

## EXHIBIT A

### **NOTICE OF VIOLATION(S) OF ORDER R9-2015-0013, NPDES NO. CAG919003, SUBJECT TO MANDATORY MINIMUM PENALTIES, UC POWAY POST HOLDER, LLC, 13247 POWAY ROAD, SAN DIEGO, CA, DISCHARGE TO RATTLESNAKE CREEK**

The following table lists the alleged violation(s) subject to mandatory minimum penalties (MMPs) pursuant to Water Code section 13385(h) and/or (i). For additional information about the alleged violation(s) listed in the table:

1. Refer to the [State Water Resources Control Board Public Reports](https://www.waterboards.ca.gov/water_issues/programs/ciwqs/publicreports.html)<sup>4</sup> webpage;
2. Choose the “MMP Report” link located under the “Violations Reports” category;  
and
3. Enter the search criteria.

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<sup>4</sup> [https://www.waterboards.ca.gov/water\\_issues/programs/ciwqs/publicreports.html](https://www.waterboards.ca.gov/water_issues/programs/ciwqs/publicreports.html)

Exhibit A  
 Notice of Violation(s)  
 Subject to Mandatory Minimum Penalties  
 Poway Post Holder, LLC

<b>Violation ID</b>	<b>Occurrence Date(s)</b>	<b>Violation Type</b>	<b>MMP Type</b>	<b>Violation(s)</b>	<b>MMP Amount</b>	<b>Violation Description</b>
1121344	4/30/2023	LREP	SIG	6	\$18,000	The discharge monitoring report for February 2023 was due on March 30, 2023, and submitted on October 23, 2023 (207-days late, six complete 30-day periods).
1121371	5/31/2023	LREP	SIG	5	\$15,000	The discharge monitoring report for March 2023 was due on April 30, 2023, and submitted on October 20, 2023 (173-days late, five complete 30-day periods).
1121606	5/31/2023	LREP	SIG	5	\$15,000	The discharge monitoring report for the first quarter of 2023 was due on April 30, 2023, and submitted on October 20, 2023 (173-days late, five complete 30-day periods).
1121607	6/30/2023	LREP	SIG	4	\$12,000	The discharge monitoring report for April 2023 was due on May 30, 2023, and submitted on October 20, 2023 (143-days late, four complete 30-day periods).
1121608	7/31/2023	LREP	SIG	3	\$9,000	The discharge monitoring report for May 2023 was due on June 30, 2023, and submitted on October 20, 2023 (112-days late, three complete 30-day periods).

Violation ID	Occurrence Date(s)	Violation Type	MMP Type	Violation(s)	MMP Amount	Violation Description
1121609	8/30/2023	LREP	SIG	2	\$6,000	The discharge monitoring report for June 2023 was due on July 30, 2023, and submitted on October 20, 2023 (82-days late, two complete 30-day periods).
1121610	8/30/2023	LREP	SIG	2	\$6,000	The discharge monitoring report for the second quarter of 2023 was due on July 30, 2023, and submitted on October 20, 2023 (82-days late, two complete 30-day periods).
1121612	9/30/2023	LREP	SIG	1	\$3,000	The discharge monitoring report for July 2023 was due on August 30, 2023, and submitted on October 20, 2023 (51-days late, one complete 30-day periods).

**PENALTY AMOUNT**

MMP Amount for Effluent Violations

28 Serious Violations × \$3,000 per Serious Violation = \$84,000 MMP Amount

**Penalty Amount = \$84,000**

**DEFINITIONS**

<b>TERM</b>	<b>DEFINITION</b>
AM	Effluent exceeds average monthly limitation.
ATOX	Violation of an acute toxicity effluent limitation.
AW	Effluent exceeds average weekly limitation.
CAT 1	Violation of an effluent limitation for a Group I pollutant by more than 40%.
CAT 2	Violation of an effluent limitation for a Group II pollutant by more than 20%.
CHRON	Chronic violation as defined by Water Code section 13385(i). To be counted as a chronic violation, there must be 3 preceding violations (serious or non-serious) within a 180-day period. The fourth and any subsequent non-serious violation that occurs within the 180-day period is an MMP violation.
CIWQS	California Integrated Water Quality System database.
CTOX	Violation of chronic toxicity effluent limitation.
DM	Effluent exceeds daily maximum limitation.
DREP	Deficient reporting violation. This will only result in an MMP if the report is so deficient as to make determination of compliance impossible for that reporting period.
GROUP	The list of pollutants is based on Appendix A to section 123.45 of title 40 of the Code of Federal Regulations.
IM	Effluent exceeds instantaneous maximum limitation.
LREP	Late reporting violation. Every 30 days a discharge monitoring report is late counts as one serious violation (SIG).
M	Effluent exceeds limit for monthly reporting period.
MMP Type	Classification of the type of MMP violation.
N/A	Not Applicable
Occurrence Date(s)	Date that a violation occurred. For continuing violations, such as a monthly average, the days of the reporting period are used. If the occurrence date is unknown, the date is entered as the day it was first discovered by staff, the discharger, or a third party. For deficient or late reports, the occurrence date is the day after the report was due.
OEV	Violation of any constituent-specific effluent limitation not included in Group I or Group II.
Q	Effluent exceeds limit for quarterly reporting period.
S	Effluent exceeds limit for semi-annual reporting period.

