

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION**

In the Matter of:

**Western Riverside County Regional
Wastewater Authority**

[PROPOSED]

**SETTLEMENT AGREEMENT AND
STIPULATIONS FOR ENTRY OF
ADMINISTRATIVE CIVIL LIABILITY
ORDER**

ORDER R8-2024-0045

This Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order ("Order" or "Stipulated Order") is entered into by and between the Assistant Executive Officer of the California Regional Water Quality Control Board, Santa Ana Region ("Regional Water Board") on behalf of the Regional Water Board Prosecution Team ("Prosecution Team") and the Western Riverside County Regional Wastewater Authority (the "Respondent") (collectively "Parties"), and is presented by the Prosecution Team and the Respondent to the Regional Water Board, or its delegee, for adoption as an Order by settlement, pursuant to Government Code section 11415.60.

SECTION 1: RECITALS

1. The Respondent is a joint powers authority consisting of the cities of Norco and Corona, and the Jurupa Community Services District, Home Gardens Sanitary District and Western Municipal Water District. The Respondent owns the Western Riverside County Regional Wastewater Treatment Plant ("Facility"), which treats up to 14 million gallons per day of municipal wastewater. Treated wastewater is discharged through Discharge Point 001 (DP-001) to Reach 3 of the Santa Ana River, which is within the Prado Basin Management Zone (PBMZ). The Santa Ana River is a water of the United States.
2. On July 24, 2015, the Regional Water Board adopted Waste Discharge Requirements and Master Reclamation Permit ("WDRs"), Order R8-2015-0013, NPDES CA8000316, for the Respondent for the discharge of wastewater from its Facility. Except for enforcement purposes, the previous WDRs Order R8-2008-0005 was rescinded and superseded by WDRs Order R8-2015-0013 which became effective on August 1, 2015.¹
3. On December 6, 2019, the Regional Water Board adopted Waste Discharge Requirements and Master Reclamation Permit, Order No. R8-2019-0066 amending Order No. R8-2015-0013. The amendment includes details regarding Respondent's Facility expansion that was completed in late 2017 and a list of additions of new

¹ Several violations identified in this Stipulated Order occurred prior to August 1, 2015.

- treatment processes and/or upgrade of existing ones. WRCRWA has been operating all of its new equipment and facilities since that time.
4. Self-monitoring reports, submitted by the Respondent for the Facility, show a total of 125 reported effluent limit violations of total coliform, BOD₅, turbidity, total ammonia as nitrogen (ammonia-nitrogen), and total residual chlorine during the period of May 2015 through December 2023, 98 of which are subject to Mandatory Minimum Penalties (MMPs) pursuant to California Water Code section 13385 subdivision (i). The violations are summarized in the Summary of Permit Limits and Violations (Attachment A), which is incorporated into this Order.
 5. California Water Code section 13385 subdivision (i) requires assessment of mandatory minimum penalties and states, in relevant part, the following:
 - a. Notwithstanding any other provision of this division, and except as provided in subdivisions (j), (k), and (l), a mandatory minimum penalty of three thousand dollars (\$3,000) shall be assessed for each violation whenever the person does any of the following four or more times in any period of six consecutive months, except that the requirement to assess the mandatory minimum penalty shall not be applicable to the first three violations:
 - i. *Violates a waste discharge requirement effluent limitation;*
 - ii. *Fails to file a report pursuant to Section 13260;*
 - iii. *Files an incomplete report pursuant to Section 13260;*
 - iv. *Violates a toxicity effluent limitation contained in the applicable waste discharge requirements where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.*
 6. WDRs Order R8-2015-0013 Effluent Limitations IV.A.1.a (as amended by Order No. R8-2019-0066, page 4, Table 6) sets the Biological Oxygen Demand (BOD₅) of the effluent not to exceed a weekly average of 30 mg/L.
 7. WDRs Order R8-2015-0013 Effluent Limitations IV.A.1.a (as amended by Order No. R8-2019-0066, page 4, table 6) sets the total ammonia as nitrogen (ammonia-nitrogen) of the effluent not to exceed a monthly average of 5 mg/L.
 8. WDRs Order R8-2015-0013 Effluent Limitations IV.A.1.e.(1)(a) and (c) sets the turbidity of the filtered effluent not to exceed 2 NTU average within any 24-hour period and 10 NTU at any time, respectively.
 9. WDRs Order R8-2015-0013 (as amended by Order No. R8-2019-0066, page 5, bullet 3) and WDRs Order R8-2008-0005 Effluent Limitations IV.A.1.e.(2)(c) set the following limits for disinfected effluent:
 - a. The weekly average concentration of total coliform bacteria shall not exceed a Most Probable Number (MPN) of 2.2 total coliform bacteria per 100 milliliters (ml).
 - b. The number of total coliform bacteria shall not exceed an MPN of 23 total coliform bacteria per 100 ml in more than one sample in any 30-day period.
 - c. No total coliform bacteria sample shall exceed an MPN of 240 total coliform bacteria per 100 ml.
 10. The Regional Water Board issued WDRs Order No. R8-2015-0013 as part of its 2015 permit renewal. During the permit renewal application process, the

