



Linda S. Adams
Secretary for
Environmental Protection

July 28, 2010

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ntrol Board



Arnold Schwarzenegger
Governor

Tony Witter, Area Manager
Veolia ES Industrial Services, Inc.
1250 E. 23rd Street
Signal Hill, CA 90755

and C T Corporation (Agent for Servide of Process)
818 West Seventh Street
Los Angeles, CA 90017

TRANSMITTAL OF ADMINISTRATIVE CIVIL LIABILITY (ACL) COMPLAINT TO VEOLIA ES INDUSTRIAL SERVICES, INC., ACL COMPLAINT NO. R8-2010-0053

Dear Mr. Witter:

Enclosed is a certified copy of Administrative Civil Liability Complaint No. R8-2010-0053 (Complaint). The Complaint alleges that Veolia ES Industrial Services, Inc., (Veolia) violated California Water Code Section 13376 by discharging pollutants from a hydrogen sulfide scrubber servicing operation to waters of the United States, for which a penalty may be imposed under the Water Code. The Complaint proposes that administrative civil liability in the amount of ten thousand dollars (\$10,000) be imposed as authorized under Water Code Section 13385(c)(1). Also enclosed are a Waiver Form and a Hearing Procedure that sets forth important requirements and deadlines for participation in the hearing. Additionally, a Fact Sheet describing the Complaint process is available at:
http://www.waterboards.ca.gov/santaana/public_notices/enforcement_actions.shtml

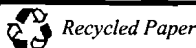
The Fact Sheet describes the Complaint process and explains what Veolia can expect and its obligations as the process proceeds. If preferred, a hard copy of the Fact Sheet may be obtained by contacting Stephen D. Mayville at (951) 782-4992.

Please read each document carefully. This Complaint may result in the issuance of an order by the Regional Board requiring that you pay a penalty.

If necessary, a public hearing on this matter will be scheduled for the Regional Board meeting on September 16, 2010. The staff report regarding this Complaint and the meeting agenda will be mailed to you not less than 10 days prior to the hearing.

Pursuant to California Water Code Section 13323, Veolia has the option to waive its right to a hearing. Should Veolia waive its right to a hearing and pay the proposed assessment, the Regional Board may not hold a public hearing on this matter. If Veolia chooses to waive its right to a hearing, please sign and submit the enclosed Waiver Form by August 16, 2010. A check

California Environmental Protection Agency



for the assessed amount of ten thousand dollars (\$10,000) made payable to the State Water Resources Control Board-WDPF should be submitted by August 30, 2010. The Waiver Form and check should be sent to the Regional Board office in the enclosed pre-printed envelope.

If Veolia does not wish to waive its right to a hearing, requesting a pre-hearing meeting, as set forth in the Hearing Procedure is recommended. Should you wish to schedule a pre-hearing meeting, please submit your request by August 16, 2010.

If you have any questions about the Complaint or the enclosed documents, please contact Stephen D. Mayville, Chief of Enforcement, at (951) 782-4992 (smayville@waterboards.ca.gov). All legal questions should be directed to Yvonne West at (916) 341-5445 (ywest@waterboards.ca.gov), Staff Counsel, Office of Enforcement.

Sincerely,



Michael J. Adackapara
Division Chief
Regional Board Prosecution Team

Enclosures: Complaint No. R8-2010-0053, Waiver Form, Hearing Procedure and Preprinted Envelope

Cc with a copy of the complaint (by electronic mail only):

Board Members
Executive Officer (Regional Board Advisory Team)
State Water Resources Control Board, Office of Chief Counsel – David Rice (Regional Board Advisory Team Attorney)
State Water Resources Control Board, Division of Water Quality – Bruce Fujimoto
State Water Resources Control Board, Office of Enforcement – Yvonne West (Regional Board Prosecution Team Attorney)
U.S. Environmental Protection Agency, Region 9 (WTR-7) – Ken Greenberg
Orange County Public Works Department – Chris Crompton
Orange County Health Care Agency- Gary Zimmerman (Gzimmerman@ochca)
City of Newport Beach – Shane Burckle/John Kappeler (jkappeler@city.newport-beach.ca.us)
Hoag Memorial Hospital – Tim Caldwell/Eric Lidecis (tim.caldwell@hoaghospital.org)
e.lidecis@hoaghospital.org)
GeoScience Analytical, Inc. – Louis Pandolfi (Geosci10@aol.com)