<b>TERM</b>	<b>DEFINITION</b>
SIG	Serious violation as defined by Water Code sections 13385(h)(2) and 13385.1, respectively. Waste discharge exceeds the effluent limitation for a Group I pollutant by 40% or more (CAT1), or a Group II pollutant by 20% or more (CAT2). Also, a failure to file a discharge monitoring report pursuant to Water Code 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. Each serious violation is an MMP violation.
Violation Description	Narrative description of the violation.
Violation ID	Identification number assigned to a violation in CIWQS.
Violation Type	Classification of a violation. Two types of violations relate to MMPs: 1) Late Reporting Violations (LREP, DREP) 2) Effluent Violations (ATOX, CTOX, CAT1, CAT2, OEV)

## EXHIBIT B

### ACCEPTANCE OF CONDITIONAL RESOLUTION AND WAIVER OF RIGHT TO HEARING FOR SETTLEMENT OFFER R9-2024-0025, UC POWAY POST HOLDER, LLC, 13247 POWAY ROAD, SAN DIEGO, CA, DISCHARGE TO RATTLESNAKE CREEK

By signing below and returning this *Acceptance of Conditional Resolution and Waiver of Right to Hearing* (Acceptance and Waiver) to the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board), UC Poway Post Holder, LLC (Permittee) hereby accepts the *Offer to Participate in the Expedited Payment Program* and waives the right to a hearing before the San Diego Water Board to dispute the alleged violations identified in Exhibit A of the Settlement Offer, which is attached hereto and incorporated herein by reference.

The Permittee agrees that the Settlement Offer shall serve as a complaint pursuant to Article 2.5 of the Water Code and that no separate complaint is required for the San Diego Water Board to assert jurisdiction over the alleged violations through its Chief Prosecutor. The Permittee agrees to pay the penalties required by Water Code section 13385(h) and/or (i) in the sum of **\$84,000** (Penalty Amount), which shall be deemed payment in full of any civil liability pursuant to Water Code section 13385 that otherwise might be assessed for the violations identified in the Settlement Offer. The Permittee understands that this Acceptance and Waiver waives the Permittee's right to contest the violation(s) alleged in the Settlement Offer and the amount of civil liability for such violation(s).

The Permittee understands that this Acceptance and Waiver does not address or resolve liability for any violation that is not specifically identified in the Settlement Offer.

Upon execution by the Permittee, the completed Acceptance and Waiver shall be submitted by email to [SanDiego@waterboards.ca.gov](mailto:SanDiego@waterboards.ca.gov), attention 855514:jchhor or by mail to the following address:

California Regional Water Quality Control Board, San Diego Region  
2375 Northside Drive, Suite 100  
San Diego, CA 92108-2700  
ATTN: 855514:jchhor

The Permittee understands that federal regulations set forth at title 40 of the Code of Federal Regulations, section 123.27(d)(2)(iii), require the San Diego Water Board to publish notice of and provide at least 30 days for public comment on any proposed resolution of an enforcement action addressing National Pollutant Discharge Elimination System (NPDES) permit violations. Accordingly, this Acceptance and Waiver, prior to execution by the San Diego Water Board, or its delegate, will be published as required by law for public comment.

During the public comment period, if no comments are received that cause the San Diego Water Board, or its delegate, to question the Settlement Offer, the San Diego Water Board, or its delegate, will execute the Acceptance and Waiver.

The Permittee understands that if significant comments are received in opposition to the Settlement Offer, the offer may be withdrawn. In that circumstance, the Permittee 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 San Diego Water Board. For such a liability hearing, the Permittee understands that this Acceptance and Waiver executed by the Permittee will be treated as a settlement communication and will not be used as evidence in that hearing.

