligation for this SEP after its contribution to the SEP Fund has been received by the Institute. To select this option, place a "✓" or "x" in the box below. By selecting this option, the Discharger agrees to pay the amount indicated below to the SEP Fund. Selection of this SEP Fund option does not change the total amount the Discharger will pay.

Select appropriate box (and fill in blanks if appropriate):

- X I choose to pay a portion of the assessed liability to the RMP SEP Fund.
 - \$7,500 Maximum allowable portion that can be paid to the SEP Fund.
 - \$ _____ Leave blank unless the Discharger chooses to pay less than the maximum allowable to the SEP Fund; in this case, then indicate the amount to be paid to the SEP Fund.
 - \$ 7,500 Indicate the amount to be paid to the State which is \$7,500 unless the Discharger has chosen to pay less than the maximum allowable to the SEP Fund. If the Discharger has chosen to pay less than the maximum allowable to the SEP Fund, then enter the amount to be paid to the State, which shall be the balance of the total assessed mandatory minimum penalty and the amount the Discharger chooses to pay to the SEP Fund.
 - \$15,000 Total assessed mandatory minimum penalty. This amount must equal the sum of the above, either lines 1 plus 3, or lines 2 plus 3.
- I choose to pay the total assessed mandatory minimum liability in full to the State Water Pollution Cleanup and Abatement Account.

The Discharger understands that once the Acceptance and Waiver is executed by the Executive Officer of the Regional Water Board, payment no later than 30 days after the date of the Executive Officer's signature is a condition of this Acceptance and Waiver. If the Discharger does not select the SEP Fund option above, the Discharger shall pay the total assessed civil liability in full to the State Water Pollution Cleanup and Abatement Account. If the Discharger selects the SEP Fund option, then the Discharger shall pay the portion not paid towards the SEP Fund to the State Water Pollution Cleanup and Abatement

Account and pay the balance to the San Francisco Estuary Institute for the SEP Fund. The Regional Water Board will send an invoice for any payment that is due for the SEP Fund. Payment to the State Water Pollution Cleanup and Abatement Account must be submitted in accordance with an invoice for payment from the State Water Board.

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.

SMI Holding LLC

By: Susan R. O'Connor Vice President, SMI Holding LLC
Printed or typed name Title

O'CONNOR
SUSAN

Digitally signed by O'CONNOR
SUSAN
DN: cn=O'CONNOR SUSAN,
o=Siemens,
email=sue.oconnor@siemens.com
Date: 2016.03.08 11:38:49 -05'00'

March 8, 2016

Signature

Date

By: Alan Cardenas Secretary, SMI Holding LLC
Printed or typed name Title



March 8, 2016

Signature

Date

Note: Please return the signed Acceptance and Waiver with Exhibit A, together.

IT IS SO ORDERED PURSUANT TO WATER CODE SECTION 13385

By: _____ Date _____
Bruce H. Wolfe
Executive Officer
California Regional Water Quality Control Board
San Francisco Bay Region

EXHIBIT A
Notice of Violation

Discharger: SMI Holding LLC

Groundwater Treatment Facility located at 487 East Middlefield Road, Mountain View, Santa Clara County, NPDES Permits CAG912002 and CAG912003

The following table lists alleged violation(s) for which the Discharger is subject to civil liabilities pursuant to Water Code sections 13385 and 13385.1. The table lists the mandatory minimum penalty (MMP) that applies.

No	CIWQS Violation ID No.	Date of Occurrence	Effluent Limitation or Violation Description (Unit)	Effluent Limit or Monitoring Report Due Date	Reported Value or Number of Days Overdue	Percent a Group I or Group II Pollutant is over Effluent Limitation	Type of Exceedance	CWC Section 13385(h) and/or (i) Required MMP
1	917414	1/8/2012	Trichloroethylene Maximum Daily (µg/L)	5	51	920	C1, S	\$3,000
2	986137	2/3/2015	Late Discharge Monitoring Report Submittal	11/15/2014	80	See Note 1	C1, S	\$6,000
3	1003314	3/9/2015	Trichloroethylene Maximum Daily (µg/L)	5	72	1340	C2, S	\$3,000
4	1003315	3/9/2015	Cis-1,2-dichloroethylene Maximum Daily (µg/L)	5	13	160	C3, S	\$3,000
Total								\$15,000

Legend for Table:

CIWQS = California Integrated Water Quality System database used by the Water Boards to manage violation and enforcement activities.

Violation ID = Identification number assigned to a permit exceedance in CIWQS.

C = Count – The number that follows represents the number of exceedances in the past 180 days, including this violation. A count greater than three (> C3) means that a penalty under Water Code section 13385(i) applies.

S = Serious, which means that a penalty under Water Code section 13385(h) applies when an effluent limitation is exceeded 40 percent or more for a Group I pollutant or 20 percent or more for a Group II pollutant.

Note 1: Water Code section 13385.1 (a)(1) defines a "serious violation" to include a failure to file a discharge monitoring report required pursuant to section 13383 for each complete period of 30 days following the deadline for submitting the report, if the report is designed to ensure compliance with limitations contained in waste discharge requirements that contain effluent limitations.

Place: 203241
WDID: 2 438522001