Respondent notified the Regional Water Board of a planned expansion, which included a list of new and/or upgraded facilities and a change of the disinfection process from an ultra-violet disinfection system to chlorine contact basins. The expansion was completed in late 2017. On December 6, 2019, WDRs Order No. R8-2019-0066 was adopted amending WDRs Order No. R8-2015-0013. WDRs Order No. R8-2019-0066 added Section IV.A.1.g to WDRs Order R8-2015-0013 Effluent Limitations and set the following limits for total chlorine residual:

- a. The total time during which the total chlorine residual values are above 0.1 mg/L (instantaneous maximum value) shall not exceed 7 hours and 26 minutes in any calendar month;
 - b. No individual excursion from 0.1 mg/L value shall exceed 5 minutes; and
 - c. No individual excursion shall exceed 5.0 mg/.
11. The Respondent is alleged to have violated WDRs Order R8-2008-0005, WDRs Order R8-2015-0013, Order R8-2019-0066, and the California Water Code by discharging wastewater with constituents in excess of permit limitations to waters of the United States. These violations are subject to mandatory minimum penalties.
 12. According to the Respondent's self-monitoring reports, the Respondent committed 125 violations of effluent limitations between May 9, 2015 and December 9, 2023. The Regional Water Board has already assessed mandatory minimum penalties for six of those 125 violations in Settlement Agreement and Stipulations for Entry of Mandatory Minimum Penalties Order No. R8-2016-0004. Of the remaining violations, 17 are not subject to mandatory minimum penalties pursuant to Water Code section 13385(j)(1)(D)(i).
 13. Of the remaining 102 violations, 98 are subject to mandatory minimum penalties under Water Code section 13385 subdivision (i). Accordingly, the total mandatory minimum penalty is two hundred ninety-four thousand dollars (\$294,000) (98 x \$3,000 = \$294,000).
 14. The Parties have engaged in settlement negotiations and agree to fully settle the matter without administrative or civil litigation and by presenting this Stipulated Order to the Regional Water Board's Executive Officer for adoption as an Order by settlement, pursuant to Government Code section 11415.60. The Prosecution Team believes that no further action is warranted concerning the violations subject to mandatory minimum penalties for those listed in Attachment A, except as provided in this Stipulated Order, and that this Stipulated Order is in the best interest of the public.
 15. To resolve by consent and without further administrative proceedings, the Parties have agreed to the imposition of **two hundred ninety-four thousand dollars (\$294,000)** in mandatory minimum penalties against the Respondent for alleged violations of the California Water Code and WDRs Order R8-2015-0013 and WDRs Order R8-2008-0005, as set forth in Attachment A. The Respondent shall pay a mandatory minimum penalty amount of two hundred ninety-four thousand dollars (\$294,000) to the State Water Resources Control Board Cleanup and Abatement Account.

SECTION II: STIPULATIONS

The Parties incorporate the foregoing recitals and stipulate to the following:

1. **Jurisdiction:** The Parties agree that the Regional Water Board has subject matter jurisdiction over the matters alleged in this action and personal jurisdiction over the Parties to this Stipulated Order.
2. **Administrative Civil Liability:** Within thirty (30) days of adoption of this Stipulated Order, Respondent shall remit, by check, two hundred ninety-four thousand dollars (\$294,000) payable to the *State Water Resources Control Board Cleanup and Abatement Account*, to the following address ("*Order R8-2024-0045*" shall be indicated on the check):

State Water Board Accounting Office
ATTN: ACL Payment
P.O. Box 1888
Sacramento, California 95812-1888

Respondent must provide a copy of the check via e-mail to the Regional Water Board attention:

Santa Ana Regional Water Quality Control Board
Attention: Chuck Griffin
3737 Main Street
Suite 500
Riverside CA 92501
Chuck.Griffin@waterboards.ca.gov

