

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the matter of: )

**United Water Services, Inc.** )

**ORDER WQ 2010-0002-EXEC**

Stipulated Administrative  
Civil Liability Order

INTRODUCTION:

This Stipulated Administrative Civil Liability Order (hereafter "Stipulated Order") is entered into by and between the Director of the Office of Enforcement of the State Water Resources Control Board ("State Water Board") and United Water Services, Inc. (United Water) (collectively "Parties") and is presented to the State Water Board, or its delegee, for adoption as an Order by settlement, pursuant to Government Code section 11415.60.

RECITALS:

WHEREAS, United Water provides contract operations and services to the City of Avalon for the operation of its wastewater treatment plant ("WWTP") located on Santa Catalina Island, County of Los Angeles, California.

WHEREAS, The WWTP operates pursuant to a National Pollution Discharge Elimination System ("NPDES") Permit No. CA0054372, issued by the Regional Water Quality Control Board for the Los Angeles Region ("Water Board").

WHEREAS, California Water Code section 13627.3 subdivision (c)(5) requires contract operators of WWTPs to use reasonable care in the management and operation of a WWTP.

WHEREAS, California Water Code section 13627.1 subdivision (c) allows for the imposition of administrative civil liability for violations of California Water Code section 13627.3 subdivision (c)(5) in the amount of \$5000 for each violation.

WHEREAS, the State Water Board Office of Enforcement alleges United Water failed to use reasonable care in the management and operation of a WWTP based on the recalculation of biological oxygen demand (BOD) sampling data and resubmittal of data in ten (10) self-monitoring reports ("SMRs"), for the period August 2004 through May 2005.

WHEREAS, the Parties have engaged in settlement negotiations and agree to settle the matter without administrative or civil litigation and by presenting this Stipulated Order to the State Water Board for adoption as an Order by settlement, pursuant to Government Code section 11415.60. The Office of Enforcement believes that the resolution of the alleged violations is fair and reasonable and fulfills its enforcement objectives, that no further action is warranted concerning the specific violations alleged in the Office of Enforcement's August 18, 2008 Notice of Administrative Civil Liability Investigation (August 18<sup>th</sup> Letter) and the September 16, 2008 Pre-Prosecution Letter

and Summary and Key for Analysis (September 16<sup>th</sup> Letter), except as provided in the Stipulated Order, and that this Stipulated Order is in the best interest of the public.

THE DIRECTOR OF THE STATE WATER BOARD OFFICE OF ENFORCEMENT AND UNITED WATER HEREBY STIPULATE AS FOLLOWS:

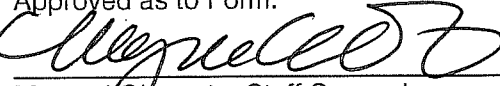
- A. The Director of the State Water Board Office of Enforcement and United Water (collectively referred to as "The Parties") agree that upon execution by the Executive Director, this Stipulated Order represents a final and binding resolution and settlement of all claims, violations or causes of action alleged in this Stipulated Order and in the context of the State Water Board Office of Enforcement's August 18<sup>th</sup> Letter, September 16<sup>th</sup> Letter, or which could have been asserted by the State Water Board Office of Enforcement based on the specific facts alleged in this Stipulated Order, the August 18<sup>th</sup> Letter and the September 16<sup>th</sup> Letter against United Water and its subsidiaries, corporate parents, affiliates, successors, heirs, assigns, and their officers, directors, partners, employees, representative agents, and attorneys, as of the effective date of this Stipulated Order.
- B. Upon the effective date of this Stipulated Order, the Parties shall and do release, discharge and covenant not to sue or pursue any civil or administrative claims against one another, including the Parties' 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.
- C. The Parties agree to support, advocate for, and promote the Stipulated Order before the Executive Director.
- D. The Parties covenant and agree that they will not contest the Stipulated Order before any court.
- E. United Water agrees to pay \$10,000 to the State Water Board, payable to the State Water Pollution Cleanup and Abatement Account within 30 days from the date in which it receives notice that the Order has been adopted by the State Water Board, or its delegee.
- F. Neither this Stipulated Order nor any payment pursuant to this Stipulated Order shall constitute evidence of, or be construed as, a finding, adjudication, or acknowledgment of any fact, law or liability, nor shall it be construed as an admission of violation of any law, rule, or regulations. However, this Stipulated Order and/or any actions or payment pursuant to this Stipulated Order may constitute evidence in actions seeking compliance with this Stipulated Order.
- G. Each person executing this Stipulated Order in a representative capacity represents and warrants that he or she is authorized to execute this Stipulated Order on behalf of and to bind the entity on whose behalf he or she executes the Stipulated Order.

- H. 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.
- I. This Stipulated Order shall not be modified by any of the Parties by oral representation made before or after the execution of this Stipulated Order. All modifications must be made in writing and approved by the State Water Board.
- J. This Stipulated Order may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterparts shall together constitute one document.

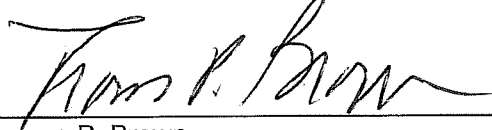
IT IS SO STIPULATED

  
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Reed Sato  
Director  
State Water Resources Control Board, Office of Enforcement

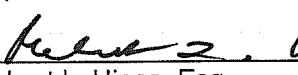
1/19/10  
\_\_\_\_\_  
Date

Approved as to Form:  
  
\_\_\_\_\_  
Mayumi Okamoto, Staff Counsel  
Office of Enforcement  
State Water Resources Control Board  
Attorney for State Water Board Office of Enforcement

1/14/10  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Thomas P. Brown  
President  
United Water

12/31/09  
\_\_\_\_\_  
Date

Approved as to Form:  
  
\_\_\_\_\_  
Robert L. Hines, Esq.  
Farella Braun + Martel LLP  
Attorneys for United Water

12/31/09  
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Date

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**HAVING CONSIDERED THE ALLEGATIONS DESCRIBED ABOVE AND THE PARTIES' STIPULATIONS, THE STATE WATER BOARD 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. In adopting this Stipulated Order, the State Water Board has considered all the factors prescribed in California Water Code section 13327.
3. State Water Board Resolution 2002-0104 delegated authority to the Executive Director to issue a decision or order by settlement of the Complaint under Government Code section 11415.60.

IT IS HEREBY ORDERED, pursuant to section 13627.1(c) of the California Water Code and section 11415.60 of the California Government Code that United Water is assessed a civil liability of **\$10,000**, to be paid within 30 days of receiving notice that this Order is effective.

United Water is ordered to submit the payment in the form of a check, payable to the *State Water Pollution Cleanup and Abatement Account*, and shall indicate on the check the number of this Stipulated Order. United Water shall send the original signed check to State Water Resources Control Board, Department of Administrative Services, PO Box 1888, Sacramento, CA 95812-1888, with copies sent to: Dorothy Rice, Executive Director, State Water Resources Control Board P.O. Box 100, Sacramento, CA 95812-0100 and Mayumi Okamoto, State Water Resources Control Board, Office of Enforcement, P.O. Box 100, Sacramento, CA 95812-0100.

*Dorothy Rice*

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Dorothy Rice  
Executive Director

*1.20.10*

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Date

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Stipulated Administrative Civil Liability Order  
United Water

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