State of California
California Regional Water Quality Control Board
Santa Ana Region

IN THE MATTER OF:

| | | |
|-------------------------------------|---|--------------------------------|
| Veolia ES Industrial Services, Inc. |) | Complaint No. R8-2010-0053 |
| 1250 E. 23 rd Street, |) | |
| Signal Hill, CA 90755 |) | for |
| Attn: Mr. Tony Witter |) | Administrative Civil Liability |

YOU ARE HEREBY GIVEN NOTICE THAT:

1. Veolia ES Industrial Services, Inc., (hereinafter Veolia), is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Regional Board), may impose administrative civil liability, pursuant to California Water Code (CWC) Section 13385.
2. A hearing concerning this Complaint will be held before the Regional Board within 90 days of the date of issuance of this Complaint, unless, pursuant to CWC Section 13323, Veolia waives its right to a hearing. Waiver procedures are specified in the attached Waiver Form. The hearing on this matter is scheduled for the Regional Board's regular meeting on September 16, 2010 at the City Council Chambers, 25541 Barton Road, Loma Linda, California. Veolia, or its representative, will have the opportunity to appear and be heard and to contest the allegations in this Complaint and the imposition of civil liability by the Regional Board.
3. If a hearing is held on this matter, the Regional Board will consider whether to affirm, reject, or modify the proposed administrative civil liability or whether to refer the matter to the Attorney General for recovery of judicial civil liability. If this matter proceeds to hearing, the Prosecution Team reserves the right to seek an increase in the civil liability amount to cover the costs of enforcement incurred subsequent to the issuance of this Complaint through hearing.

THE COMPLAINT IS BASED ON THE FOLLOWING FACTORS:

4. On June 2, 2010, the City of Newport Beach and the California Emergency Management Agency notified Regional Board staff regarding an orange-colored discharge into Lower Newport Bay. The discharge originated from the Hoag Hospital located at One Hoag Drive in Newport Beach. Veolia was conducting maintenance services at Hoag Hospital on a hydrogen sulfide scrubber. Some of the wastes from the maintenance operations were pumped into a location within the

Hoag Hospital facility from where it entered a storm drain system that discharged into Lower Newport Bay.

5. Hoag Hospital has two hydrogen sulfide scrubbers that are used to remove hydrogen sulfide from methane gas that is used in the co-generation plant. The scrubber vessels contain SulfaTreat, a granular reactant media, containing metal oxide catalytic converters. In the scrubbers, hydrogen sulfide is converted to elemental sulfur and water in the presence of the catalyst. The spent material has to be removed and the scrubbers have to be serviced approximately every 18 months. For the last ten years, Veolia has serviced the scrubbers at the Hoag Hospital. In prior years, the wastewater generated during the servicing operation was discharged to the sanitary sewer. The spent media was analyzed and disposed of at proper disposal locations. Except for 2009 and 2010, the spent media was determined to be non-hazardous and was taken to a local landfill. However, in 2009 and 2010, the spent media was disposed of as hazardous material at the Kettleman Landfill due to its chromium content.
6. During the scrubber service, the spent material, including any liquid wastes, from the scrubbers is removed into a roll-off box lined with filter fabric. Any liquid from this roll-off box drains to the concrete floor and is collected in a storm water sump. The storm water sump has a sump-pump that pumps storm water to a storm drain system. During the scrubber service, the storm water sump-pump is supposed to be removed and a diaphragm-pump is supposed to be used to pump the wastes collected in the storm water sump to an onsite sanitary sewer. During the scrubber service in question, however, Veolia did not remove the sump-pump.
7. The scrubber servicing started on May 26, 2010 and ended on June 2, 2010. As a last step in the process, the bottom drain of the scrubber vessel was opened to drain approximately 1,350 gallons of wash water and residuals. Most of this discharge was collected in the storm water sump. From this sump, the wastes were simultaneously pumped by the sump-pump and the diaphragm-pump to the storm drain system and the sanitary sewer, respectively. The wastes pumped to the storm drain system were discharged to Newport Bay.
8. On June 2, 2010, an orange-colored substance was reported in Newport Bay near 4 Balboa Coves around 14:32 hours. Further investigations by various responding agencies indicated that the discharge was coming through a forty-inch storm drain near 8 Balboa Coves. A significant quantity of the spent scrubber media was visible inside the storm drain at the outlet to Lower Newport Bay. A sample of the discharge was collected. Preliminary field screening of the samples indicated that the samples contained glutaric dialdehyde. Glutaric dialdehyde is used as a disinfectant for medical equipment. The material safety data sheet (MSDS) for this material indicates that glutaric dialdehyde is highly toxic. Since glutaric dialdehyde was not used in the scrubbers or during servicing of the scrubber, its source appears to be from the hospital operations. However, this constituent was not detected in the

