

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

TENTATIVE

**ORDER NO. R9-2009-0022
ADMINISTRATIVE ASSESSMENT OF CIVIL LIABILITY
FOR
MANDATORY MINIMUM PENALTIES
AGAINST
STUDIO 15 HOUSING PARTNERS, LLC
GROUNDWATER DEWATERING PROJECT DISCHARGES TO SAN DIEGO BAY
FOR
VIOLATIONS OF ORDER NO. R9-2000-0090, NPDES NO.CAG919001**

The California Regional Water Quality Control Board, San Diego Region (Regional Board), having received a signed waiver of public hearing, having reviewed the allegations contained in Amended Administrative Civil Liability (ACL) Complaint for Mandatory Minimum Penalties (MMPs) No. R9-2008-0121 dated January 5, 2009, having considered all comments received, and on the recommendation of administrative assessment of civil liability pursuant to Water Code section 13385(i)(1) in the amount of \$42,000, finds as follows:

1. On July 27, 2007, Studio 15 Housing Partners, LLC (Studio 15) applied for enrollment under Order No. R9-2000-0090, NPDES No. CAG919001, *General Waste Discharge Requirement for Temporary Groundwater Extraction and Similar Waste Discharges to San Diego Bay and Storm Drain or Other Conveyance Systems Tributary Thereto*, for the temporary discharge of extracted and treated groundwater to San Diego Bay from the construction site located at 70 15th Street, San Diego, California. On August 23, 2007, the Regional Board sent an acknowledgement letter of the permit application, specified the discharge requirements for the temporary discharge, and enrolled Studio 15 under Order No. R9-2000-0090.
2. Studio 15 reported effluent sampling results to the Regional Board pursuant to Order No. R9-2000-0090's Monitoring and Reporting schedule. Between September 2007 and March 2008, Studio 15 reported violations of effluent limitations for total coliform, fecal coliform and dissolved oxygen as described in Table 1, Summary of Mandatory Minimum Penalty Violations.
3. Studio 15 violated provisions of law for which the Regional Board must impose civil liability pursuant to Water Code section 13385(i)(1). The violations were of effluent limitations in waste discharge requirements for discharges of pollutants from point sources to water of the United States. Water Code section 13385(i)(1) requires that a MMP of \$3,000 be imposed for each violation (i.e., incomplete reports and any waste discharge that violates an effluent limitation contained in

waste discharge requirements and applies to surface water discharges) beginning with the fourth violation in any six-month period.

4. On January 5, 2009, the Assistant Executive Officer issued Amended ACL Complaint No. R9-2008-0121 to Studio 15 proposing the imposition of \$42,000 in liability for 17 alleged violations of total coliform, fecal coliform and dissolved oxygen.
5. On January 13, 2009, Studio 15 submitted a written offer to pay the recommended liability in full, and to waive its right to a hearing on this matter.
6. Issuance of this Order is an enforcement action taken by a regulatory agency and is exempt from the provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 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.

IT IS HEREBY ORDERED, that pursuant to Water Code section 13385(i)(1) civil liability is imposed on Studio 15 Housing Partners, LLC in the amount of \$42,000. Studio 15 shall provide the Regional Board payment in the amount of \$42,000 payable to the "State Water Resources Control Board" for deposit into the State Water Pollution Cleanup and Abatement Account within 30 days of the adoption of this Order.

Dated this 11th day of February 2009

Tentative

JOHN H. ROBERTUS
Executive Officer

Attachment: Table 1, Summary of Mandatory Minimum Penalty Violations

CIWQS Entries

Regulatory Measure IDs: 148779 (Order No. 2000-0090)
351491 (Amended ACL Complaint No. R9-2008-0121)

Party ID: 392085 (Studio 15 Housing Partners, LLC)
Place ID: 655225

Table 1 - Summary of Mandatory Minimum Penalty Violations

Violation No.	Violation ID	Violation Date	Constituent	Effluent Limitation	Unit	Permitted Limit	Reported Value	Mandatory Minimum Penalty	Notes ⁱ
1	778818	9/5/2007	Total Coliform	instantaneous maximum	mpn/100ML	1000	>1600	\$0	1st violation in 6 month period
2	782635	9/5/2007	Fecal Coliform	instantaneous maximum	mpn/100ML	200	500	\$0	2nd violation in 6 month period
3	782633	9/12/2007	Total Coliform	instantaneous maximum	mpn/100ML	1000	>1600	\$0	3rd violation in 6 month period
4	782636	9/12/2007	Fecal Coliform	instantaneous maximum	mpn/100ML	200	>1600	\$3,000	4th violation in 6 month period
5	782634	9/19/2007	Total Coliform	instantaneous maximum	mpn/100ML	1000	>1600	\$3,000	4 or more violations in a 6 month period
6	778821	9/30/2007	Dissolved Oxygen	instantaneous minimum	mg/L	>5	2.99	\$3,000	4 or more violations in a 6 month period
7	778805	11/28/2007	Dissolved Oxygen	instantaneous minimum	mg/L	>5	2.61	\$3,000	4 or more violations in a 6 month period
8	782620	12/20/2007	Dissolved Oxygen	instantaneous minimum	mg/L	>5	4.77	\$3,000	4 or more violations in a 6 month period
9	782622	12/28/2007	Dissolved Oxygen	instantaneous minimum	mg/L	>5	3.01	\$3,000	4 or more violations in a 6 month period
10	778824	1/3/2008	Dissolved Oxygen	instantaneous minimum	mg/L	>5	3.06	\$3,000	4 or more violations in a 6 month period
11	782599	1/10/2008	Dissolved Oxygen	instantaneous minimum	mg/L	>5	3.88	\$3,000	4 or more violations in a 6 month period
12	782600	1/16/2008	Dissolved Oxygen	instantaneous minimum	mg/L	>5	3.45	\$3,000	4 or more violations in a 6 month period
13	782603	1/29/2008	Dissolved Oxygen	instantaneous minimum	mg/L	>5	4.65	\$3,000	4 or more violations in a 6 month period
14	782604	2/6/2008	Dissolved Oxygen	instantaneous minimum	mg/L	>5	4.33	\$3,000	4 or more violations in a 6 month period
15	778827	2/6/2008	Total Coliform	instantaneous maximum	mpn/100ML	1000	>1600	\$3,000	4 or more violations in a 6 month period
16	782608	2/28/2008	Dissolved Oxygen	instantaneous minimum	mg/L	>5	3.41	\$3,000	4 or more violations in a 6 month period
17	782615	3/20/2008	Total Coliform	instantaneous maximum	mpn/100ML	1000	1600	\$3,000	4 or more violations in a 6 month period
TOTAL MMP								\$42,000	

ⁱ The occurrence of four or more effluent limitation violations in any six-month period requires the assessment of a \$3,000 MMP for the fourth violation and each subsequent violation during any six-month period pursuant to Water Code section 13385(i)(1).