



California Regional Water Quality Control Board San Diego Region



Matthew Rodriguez
Secretary for
Environmental Protection

Over 50 Years Serving San Diego, Orange, and Riverside Counties
Recipient of the 2004 Environmental Award for Outstanding Achievement from USEPA
9174 Sky Park Court, Suite 100, San Diego, California 92123-4353
(858) 467-2952 • Fax (858) 571-6972
[http:// www.waterboards.ca.gov/sandiego](http://www.waterboards.ca.gov/sandiego)

Edmund G. Brown, Jr.
Governor

September 20, 2011

Mr. Michael Katz
Promenade Mall Development Corp.
4150 Mission Boulevard
San Diego, CA 92109

In reply refer to:
249321:bmorris:WDID90588

**SUBJECT: RE-ENROLLMENT UNDER ORDER NO. R9-2008-0002; NPDES
GENERAL PERMIT NO. CAG919002**

**FACILITY: PROMENADE AT PACIFIC BEACH DEWATERING
4150 MISSION BLVD., SAN DIEGO, CA 92109**

Dear Mr. Katz:

This is a follow-up to the March 23, 2011 email sent by the California Regional Water Quality Control Board (San Diego Water Board) to Gary D. Clossin. The email informed Mr. Clossin that San Diego Water Board could not grant re-enrollment of the Promenade Mall Development Corporation's (PMDC's) groundwater discharge to Mission Bay under Order No. R9-2008-0002, National Pollutant Discharge Elimination System (NPDES) General Permit No. CAG919002. As discussed in the aforementioned email (attached for your reference), the application for re-enrollment had several deficiencies and consequently was deemed to be incomplete. These deficiencies still need to be addressed by PMDC.

Please note that permit coverage under Order No. R9-2008-0002 will be effective only after the deficiencies are corrected and the San Diego Water Board issues a Notice of Enrollment (NOE) for the discharge. Until such time that the NOE is issued, any discharge from the Promenade Mall to Mission Bay is in violation of the California Water Code¹ and subject to potential enforcement action. The San Diego Water Board consequently urges Promenade Mall Development Corporation (PMDC) to take prompt action to correct the deficiencies in its re-enrollment application.

Although not enrolled under Order No. R9-2008-0002, PMDC has been submitting self-monitoring reports during this period in accordance with the requirement prescribed in the Order. Between March 2008 and the present, PMDC has submitted thirteen (13) self-monitoring reports (SMRs). During this period, the discharge was consistent with the

¹ California Water Code (CWC) section 13376 states that the discharge of pollutants by any person except as authorized by waste discharge requirements is prohibited. Violations of CWC section 13376 could be subject to a civil liability imposed administratively of up to ten thousand dollars (\$10,000) for each day in which the violation occurs (CWC section 13385(c)).

effluent limitations contained in the Order except for an exceedance of the limitation for Copper in 2011, and for Nickel in 2010 and 2011. As reported in the Oct – Dec 2010

SMR, the Copper concentration was 4.44 ug/L, in exceedance of the limit of 2.9 ug/L. The Apr – Jun 2010 SMR reported the Nickel concentration to be 21.8 ug/L and the Apr – Jun 2011 SMR reported the Nickel concentration to be 8.91 ug/L. Both of these values are exceedances of the Nickel limitation of 6.8 ug/L. PMDC must prevent such exceedances, which pursuant to the California Water Code section 13385 (h), could each be subject to a mandatory minimum penalty of three thousand dollars (\$3,000).

If you have any questions or would like to schedule a meeting during which we can discuss re-enrollment under Order No. R9-2008-002 and compliance with the Order's effluent limitations, please do not hesitate to contact me by phone at (858) 467-2962 or by email at BMorris@waterboards.ca.gov.

Respectfully,



ROBERT MORRIS
Senior Water Resources Control Engineer
Watershed Protection Unit