laboratory analysis of the sample. The laboratory analysis detected iron oxide, which is a major component of SufaTreat.

9. The discharge to Lower Newport Bay on June 2, 2010 appeared to be mostly wastes generated during the servicing of the scrubber, including spent scrubber media. The orange-colored plume, including scum, extended approximately 0.58 miles in Lower Newport Bay in front of 8-20 Balboa Coves. Under directives from the regulatory agencies, Veolia attempted to cleanup the affected area. An absorbent boom was deployed to sweep the plume and then a vacor truck was used to pump this water into the truck. Any visible contamination on the beach sand and solids from the storm drains were also cleaned up.
10. On June 2 and 3, 2010, a number of agencies responded to the spill incident including: (1) Newport Beach City Code Enforcement and Water Quality and Conservation; (2) Newport Beach Police, Harbor Patrol and Fire Departments; (3) Orange County Health Care Agency; (4) Huntington Beach Haz-Mat (mutual aid); (5) State Department of Fish and Game; (6) Regional Board staff; and (7) US Coast Guard.
11. The discharge of wastes from the scrubber servicing operations created a nuisance and potentially impacted the beneficial uses of the waters in Newport Bay. The designated beneficial uses of Lower Newport Bay include: (1) Navigation; (2) Water contact recreation; (3) Non-contact water recreation; (4) Commercial and sportfishing; (5) Rare threatened or endangered species; (6) Spawning; (7) Marine habitat; (8) Wildlife habitat; and (9) Shell fish harvesting.
12. Neither Veolia nor Hoag Hospital has authorization to discharge wastes to the storm drain systems or to waters of the U.S. Unauthorized discharges of wastes from Hoag Hospital by Hoag Hospital or its service providers are a violation of the California Water Code Section 13376.
13. Veolia is alleged to have violated CWC Section 13385(a)(1) by discharging pollutants to waters of the U. S. in violation of California Water Code Section 13376.
14. Pursuant to CWC Section 13385(c), the Regional Board can administratively assess civil liability in an amount not to exceed the sum of the following:
 - A. Ten thousand dollars (\$10,000) for each day in which the violation occurs; and,
 - B. Where there is a discharge, any portion of which is not susceptible to clean up 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) multiplied by the number of gallons by which the volume discharged, but not cleaned up exceeds 1,000 gallons.