3. **Waiver of Hearing:** Respondent has been informed of the rights provided by Water Code section 13323, subdivision (b), and hereby waives its right to a hearing before the Regional Water Board prior to the adoption of the Stipulated Order.
4. **Scope of Order:** Upon adoption by the Regional Water Board's Executive Officer, this Stipulated Order represents a final and binding resolution and settlement of all claims, violations, or causes of action alleged in this Order or which could have been asserted on the violations alleged in Attachment A or this Stipulated Order against the Respondent as of the effective date of this Stipulated Order. The provisions of this Paragraph are expressly conditioned on the Respondent's full payment of the administrative civil liability by the specified deadlines.
5. **Denial of Liability:** Neither this Stipulated Order, nor any payment pursuant to the Order, shall constitute evidence of, or be construed as, a finding, adjudication, or acknowledgement of any fact, law, or liability, nor shall it be construed as an admission of violation of any law, rule, or regulation. However, this Order and/or

any actions of payment pursuant to the Order may constitute evidence in actions seeking compliance with this Order. This Order may be used as evidence of a prior enforcement action in future actions by the Regional Water Board, against the Respondent.

6. **Covenant not to Sue:** Upon the effective date of this Stipulated Order, the Respondent shall and does release, discharge, and covenant not to sue or pursue any civil or administrative claims against the Regional Water Board, including its officers, agents, directors, employees, contractors, subcontractors, attorneys, representatives, predecessors-in-interest, and successors and assigns for any and all claims or causes of action, of every kind and nature whatsoever, in law and equity, whether known or unknown, suspected or unsuspected, foreseen or unforeseen, which arise out of or are related to this action.
7. **Public Notice:** The Parties agree that the proposed Stipulated Order, as signed by the Parties, will be noticed for a 30-day public comment period prior to being presented to the Regional Water Board, or its delegee, for adoption. In the event objections are raised during the public review and comment period, the Regional Water Board, or its delegee, may, under certain circumstances, require a public hearing regarding the Stipulation and Order. In that event, the Parties agree to meet and confer concerning any such objections and may agree to revise or adjust the proposed Order as necessary or advisable under the circumstances. Except in such event, the Respondent agrees that it may not rescind or otherwise withdraw its approval of this proposed Stipulated Order.
8. **Procedure:** The Parties agree that the procedure that has been adopted for the approval of the settlement by the Parties and review by the public, as reflected in this Order, will be adequate. In the event procedural objections are raised prior to this Stipulated Order becoming effective, the Parties agree to meet and confer concerning any such objections and may agree to revise or adjust the procedure as necessary or advisable under the circumstances.
9. **Waivers:** In the event that this Stipulated Order does not take effect because it is not approved by the Regional Water Board's Executive Officer, or is vacated in whole or in part by the State Water Resources Control Board or a court, the Parties acknowledge that the Prosecution Staff may proceed to a contested evidentiary hearing before the Regional Water Board to determine whether to assess administrative civil liability for the underlying alleged violations, or may continue to pursue settlement. The Parties agree that all oral and written statements and agreements made during the course of settlement discussions will not be admissible as evidence in any subsequent administrative or judicial proceeding or hearing. The Parties also agree to waive any and all objections related to their efforts to settle this matter as follows:
 - a. Objections related to prejudice or bias of any of the Regional Water Board members or their advisors and any other objections to the extent that they are premised in whole or in part on the fact that the Regional Water Board members or their advisors were exposed to some of the material facts and the Parties' settlement positions, and therefore may have formed

impressions or conclusions, prior to conducting any contested evidentiary hearing in this matter.

