January 27, 2011

Mr. Anthony J. Pack
Eastern Municipal Water District
P.O. Box 8300
Perris, California 92572-8300

Dear Mr. Pack:

ADOPITION OF ORDER NO R9-2011-0010 ADMINISTRATIVE CIVIL LIABILITY AGAINST EASTERN MUNICIPAL WATER DISTRICT FOR VIOLATIONS OF ORDER NO. R9-2000-0165


As required by Order No. R9-2011-0010, your payment of $353,200 is payable to the State Water Resources Control Board and should be submitted to the San Diego Water Board at the address on this letterhead within thirty days of the date of adoption. Failure to pay the full amount of liability assessed by the San Diego Water Board will result in the matter either being referred to the Attorney General’s office or the State Water Board for collection.

In the subject line of any response, please include the requested “In reply refer to:” information located in the heading of this letter. For questions pertaining to the subject matter, please contact Christopher Means at (858) 637-5581 or by e-mail at cmeans@waterboards.ca.gov.

Respectfully,

[Signature]

DAVID W. GIBSON
Executive Officer

DWG:jh:jmn

Enclosure: 1. ACL Order No. R9-2011-0010
CC via email (w/enclosures):

David Gibson, San Diego Water Board, DGibson@waterboards.ca.gov
David Barker, San Diego Water Board, DBarker@waterboards.ca.gov
Catherine Hagan, Office of Chief Counsel, CHagan@waterboards.ca.gov
Jessica Newman, Office of Chief Counsel, jmnewman@waterboards.ca.gov
Cris Carrigan, State Water Board, Office of Enforcement, ccarrigan@waterboards.ca.gov
James Fischer, State Water Board, Office of Enforcement, jfischer@waterboards.ca.gov
Russell Norman, State Water Board, SSO Program, norman@waterboards.ca.gov
Al Javier, Eastern Municipal Water District, javiera@emwd.org
Jayne Joy, Eastern Municipal Water District, joyJ@emwd.org
Matt Riha, Riverside County Department of Environmental Health, mriha@co.riverside.ca.us
Luis Ledesma, USMC Camp Pendleton, luis.ledesma@usmc.mil
Fred Edgecomb, Rancho California Water District, edgecombf@ranchowater.com
Aldo Licitra, City of Temecula, aldo.licitra@cityoftemecula.org
The California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) having held a public hearing on January 12, 2011, to hear evidence and comments on the allegations contained in Administrative Civil Liability Complaint R9-2010-0085, dated July 23, 2010, and deliberating on the evidence presented at the public hearing and in the record, after determining the allegations contained in the Complaint to be true, having provided public notice thereof and not less than thirty (30) days for public comment and on the recommendation for administrative assessment of Civil Liability in the amount of $524,800 finds as follows:

1. Eastern Municipal Water District (EMWD) owns and operates the Temecula Valley Regional Water Reclamation Facility (TVRWRF) located at 42565 Avenida Alvarado, Temecula, California.

2. EMWD is required to operate and maintain the TVRWRF in compliance with requirements of San Diego Water Board Order No. R9-2000-0165, Waste Discharge Requirements for Eastern Municipal Water District Temecula Valley Regional Water Reclamation Facility Riverside County, as amended.


4. Prohibition A.1 of Order No. R9-2000-0165 states “Discharges of waste to lands which have not been specifically described in the Report of Waste Discharge and for which valid waste discharge requirements are not in force are prohibited.”

5. Prohibition A.2 of Order No. R9-2000-0165 states “Neither the treatment, storage nor disposal of waste shall create a pollution, contamination or nuisance, as defined by section 13050 of the California Water Code.”
6. Prohibition A.3 of Order No. R9-2000-0165 states "Discharges of treated or untreated solid or liquid waste to a navigable water or tributary of a navigable water are prohibited unless authorized by a NPDES permit issued by the appropriate Regional Board."


9. On September 3, 2010 EMWD presented new evidence to the San Diego Water Board and requested that the original estimated sewage discharge of 2.39 million gallons be revised downward. The information provided by EMWD justifies a reduction in the estimated discharge volume to 1.6 million gallons.

10. Issuance of the Order is an enforcement action taken by a regulatory agency and is exempt from the provision of the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) pursuant to section 15321(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.

11. Water Code section 13350 provides that any person who violates any waste discharge requirement issued by a Regional Water Board shall be civilly liable. Water Code section 13350(e)(2) provides that civil liability on a per gallon basis may not exceed $10 for each gallon of waste discharged.
12. The amount of discretionary assessment proposed is based upon consideration of factors contained in Water Code section 13327. Section 13327 specifies the factors that the San Diego Water Board shall consider in establishing the amount of discretionary liability for the alleged violations, which include: the nature, circumstance, extent, and gravity of the violations, the ability to pay, the effect on ability to continue in business, prior history of violation, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters as justice may require.