15. CWC Section 13385(c) states that civil liability on a per day basis may not exceed \$10,000 for each day the violation occurs. The maximum liability for the violation cited above is \$10,000 based on a one day violation (June 2, 2010, at \$10,000 per day). Since the volume of the discharge was estimated to be less than 1,000 gallons, a per gallon assessment is not included.
16. CWC Section 13385(e) specifies factors that the Regional Board shall consider in establishing the amount of civil liability. The Water Quality Enforcement Policy (the Policy) adopted by the State Water Resources Control Board on November 19, 2009, establishes a methodology for assessing administrative civil liability pursuant to this statute. Use of methodology addresses the factors in CWC section 13385. The policy can be found at:
http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf
17. This discharge was caused by negligence on the part of Veolia.
18. After consideration of the factors in accordance with the CWC statutes and the Policy, the Division Chief proposes that civil liability be imposed on Veolia in the amount of ten thousand dollars (**\$10,000**) for the violations cited above. Attachment A presents the administrative civil liability derived from the use of the penalty methodology in the Policy. In summary, this amount is based on the following:
 - A. The maximum statutory per day penalty for one day's violation is \$10,000. The Policy requires a consideration of the potential for harm from the discharge. Based on a potential harm factor of 0.150, the per day penalty is \$1,500 ($1 \text{ day} \times \$10,000/\text{day} \times 0.150 = \$1,500$).
 - B. This amount is then adjusted based on Veolia's culpability (1.5), cleanup effort and cooperation (1.0), and history of violations (1.0). The adjusted penalty is $\$1,500 \times 1.5 \times 1.0 \times 1.0 = \$2,250$.
 - C. California Water Code Section 13385(e) also requires consideration for economic benefit or savings, if any, resulting from the violations and other matters as justice may require. Regional Board staff has determined that Veolia did not realize any significant savings from its failure to remove the sump-pump from the storm water sump.
 - D. The costs of investigation and enforcement are considered as one of the "other factors as justice may require," and should be added to the final liability. Investigation costs have been estimated to be \$9,000 (60 hours at \$150 per hour = \$9,000). Staff costs should be added to the assessed amount. The total penalty with the staff costs is \$11,250 ($\$9,000 + \$2,250 = \$11,250$). The Division Chief proposes to assess Veolia the statutory maximum of **\$10,000**.

WAIVER OF HEARING

Veolia may waive its right to a hearing. If Veolia chooses to do so, please sign the attached Waiver Form and return it, together with a check for **\$10,000** payable to the State Water Resources Control Board-WDPF, in the enclosed preprinted envelope. If Veolia waives its right to a hearing and pay the assessed amount, the Regional Board may not hold a hearing regarding this complaint.

If you have any questions, please contact Stephen D. Mayville at (951) 782-4992.

July 28, 2010
Date



Michael J. Adackapara
Division Chief
Regional Board Prosecution Team



California Regional Water Quality Control Board

Santa Ana Region



Linda S. Adams
Secretary for
Environmental Protection

3737 Main Street, Suite 500, Riverside, California 92501-3348
Phone (951) 782-4130 • FAX (951) 781-6288 • TDD (951) 782-3221
www.waterboards.ca.gov/santaana

Arnold Schwarzenegger
Governor

WAIVER FORM FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R8-2010-0053

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

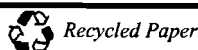
I am duly authorized to represent Veolia ES Industrial Services, Inc. (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint No. R8-2010-0053 (hereinafter "Complaint"). I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the Regional Board shall be conducted within 90 days after the party has been served [with the complaint]. The person who has been issued a complaint may waive the right to a hearing."

(**OPTION 1: Check here if the Discharger waives the hearing requirement and will pay the liability in full.**)

- a. I hereby waive any right the Discharger may have to a hearing before the Regional Board.
- b. I certify that the Discharger will remit payment for the proposed civil liability in the full amount of **ten thousand dollars (\$10,000)** by check that references "ACL Complaint No. R8-2010-0053." made payable to the "State Water Resources Control Board-WDPF". Payment must be received by the Regional Board by **August 30, 2010** or the Regional Board may adopt an Administrative Civil Liability Order requiring payment.
- c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after the 30-day public notice and comment period. Should the Regional Board receive significant new information or comments from any source (excluding the Regional Board's Prosecution Team) during this comment period, the Regional Board's Division Chief may withdraw the Complaint, return payment, and issue a new complaint. I understand that this proposed settlement is subject to approval by the Executive Officer for the Regional Board, and that the Regional Board may consider this proposed settlement in a public meeting or hearing. I also understand that approval of the settlement will result in the Discharger having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
- d. 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.

(**OPTION 2: Check here if the Discharger waives the 90-day hearing requirement in order to engage in settlement discussions.**) I hereby waive any right the Discharger may have to a hearing before the Regional Board within 90 days after service of the Complaint, but I reserve the ability to request a hearing in the future. I certify that the Discharger will promptly engage the Regional Board Prosecution Team in settlement discussions to attempt to resolve the outstanding violation(s). By checking this box, the Discharger requests that the Regional

California Environmental Protection Agency



**WAIVER FORM
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R8-2010-0053**

- 2 -

Board delay the hearing so that the Discharger and the Prosecution Team can discuss settlement. It remains within the discretion of the Regional Board to agree to delay the hearing. Any proposed settlement is subject to the conditions described above under "Option 1."