- i. Except as specified in subparagraph 9(a) above the Parties are not waiving any other defenses or objections. Specifically, laches or delay or other equitable defenses as to the time period following the commencement of settlement negotiations are not waived.
10. Appeals: The Respondent hereby waives its right to petition this Order to the State Water Board and waives its right to appeal this Stipulated Order to a California Superior Court and/or any California appellate level court.
11. Effect of Stipulated Order: Except as expressly provided in this Stipulated Order, nothing in this Stipulated Order is intended nor shall it be construed to preclude the Prosecution Staff or any state agency, department, board or entity or any local agency from exercising its authority under any law, statute, or regulation.
12. Water Boards not Liable: Neither the Regional Water Board members nor the Regional Water Board staff, attorneys, or representatives shall be liable for any injury or damage to persons or property resulting from the negligent or intentional acts or omissions by the Respondent or its respective directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Order, nor shall the Regional Water Board, its members, or staff be held as parties to or guarantors of any contract entered into by Respondent, or its directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Order.
13. No Waiver of Right to Enforce: The failure of the Prosecution Staff or Regional Water Board to enforce any provision of this Stipulated Order shall in no way be deemed a waiver of such provision, or in any way affect the validity of this Stipulated Order. The failure of the Prosecution Staff or Regional Water Board to enforce any such provision shall not preclude it from later enforcing the same or any other provision of this Stipulated Order. No oral advice, guidance, suggestions or comments by employees or officials of any Party regarding matters covered under this Stipulated Order shall be construed to relieve any Party regarding matters covered in this Stipulated Order. This Order relates only to the mandatory minimum penalty for the violations listed in Attachment A of this Order. The Regional Water Board reserves all rights to take additional enforcement actions, including without limitation the issuance of administrative civil liability complaints or orders for violations other than those addressed by this Order.
14. Regulatory Changes: Nothing in this Stipulated Order shall excuse Respondent from meeting any more stringent requirements which may be imposed hereafter by changes in applicable and legally binding legislation or regulations.
15. Authority to Enter Stipulated Order: Each person executing this Stipulated Order in a representative capacity represents and warrants that he or she is authorized to execute this Order on behalf of and to bind the entity on whose behalf he or she executes the Order.
16. Integration: This Stipulated Order constitutes the entire agreement between the Parties and may not be amended or supplemented except as provided for in this Stipulated Order.

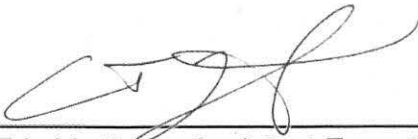
Stipulated Administrative Civil Liability Order No. R8-2024-0045
Western Riverside County Regional Wastewater Authority

17. Severability: This Stipulated Order is severable; should any provision be found invalid the remainder shall remain in full force and effect.
18. Modification: This Order shall not be modified by any of the Parties by oral representation whether made before or after the execution of this Order. All modifications must be made in writing and approved by Respondent and the Regional Water Board or its Assistant Executive Officer.
19. Interpretation: This Stipulated Order shall not be construed against the party preparing it but shall be construed as if the Parties jointly prepared it and any uncertainty and ambiguity shall not be interpreted against any one party.
20. Third Party Claims: Nothing in this Order shall be deemed to create any rights in favor of, or to inure to the benefit of, any third party or parties, or to waive or release any defense or limitation against third party claims.
21. Effective Date: The effective date of this Order shall be the date on which it is adopted by the Assistant Executive Officer.
22. Counterpart and Electronic Signatures: This Stipulated Order may be executed and delivered in any number of counterparts, each of which when executed and delivered must be deemed to be an original, but such counterparts must together constitute one document. Further, this Stipulated Order may be executed by electronic signature, and any such electronic signature by any Party hereto must be deemed to be an original signature and must be binding on such Party to the same extent as if such electronic signature were an original signature.
23. Compliance with Applicable Laws: The Respondent understands that payment of administrative civil liability in accordance with the terms of this Order and/or compliance with the terms of this Order is not a substitute for compliance with applicable laws, and that continuing violations of the type alleged above may subject it to further enforcement, including additional administrative civil liability.
24. Attorney's Fees and Costs: Each Party shall bear all attorneys' fees and costs arising from the Party's own counsel in connection with the matters set forth herein.
25. Incorporated Attachments: Attachment A is incorporated by reference.

Stipulated Administrative Civil Liability Order No. R8-2024-0045
Western Riverside County Regional Wastewater Authority

IT IS SO STIPULATED:

(note: the final version of this document may include more than one page with the same page number to accommodate the various executing signatures)



Eric Lindberg, Assistant Executive Officer
For the Regional Water Board Prosecution Team

7/22/2024

Date



Gary Miller, Administrator
For the Western Riverside County Regional Wastewater
Authority

7/10/2024

Date

HAVING CONSIDERED THE PARTIES' STIPULATIONS, THE SANTA ANA REGIONAL WATER QUALITY CONTROL BOARD, BY AND THROUGH ITS ASSISTANT EXECUTIVE OFFICER, FINDS THAT:

1. Issuance of this Stipulated Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et seq.), in accordance with sections 15061(b)(3) and 15321(a)(2), of Title 14 of the California Code of Regulations.
2. The foregoing Stipulation is fully incorporated herein and made part of this Order.

PURSUANT TO SECTION 13385 OF THE CALIFORNIA WATER CODE AND SECTION 11415.60 OF THE CALIFORNIA GOVERNMENT CODE, THE EXECUTIVE OFFICER **HEREBY ADOPTS THIS ORDER.**

Jayne Joy
Executive Officer
Santa Ana Regional Water Quality Control Board

Date