The Permittee further understands that, in lieu of full payment of the assessed mandatory minimum penalty to the State Water Pollution Cleanup and Abatement Account, all or a portion of the penalty payment may be made by the Permittee toward a supplemental environment project (SEP).<sup>5</sup> The SEP option available to the Permittee is the Stormwater Monitoring Coalition Regional Monitoring Program (SMCRMP) SEP Fund, which supplements SMCRMP studies that would not otherwise be conducted through the SMCRMP's existing cost allocations.

The Permittee further understands that once the Acceptance and Waiver is executed by the San Diego Water Board or its delegate, full payment is due no later than 30 days after the date of execution, as a condition of this Acceptance and Waiver. The Permittee shall pay the assessed civil liability to the State Water Pollution Cleanup and Abatement Account and/or the Southern California Coastal Water Research Project (SCCWRP, for the SMCRMP SEP Fund) in accordance with the payment option selected below.

The Permittee agrees to pay the amounts indicated below to the State Water Pollution Cleanup and Abatement Account and, if the applicable payment option is selected, the SMCRMP SEP Fund, in accordance with the Payment Instructions below. The Permittee understands that the San Diego Water Board will consider the Permittee to have fulfilled its SEP obligation when SCCWRP receives the Permittee's contribution to the SEP Fund.

### **Payment Instructions:**

#### SCCWRP SMCRMP SEP Fund

Payments must be made to SCCWRP and made out to the "Southern California Coastal Water Research Project" with the Settlement Offer Number (R9-2024-0025) written on the check. Payment must be mailed to the following address:

SCCWRP  
Attn: SMCRMP SEP Funds  
3535 Harbor Blvd., Suite 110  
Costa Mesa, CA 92626

#### State Water Pollution Cleanup and Abatement Account

Payments must be made to the State Water Pollution Cleanup and Abatement Account and made out to the "State Water Pollution Cleanup and Abatement Account" with the

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<sup>5</sup> If the penalty amount exceeds \$15,000, the portion of the penalty amount that may be directed to the SMCRMP SEP Fund may not exceed \$15,000 plus 50 percent of the penalty amount that exceeds \$15,000. (See Wat. Code, § 13385, subd. (f)(1).)

Settlement Offer Number (R9-2024-0025) written on the check. Payment must be mailed to the following address:

State Water Resources Control Board, Accounting Office,  
Attn: ACL Payment  
P.O. Box 1888  
Sacramento, CA 95812-1888

Verification of Payment

For tracking purposes, a copy of any issued checks must also be provided to the San Diego Water Board via email to [SanDiego@waterboards.ca.gov](mailto:SanDiego@waterboards.ca.gov), attention 855514:jchhor, or by mail to:

San Diego Water Board  
Attn: 855514:jchhor  
2375 Northside Drive, Suite 100,  
San Diego, CA 92108

**Payment Options:**

Mark **one** of the "Option" boxes below and fill in the blank fields as appropriate. Electing to pay all or a portion of the assessed liability to the SMCRMP SEP Fund will not change the total amount to be paid.

Option 1: Pay all or a portion of the assessed liability to the SMCRMP SEP Fund:

Amount to be paid to the SMCRMP SEP Fund (cannot exceed \$49,500)

\$ \_\_\_\_\_

Amount to be paid to the State Water Pollution Cleanup and Abatement Account (\$84,000 minus amount inserted above)

\$ \_\_\_\_\_

**\$ 84,000** Total assessed mandatory minimum penalty (sum of amounts above).

**Or**

Option 2: Pay the total assessed mandatory minimum liability (\$84,000) to the State Water Pollution Cleanup and Abatement Account.



**ORDER R9-2024-0025, EXHIBIT B SIGNATURE PAGE**

I hereby affirm that I am duly authorized to act on behalf of and to bind the Permittee in the making and giving of this Acceptance and Waiver.

UC POWAY POST HOLDER, LLC

By: \_\_\_\_\_  
Signed Name Date

\_\_\_\_\_  
Printed or Typed Name Title

IT IS SO ORDERED PURSUANT TO WATER CODE SECTION 13323 AND GOVERNMENT SECTION 11415.60 ON BEHALF OF THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, SAN DIEGO REGION

By: \_\_\_\_\_  
DAVID W. GIBSON Date  
Executive Officer