(**OPTION 3: Check here if the Discharger waives the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines. Attach a separate sheet with the amount of additional time requested and the rationale.**) I hereby waive any right the Discharger may have to a hearing before the Regional Board within 90 days after service of the Complaint. By checking this box, the Discharger requests that the Regional Board delay the hearing and/or hearing deadlines so that the Discharger may have additional time to prepare for the hearing. It remains within the discretion of the Regional Board to approve the extension.

(Print Name and Title)

(Signature)

(Date)

State of California
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
Santa Ana REGION

NOTICE OF PENDING ENFORCEMENT ACTION
Veolia ES Industrial Services, Inc.

The California Regional Water Quality Control Board, Santa Ana Region (Regional Board) Prosecution Team issued a Complaint for Administrative Civil Liability on July 28, 2010. The Complaint alleges that Veolia ES Industrial Services, Inc., (hereafter Discharger), is responsible for violating the California Water Code Section 13376 by discharging wastes to waters of the United States without authorization. Veolia ES Industrial Services, Inc., discharged wastes from a hydrogen sulfide scrubber servicing operation to a storm drain system that discharges to Lower Newport Bay. The Complaint proposes that the Discharger pay \$10,000. The Regional Board will hold a hearing to consider the adoption of an Administrative Civil Liability Order and/or referral of the matter to the Attorney General on September 16, 2010, unless the Discharger waives the right to a hearing. The Prosecution Team may amend its ACL Complaint in response to comments from the Discharger and the public. If the Discharger desires to settle the matter, the Discharger may be allowed to satisfy a portion of the ACL Order by contributing to a supplemental environmental project. The Complaint, hearing procedure (including deadlines for submitting comments), and related documents are available at http://www.waterboards.ca.gov/santaana/public_notices/index.shtml. For additional information and updates, please contact Steve Mayville at (951) 782-4992 or smayville@waterboards.ca.gov or check the Regional Board's website.



California Regional Water Quality Control Board

Santa Ana Region



Linda S. Adams
Secretary for
Environmental Protection

3737 Main Street, Suite 500, Riverside, California 92501-3348
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www.waterboards.ca.gov/santaana

Arnold Schwarzenegger
Governor

HEARING PROCEDURE
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT
NO. R8-2010-0053
ISSUED TO
Veolia ES Industrial Services, Inc.
1250 E. 23rd Street
Signal Hill, CA 990755

SCHEDULED FOR SEPTEMBER 16, 2010

PLEASE READ THIS HEARING PROCEDURE CAREFULLY. FAILURE TO COMPLY WITH THE DEADLINES AND OTHER REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF YOUR DOCUMENTS AND/OR TESTIMONY.

Background

The Division Chief has issued an Administrative Civil Liability (ACL) Complaint pursuant to California Water Code Section 13323 against Veolia ES Industrial Services, Inc., ("Discharger") alleging that it has violated California Water Code Section 13376 by discharging pollutants to Lower Newport Bay. The Complaint proposes that administrative civil liability in the amount of ten thousand dollars (\$10,000) be imposed as authorized by Water Code Section 13385(c). A hearing is currently scheduled to be held before the Regional Board during its September 16, 2010 meeting.

Purpose of Hearing

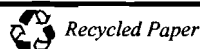
The purpose of the hearing is to consider relevant evidence and testimony regarding the ACL Complaint. At the hearing, the Regional Board will consider whether to issue an administrative civil liability order assessing the proposed liability, or a lower amount, reject the proposed liability, or seek a higher liability amount through a judicial civil liability action. The public hearing on September 16, 2010 will commence at 9:00 a.m. or as soon thereafter as practical, or as announced in the Regional Board meeting agenda. The meeting will be held at the City Council Chambers, 25541 Barton Road, City of Loma Linda, California. An agenda for the meeting will be issued at least ten days before the meeting and posted on the Regional Board's web page at:

http://www.waterboards.ca.gov/santaana/board_info/agendas/index.shtml.

