

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

Tentative ORDER NO. R9-2010-0147

**Item 7
Doc. 2**

**ADMINISTRATIVE CIVIL LIABILITY
FOR
MANDATORY MINIMUM PENALTIES
AGAINST
FALLBROOK PUBLIC UTILITY DISTRICT
WASTEWATER TREATMENT PLANT NO. 1
FOR
VIOLATIONS OF
ORDER NO. R9-2006-0002**

The California Regional Water Quality Control Board, San Diego Region (hereinafter San Diego Water Board), having considered in a public meeting on December 14, 2010, all comments received on the issuance of liability against Fallbrook Public Utility District regarding a violation alleged in Complaint No. R9-2010-0140, dated October 6, 2010 (Complaint), having provided public notice thereof and not less than thirty (30) days for public comment, and on the recommendation of administrative assessment of a Mandatory Minimum Penalty (MMP) in the amount of \$3,000 finds as follows:

1. Fallbrook Public Utility District (hereinafter Fallbrook PUD) owns and operates Wastewater Treatment Plant No. 1 located at 1425 South Alturas Street, Fallbrook, California.
2. Effluent discharged to the Pacific Ocean from Wastewater Treatment Plant No. 1 is subject to the San Diego Water Board's Order No. R9-2006-0002, NPDES Permit No. CA0108031 (Order). The Order prescribes effluent limitations for the discharge of treated wastewater to the Pacific Ocean via the Oceanside Ocean Outfall.
3. Fallbrook Public Utility District violated a provision of law that the San Diego Water Board may impose discretionary administrative civil liability pursuant to section 13385(a)(2) of the Water Code because every violation of an NPDES permit is subject to discretionary liability.
4. Fallbrook Public Utility District violated a provision of law for which the San Diego Water Board must assess a \$3,000 Mandatory Minimum Penalty (MMP) pursuant to Water Code section 13385(h). Water Code section 13385(h) requires that an MMP of \$3,000 be imposed for each "serious violation." Water Code section 13385 (h)(2) defines a "serious violation" as "any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II

pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 20 percent or more or for a Group I pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 40 percent or more.”

5. On June 10, 2008, Fallbrook PUD reported an instantaneous maximum settleable solids effluent sampling result of 5.0 mL/L for May 6, 2008. This is a “serious violation” because the sampling result exceeds the effluent limitation by 40 percent or more.
6. On October 28, 2010, Fallbrook PUD waived its right to a public hearing before the San Diego Water Board and paid the recommended \$3,000 MMP to the State Water Resources Control Board's Cleanup and Abatement Account.
7. 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 45321(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.
8. The San Diego Water Board incurred costs totaling \$1,400 which includes investigation, preparation of enforcement documents and communication with Fallbrook PUD regarding the enforcement action.

IT IS HEREBY ORDERED, that pursuant to Water Code Section 13385(h) that civil liability is imposed on Fallbrook Public Utility District in the amount of \$3,000, and that Fallbrook Public Utility District's waiver of its right to a public hearing and offer of \$3,000 in satisfaction of Complaint No. R9-2010-0140 is accepted.

I, David W. Gibson, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order imposing civil liability assessed by the California Regional Water Quality Control Board, San Diego Region, on December 14, 2010.

Tentative

DAVID W. GIBSON
Executive Officer

CIWQS Entries

Party ID 15868

Regulatory Measure ID 301241

Place ID 224137

Violation ID 878170