13. The penalty calculation methodology within section VI of the Water Quality Enforcement Policy (set forth in Exhibit 1) supports the administrative assessment civil liability against the EMWD in the amount of $353,200 for the discharge of untreated sewage to Murrieta Creek, its tributary waters and land, on December 25-26, 2009.

14. The San Diego Water Board incurred costs of $10,000 to prosecute the enforcement action; the costs include investigation, preparation of enforcement documents, communicating with EMWD and preparation of materials for public review and hearing.

IT IS HEREBY ORDERED, pursuant to Water Code section 13350, that civil liability be imposed upon EMWD in the amount of $353,200 for the discharge of untreated sewage to Murrieta Creek, its tributary waters and land, on December 25-26, 2009 in violation of Water Code section 13376.

1. EMWD shall submit a check to the San Diego Water Board in the amount of three hundred and fifty three thousand two hundred dollars ($353,200) payable to the "State Water Resources Control Board" for deposit into the Waste Discharge Permit Fund within thirty (30) days of adoption of this Order.

2. Fulfillment of the EMWD’s obligations under this Order constitutes full and final satisfaction of any and all liability for each allegation in Complaint No. R9-2010-0085.

3. The Executive Officer is authorized to refer this matter to the Office of the Attorney General for collection or other enforcement if EMWD fails to comply with payment of the liability as detailed in paragraph 1.
I, David W. Gibson, Executive Officer, do hereby certify that 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 January 12, 2011.

DAVID W. GIBSON
Executive Officer

Exhibit 1: Penalty Methodology Decisions ACL Order No. R9-2011-0010

Place ID: 263145
Reg. Msr: 374160
# Penalty Methodology Decisions

**ACL Order No. R9-2011-0010**

## Step 1: Potential Harm Factor

<table>
<thead>
<tr>
<th>Violations</th>
<th>Harm/Potential Harm to Beneficial Uses [0 - 10]</th>
<th>Physical, Chemical, Biological or Thermal Characteristics [0 - 4]</th>
<th>Susceptibility to Cleanup or Abatement [0 or 1]</th>
<th>Total Potential for Harm [0 - 10]</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sewage Spill</td>
<td>2</td>
<td>3</td>
<td>0</td>
<td>5</td>
</tr>
</tbody>
</table>

## Step 2: Assessments for Discharge Violations

<table>
<thead>
<tr>
<th>Violations</th>
<th>Per Gallon Factor</th>
<th>Statutory or Policy Max per Gallon</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sewage Spill</td>
<td>5</td>
<td>moderate</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Violations</th>
<th>Per Day Factor</th>
<th>Statutory Max per Day</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Potential for Harm [0 - 10]</td>
<td>Deviation from Requirement [minor, moderate, major]</td>
</tr>
<tr>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
</tr>
</tbody>
</table>

## Step 3: Per Day Assessments for Non-Discharge Violations

<table>
<thead>
<tr>
<th>Violations</th>
<th>Per Day Factor</th>
<th>Statutory/Adjusted Max</th>
</tr>
</thead>
<tbody>
<tr>
<td>n/a</td>
<td>n/a</td>
<td></td>
</tr>
</tbody>
</table>

Initial Liability From Steps 1 - 3

$320,000.00

## Step 4: Adjustments

<table>
<thead>
<tr>
<th>Violations</th>
<th>Culpability [0.5 - 1.5]</th>
<th>Cleanup and Cooperation [0.75 - 1.5]</th>
<th>History of Violations [0 - 3]</th>
<th>Multiple Violations (Same Incident)</th>
<th>Adjusted Days of Violation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sewage Spill</td>
<td>1.3</td>
<td>0.75</td>
<td>1.1</td>
<td>yes</td>
<td>n/a</td>
</tr>
</tbody>
</table>

## Step 5: Total Base Liability Amount

\[(\text{Per day Factor} \times \text{statutory maximum}) \times (\text{Step 4 Adjustments})\]

$343,200

## Step 6: Ability to Pay / Continue in Business

[Yes, No, Partly, Unknown]

Yes

## Step 7: Other Factors as Justice May Require

<table>
<thead>
<tr>
<th>Costs of Investigation and Enforcement</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>$10,000</td>
<td>n/a</td>
</tr>
</tbody>
</table>

## Step 8: Economic Benefit

$24,654

## Step 9: Maximum and Minimum Liability Amounts

<table>
<thead>
<tr>
<th>Minimum</th>
<th>Maximum</th>
</tr>
</thead>
<tbody>
<tr>
<td>$27,199</td>
<td>$16,000,000</td>
</tr>
</tbody>
</table>

## Step 10: Final Liability Amount

\[(\text{total base liability} \times \text{(other factors)})\]

$383,200