The agenda will include the final hearing date and location, and the estimated start time for the meeting. Since the start time for this item is uncertain, all interested parties are urged to be present from the start of the Board meeting.

Hearing Procedures

California Environmental Protection Agency



The hearing will be conducted in accordance with this hearing procedure. This hearing procedure has been pre-approved by the Regional Board's Advisory Team in model format. A copy of the general procedures governing adjudicatory hearings before the Regional Board may be found at Title 23 of the California Code of Regulations, Section 648 et seq., and is available at <http://www.waterboards.ca.gov> or upon request. In accordance with Section 648, subdivision (d), any procedure not provided by this Hearing Procedure is deemed waived. Except as provided in Section 648 and herein, subdivision (b), Chapter 5 of the Administrative Procedures Act (commencing with Section 11500 of the Government Code) does not apply to this hearing.

THE PROCEDURES AND DEADLINES HEREIN MAY BE AMENDED BY THE ADVISORY TEAM AT ITS DISCRETION. ANY OBJECTIONS TO THE HEARING PROCEDURE MUST BE RECEIVED BY THE REGIONAL BOARD'S ADVISORY TEAM BY AUGUST 09, 2010 OR THEY WILL BE WAIVED. FAILURE TO COMPLY WITH THE DEADLINES AND REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF DOCUMENTS AND/OR TESTIMONY.

Hearing Participants

Participants in this proceeding are designated as either "parties" or "interested persons." Designated parties to the hearing may present evidence and cross-examine witnesses and are subject to cross-examination. Interested persons generally may not submit evidence, cross-examine witnesses, or be subject to cross examination, but may present policy statements. Policy statements may include comments on any aspect of the proceeding, but may not include evidence (e.g., photographs, eye-witness testimony, monitoring data). Interested persons who would like to submit evidence may do so if the evidence is submitted in accordance with the procedures and deadlines for submitting evidence described below. Interested persons who present evidence may be subject to cross-examination. Both designated parties and interested persons may be asked to respond to clarifying questions from the Regional Board, staff or others, at the discretion of the Regional Board.

The following participants are hereby designated as parties in this proceeding:

- (1) Regional Board Prosecution Team
- (2) Veolia ES Industrial Services, Inc., also referred to as the Discharger

Requesting Designated Party Status

Persons who wish to participate in the hearing as a designated party must request party status by submitting a request in writing (with copies to the existing designated parties) so that it is received by 5 p.m. on August 09, 2010 by Advisory Team Attorney David Rice, Davidrice@waterboards.ca.gov. The request shall include an explanation of the basis for status as a designated party (e.g., how the issues to be addressed in the hearing and the potential actions by the Regional Board affect the person), the information required of designated parties as provided below, and a statement explaining why the party or parties designated above do not adequately represent the person's interest. Any opposition to the request must be received by the Advisory Team, the person requesting party status, and all parties by 5 p.m. on August 16, 2010. The parties will be notified by 5 p.m. on August 20, 2010 in writing whether the request has been granted or denied.

Primary Contacts

Advisory Team: **David Rice (email: Davidrice@waterboards.ca.gov)**
Phone: 916-341-5182
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Prosecution Team: **Yvonne West (email: ywest@waterboards.ca.gov)**
Phone: 916-341-5445
State Water Resources Control Board
Office of Enforcement, 16th Floor
P.O. Box 100
Sacramento, CA 95812-0100

Discharger: **Tony Witter, Area Manager**
Email: tony.witter@veoliaes.com
Phone: 562-981-6363X107
Veolia ES Industrial Services, Inc.
1250 E. 23rd Street
Signal Hill, CA 90755

