



Linda S. Adams  
Secretary for  
Environmental Protection

# California Regional Water Quality Control Board San Diego Region

Over 50 Years Serving San Diego, Orange, and Riverside Counties  
Recipient of the 2004 Environmental Award for Outstanding Achievement from U.S. EPA



Arnold Schwarzenegger  
Governor

9174 Sky Park Court, Suite 100, San Diego, California 92123-4353  
(858) 467-2952 • Fax (858) 571-6972  
<http://www.waterboards.ca.gov/sandiego>

October 7, 2008

**CERTIFIED-RETURN RECEIPT REQUESTED**  
**7007 3020 0001 0040 6884**

Mr. Clay Phillips  
City Manager  
City of Escondido  
201 North Broadway  
Escondido, California 92025

**In Reply Refer to:**  
CAU:01-0031.02:rstewart  
Place ID: 229726

Dear Mr. Phillips:

**SCHEDULING OF PUBLIC HEARING FOR CONSIDERATION OF ADMINISTRATIVE  
CIVIL LIABILITY COMPLAINT NO. R9-2005-0265**

This letter shall serve as notification to the City of Escondido (City) that the Regional Board has scheduled a public hearing for consideration of the allegations of violations described in Complaint No. R9-2005-0265 which was issued to the City of Escondido on December 30, 2005 recommending the assessment of \$1,797,150 in civil liability for violations of Regional Board Order Nos. 99-72, R9-2003-0394, 93-70, and Cease and Desist Order No. 96-31.

Since July 1, 2008 the Regional Board's Prosecution Team has met with the City in an effort to resolve the Complaint by settlement. Resolution of the matter has not progressed because of the incomplete and unclear Supplemental Environmental Project proposals submitted by the City. On several occasions the Regional Board has expressed concerns about the SEP proposals, yet to date the City has been unable to eliminate these concerns. Because of the inordinate amount of time that has been given to the City since the State Water Resources Control Board remanded the matter back to the Regional Board in October 2007, the Regional Board will now proceed to have a public hearing convened on all of the allegations alleged in the Complaint without further delay.

I am willing to continue discussions to resolve the Complaint by settlement but will no longer allocate resources for further discussions of the SEP proposals. Please be advised that I expect either a cash payment settlement offer or an offer of settlement presented to the Regional Board for its consideration at its November 12, 2008 meeting.

*California Environmental Protection Agency*

The City of Escondido may waive its right to a hearing before the Regional Board. Waiver of the hearing constitutes acceptance of the assessment of civil liability in the amount of \$1,797,150 as set forth in the Complaint. If the City of Escondido intends to waive its right to a hearing before the Regional Board, you or an authorized agent are required to:

1. Sign and return the enclosed waiver form with a cashier's check for the amount of civil liability indicated in the Complaint by 5:00 p.m., Friday October 17, 2008.
2. Submit a cashier's check for the full amount of civil liability of \$1,797,150.

If the City of Escondido does not elect to waive its right to a public hearing, a public hearing on this matter is scheduled before the Regional Board at its meeting on November 12, 2008, at the Regional Board Meeting Room, 9174 Sky Park Court, San Diego, California. An agenda, with procedures for the hearing will be mailed to you not less than ten days before the hearing date. The meeting is scheduled to begin at 9:00 a.m. At the hearing the Regional Board will determine the validity of the allegations and, if the allegations are found to be true, will consider whether to assess civil liability in the amount proposed by the Complaint, or in some other amount, provided that, for violations of effluent limitations in waste discharge requirements for discharges of pollutants from point sources to navigable waters, mandatory minimum penalties prescribed in subdivisions (h) and (i) of Section 13385 of the California Water Code will be applicable.

If the City of Escondido intends to present any written evidence at the hearing in response to Complaint No. R9-2005-0265, it must be received by 5:00 p.m., Friday October 24, 2008 in order to be considered by the Regional Board at the public hearing. Please submit twenty (20) copies of any response, including evidentiary exhibits. Copies of material submitted will be forwarded to the Regional Board Members prior to the public hearing.

The evidence supporting the Complaint has previously been provided to the City in the form of the Technical Analysis accompanying the Complaint. The public file in this matter is available for viewing at the Regional Board's offices.

The Regional Board has established a written public comment period to solicit input on the Complaint. This includes publishing a notice in a local newspaper. The written public comment period for the Complaint ends at 5:00 p.m. Wednesday November 5, 2008. Oral comments can be made during the November 12, 2008 public hearing.

The heading portion of this letter includes a Regional Board code number noted after "in reply refer to." In order to assist us in the processing of your correspondence please

Mr. Clay Phillips  
City of Escondido

- 3 -

October 7, 2008

include this code number in the heading or subject line portion of all correspondence and reports to the Regional Board pertaining to this matter.

Please contact Rebecca Stewart at (858) 467-2966 or via e-mail at [Rstewart@waterboards.ca.gov](mailto:Rstewart@waterboards.ca.gov) if you have any questions concerning this matter.

Respectfully,

  
MICHAEL P. McCANN  
Assistant Executive Officer

MPM:mja:rls

Attachment: Waiver of Public Hearing Form

cc: **via e-mail only:**

Everett Delano, Law Offices of Everett L. Delano, [everettdelano@yahoo.com](mailto:everettdelano@yahoo.com)  
Gabe Solmer, San Diego Coastkeeper, [gabe@sdcoastkeeper.org](mailto:gabe@sdcoastkeeper.org)  
Kevin Bernard, The Escondido Creek Conservancy, [ksbarnard@earthlink.net](mailto:ksbarnard@earthlink.net)  
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Michael McGuinness, City of Escondido, [mmcguinness@ci.escondido.ca.us](mailto:mmcguinness@ci.escondido.ca.us)  
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Jorge Leon, Office of Enforcement, SWRCB, [jleon@waterboards.ca.gov](mailto:jleon@waterboards.ca.gov)  
Alice Tand, [hapamom@alum.mit.edu](mailto:hapamom@alum.mit.edu)



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**WAIVER  
OF RIGHT TO A  
PUBLIC HEARING**

Mr. Clay Phillips  
City Manager  
City of Escondido  
201 North Broadway  
Escondido, California 92025

Complaint No. R9-2005-0265  
For  
Administrative Civil Liability  
**\$1,797,150**

WDID No. 9 000000031  
**Hale Avenue Resource Recovery  
Facility**

***By signing below, I agree to waive the City of Escondido's right to a public hearing before the California Regional Water Quality Control Board, San Diego Region with regards to the violations alleged in the above referenced Complaint and to remit payment for the civil liability imposed. I understand that I am authorized to give up the City of Escondido's right to be heard, and to argue against the allegations made by the Executive Officer in the Complaint, and against the imposition of, or the amount of, civil liability proposed. I have enclosed a cashier's check or money order made payable to the State Water Resources Control Board for the civil liability imposed.***

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print your name

**Send this signed form to:**

John H. Robertus, Executive Officer  
C/O Compliance Assurance Unit  
California Regional Water Quality Control Board – San Diego Region  
9174 Sky Park Court, Suite 100  
San Diego, CA 92123

*California Environmental Protection Agency*