Separation of Functions

To help ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the Regional Board (Prosecution Team) have been separated from those who will provide advice to the Regional Board (Advisory Team). Members of the Advisory Team are: David Rice, Staff Counsel, State Water Resources Control Board and Kurt Berchtold, Executive Officer, Santa Ana Regional Water Quality Control Board. Members of the Prosecution Team are: Yvonne West, Office of Enforcement, State Water Resources Control Board; Michael Adackapara, Division Chief, Santa Ana Regional Water Quality Control Board; Stephen D. Mayville, Enforcement Unit Chief, Santa Ana Regional Water Quality Control Board, Mary Bartholomew, Environmental Scientist, Coastal Storm Water Unit, Santa Ana Regional Water Quality Control Board and Mike Kashak, Environmental Scientist, Coastal Storm Water Unit, Santa Ana Regional Water Quality Control Board. Any members of the Advisory Team who normally supervise any members of the Prosecution Team are not acting as their supervisors in this proceeding, and vice versa. Members of the Prosecution Team may have acted as advisors to the Regional Board in other, unrelated matters, but they are not advising the Regional Board in this proceeding. Members of the Prosecution Team have not had any ex parte communications with the members of the Regional Board or the Advisory Team regarding this proceeding.

Ex Parte Communications

The designated parties and interested persons are forbidden from engaging in ex parte communications regarding this matter with members of the Advisory Team or members of the Regional Board. An ex parte contact is any written or oral communication pertaining to the investigation, preparation, or prosecution of the Complaint between a member of a designated party or interested person on the one hand, and a Regional Board member or an Advisory Team member on the other hand, unless the communication is copied to all other designated parties (if written) or made in a manner open to all other designated parties (if oral). Communications regarding non-controversial procedural matters are not ex parte contacts and are not restricted. Communications among one or more designated parties and interested persons themselves are not ex parte contacts.

Hearing Time Limits

To ensure that all participants have an opportunity to participate in the hearing, the following time limits shall apply: Each designated party shall have a combined 20 minutes to present evidence, cross-examine witnesses (if warranted), and provide a closing statement; and each interested person shall have 3 minutes to present a non-evidentiary policy statement. Participants with similar interests or comments are requested to make joint presentations, and participants are requested to avoid redundant comments. Participants who would like additional time must submit their

request to the Advisory Team so that it is received no later than September 10, 2010. Additional time may be provided at the discretion of the Advisory Team (prior to the hearing) or the Regional Board Chair (at the hearing) upon a showing that additional time is necessary.

Submission of Evidence and Policy Statements

The following information must be submitted in advance of the hearing:

1. All evidence (other than witness testimony to be presented orally at the hearing) that the Designated Party would like the Regional Board to consider. Evidence and exhibits already in the public files of the Regional Board may be submitted by reference as long as the exhibits and their location are clearly identified in accordance with Title 23, CCR, Section 648.3.
2. All legal and technical arguments or analysis.
3. The name of each witness, if any, whom the designated party intends to call at the hearing, the subject of each witness' proposed testimony, and the estimated time required by each witness to present direct testimony.
4. The qualifications of each expert witness, if any.
5. If the Discharger intends to argue an inability to pay the civil liability proposed in the Complaint (or an increased or decreased amount as may be imposed by the Regional Board), the Discharger should submit supporting evidence as set forth in the "ACL Fact Sheet" under "Factors that must be considered by the Board."

The Prosecution Team shall submit 15 hard copies of its information and one electronic copy of the information to Advisory Team Attorney David Rice so that it is received by 5 p.m. on August 30, 2010.

The remaining designated parties shall submit 15 hard copies of their information and one electronic copy of the information to Advisory Team Attorney David Rice so that they are received by 5 p.m. on August 30, 2010.

Any designated party that would like to submit information that rebuts the information previously submitted by other designated parties shall submit 15 hard copies of their rebuttal information and one electronic copy of the information to Advisory Team Attorney David Rice so that they are received by 5 p.m. on September 10, 2010. Rebuttal information shall be limited to the scope of the information previously submitted by the other designated parties. Rebuttal information that is not responsive to information previously submitted by other designated parties may be excluded.

If the total amount of information submitted by any party is less than 15 pages, that party may submit the information by email, rather than in writing. In addition to the foregoing, each designated party shall submit (1) one copy of the above information to

each of the other designated parties so that it is received by 5 p.m. on the deadline specified above.

Interested persons who would like to submit written non-evidentiary policy statements are encouraged to submit them to the Advisory Team as early as possible, but no later than August 30, 2010. Interested persons do not need to submit written non-evidentiary policy statements in order to speak at the hearing.

In accordance with Title 23, California Code of Regulations, Section 648.4, the Regional Board endeavors to avoid surprise testimony or evidence. Absent a showing of good cause and lack of prejudice to the parties, the Regional Board may exclude evidence and testimony that is not submitted in accordance with this hearing procedure. Excluded evidence and testimony will not be considered by the Regional Board and will not be included in the administrative record for this proceeding. Power Point and other visual presentations may be used at the hearing, but their content may not exceed the scope of other submitted written material. A copy of such material intended to be presented at the hearing must be submitted to the Advisory Team by September 13, 2010 for inclusion in the administrative record. Additionally, any witness who has submitted written testimony for the hearing shall appear at the hearing and affirm that the written testimony is true and correct, and shall be available for cross-examination.

Request for Pre-hearing Conference

A designated party may request that a pre-hearing conference be held before the hearing in accordance with Water Code Section 13228.15. A pre-hearing conference may address any of the matters described in subdivision (b) of Government Code Section 11511.5. Requests must contain a description of the issues proposed to be discussed during that conference, and must be submitted to the Advisory Team, with a copy to all other designated parties, as early as practicable.

Evidentiary Objections

Any designated party objecting to written evidence or exhibits submitted by another designated party must submit a written objection to the Advisory Team and all other designated parties so that it is received by 5 p.m. on September 13, 2010. The Advisory Team will notify the parties about further action to be taken on such objections and when that action will be taken.

Evidentiary Documents and File

The Complaint and related evidentiary documents are on file and may be inspected or copied at the Regional Board office at 3737 Main Street, Suite 500, Riverside, CA 92501 by contacting August Lucas (email: alucas@waterboards.ca.gov; phone: 951-782-7961). This file shall be considered part of the official administrative record for this hearing. Other submittals received for this proceeding will be added to this file and will

become a part of the administrative record absent a contrary ruling by the Regional Board Chair. Many of these documents are also posted on-line at: http://www.waterboards.ca.gov/santaana/public_notices/enforcement_actions.shtml. Although the web page is updated regularly, to assure access to the latest information, you may contact Steve Mayville (smayville@waterboards.ca.gov).

Questions

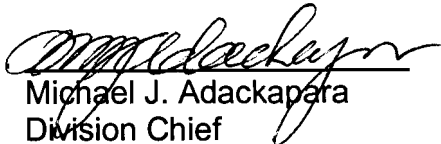
Questions concerning this proceeding may be addressed to the Advisory Team Attorney David Rice (Davidrice@waterboards.ca.gov).

IMPORTANT DEADLINES

(Note: the Regional Board is required to provide a hearing within 90 days of issuance of the Complaint (Water Code Section 13323). The Advisory Team will generally adhere to this schedule unless the discharger waives that requirement.)

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| July 28, 2010: | Prosecution Team issues ACL Complaint to Discharger and Advisory Team, sends Hearing Procedure to Discharger and Advisory Team, and publishes Public Notice. |
| August 09, 2010: | Deadline for requests for designated party status. |
| August 09, 2010: | Deadline for objections, if any, to proposed Hearing Procedure. |
| August 16, 2010: | Deadline for oppositions to requests for designated party status. |
| August 16, 2010: | Discharger's deadline for waiving right to hearing. |
| August 20, 2010: | Advisory Team issues decision on requests for designated party status, if any. |
| August 30, 2010: | Prosecution Team's deadline for all information required under "Submission of Evidence and Policy Statements." |

- August 30, 2010: Remaining Designated Parties' Deadline for all information required under "Submission of Evidence and Policy Statements."
- August 30, 2010: Interested Persons' deadline for written non-evidentiary policy statements.
- September 10, 2010: All Designated Parties' deadline for rebuttal information, evidentiary objections, and requests for additional time at the hearing, if any.
- September 13, 2010: All parties deadline for presentation materials (PowerPoint or other materials) and objections to material submitted by other parties
- September 16, 2010: Public Hearing.



Michael J. Adackapara
Division Chief
Regional Board Prosecution Team

July 28, 2010
Date

