

STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
SANTA ANA REGION

In the Matter of:

City of Beaumont	)	Administrative Civil Liability
550 E. 6 <sup>th</sup> Street	)	Order No. R8-2010-0022
Beaumont, CA 92223	)	Stipulation for
	)	Settlement of Administrative Civil Liability
	)	Complaints

**A. INTRODUCTION:**

1. This is an Administrative Civil Liability (ACL) Order (hereinafter Order) presented to the Executive Officer of the Regional Water Quality Control Board, Santa Ana Region (hereinafter Regional Board), for consideration. This Order accepts the stipulations for settlement (Agreement) of two ACL Complaints (hereinafter Complaints) issued by the Regional Board's Assistant Executive Officer to the City of Beaumont (hereinafter Discharger).

**B. PARTIES TO THIS AGREEMENT:**

2. Regional Board's Prosecution Team represented by the Assistant Executive Officer
3. City of Beaumont (Discharger)
4. Regents of the University of California (SEP Proponent) under the direction of Dr. James O. Sickman, (Principal Investigator).

**C. ACL COMPLAINTS BEING SETTLED:**

5. ACL Complaint No. R8-2009-0068 issued on November 19, 2009 (Complaint No.1), Assessed Penalty: \$99,900 (Exhibit A)
6. ACL Complaint No. R8-2010-0007 issued on April 15, 2010 (Complaint No. 2), Assessed Penalty: \$111,000 (Exhibit B)

**D. PROPOSED SETTLEMENT:**

7. The Discharger agrees to settle the liabilities assessed in the two Complaints (total liability: \$210,900) in accordance with the following.
8. The Discharger to pay \$105,450 to State Water Resources Control Board-WDPF. This is the initial payment and it shall be mailed to the following address within 30 days of adoption of this Order:

**U.S. Postal Service™**  
**CERTIFIED MAIL™ RECEIPT**  
 (Domestic Mail Only: No Insurance Coverage Provided)

For delivery information visit our website at [www.usps.com](http://www.usps.com)  
**OFFICIAL USE**

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark  
 Here

Sent to: **City of Beaumont**  
 Street, Apt. No. or PO Box No.: **550 E. 6th St**  
 City, State, ZIP+4: **Beaumont, CA 92223**

Form 3800, August 2006 See Reverse for Instructions

7009 2820 0001 6722 6978

Santa Ana Regional Water Quality Control Board  
3737 Main Street, Suite 500  
Riverside, CA 92501-3348

9. The Discharger to pay \$105,450 to Regents of the University of California for a Supplemental Environmental Project (SEP). This is the suspended liability payment and is also due within 30 days of adoption of this Order and shall be mailed to the address indicated in Item 8, above. A check for \$105,450 should be made payable to the Regents of the University of California. The suspended liability shall be deemed satisfied once the Discharger funds the SEP project and the SEP is completed by the SEP Proponent in accordance with the schedule proposed in the SEP proposal (Exhibit C).
10. The Regents of the University of California at Riverside shall utilize the SEP allocation of \$105,450 as per the proposed budget in accordance with the schedule included in Exhibit C.

#### **E. DEFINITIONS**

“Designated Regional Board Representative”: The representative from the Santa Ana Regional Water Quality Control Board responsible for oversight of the supplemental environmental project (SEP). For this matter, the representative is: Dr. Cindy Li.

“SEP Proponent”: An independent third-party with whom the Discharger/Regional Board has contracted with or otherwise engaged to perform or implement the SEP. The Principal Investigator is: Dr. James O. Sickman, Associate Professor of Hydrology, Department of Environmental Sciences, University of California, Riverside.

“Milestone Requirement”: A requirement with an established time schedule for meeting/ascertaining certain identified measurements of completed work. Upon the timely and successful completion of each milestone requirement, an amount of liability will be permanently suspended or excused as set forth in the SEP proposal, Exhibit C.

“SEP Completion Date”: The date in which the SEP will be completed in its entirety.

#### **F. TERMS AND CONDITIONS OF THE AGREEMENT:**

11. Complaints No. 1 and 2 were issued to the Discharger for violating the California Water Code by discharging wastewater (sewage) to waters of the State. The Discharger waived its right to a hearing for both Complaints. The total assessed liability for both these Complaints is \$210,900.
12. The Discharger agrees to settle these Complaints by making an initial payment of \$105,450 to the State Water Resources Control Board-WDPF and by funding a SEP project for the suspended liability of \$105,450.

13. The SEP Proponent agrees to complete the SEP project as per the proposed budget and the schedule included in the SEP proposal, Exhibit C.
14. Upon adoption of this Order by the Executive Officer, incorporating this Agreement, this Order represents a final and binding resolution and settlement of violations alleged in the Complaints against the Discharger and its subsidiaries, successors, assigns, and their officers, directors, employees, representative agents, and attorneys.
15. The Parties covenant and agree that they will not contest the Order before the State Water Resources Control Board, or any court.
16. The Parties agree that the procedure that has been adopted for the approval of the Agreement by the Parties, as reflected in this Order, will be adequate. In the event procedural objections are raised prior to this Order becoming effective, the Parties agree to meet and confer concerning any such objections, and may agree to revise or adjust the procedure as necessary or advisable under the circumstances.
17. **Description of the SEP:** See Exhibit C.
18. **Deliverable Products from SEP:** See Exhibit C.
19. **Budget and Milestones:** See Exhibit C.
20. **Representations and Agreements by the SEP Proponent:** As a material consideration for the Executive Officer's acceptance of this Order, the SEP Proponent represents that it will utilize the funds provided to it by the Discharger to implement the SEP in accordance with the schedule in Exhibit C. The SEP Proponent understands that its promise to implement the SEP as described in Exhibit C, in its entirety and in accordance with the schedule for implementation, is a material condition of this settlement of liability between the Discharger and the Regional Board. The SEP Proponent agrees that the Regional Board has the right to require the SEP Proponent to implement the SEP in accordance with the terms of this Order if it has received funds for that purpose from the Discharger. The SEP Proponent agrees to submit to the jurisdiction of the Regional Board to enforce the terms of this Order for purposes of implementation of the SEP.
21. The SEP Proponent represents to the Parties and to the Regional Board that the SEP Proponent will: 1) spend the SEP payment as described in the Order as per the project description in Exhibit C; and 2) provide a certified, written report to Regional Board staff consistent with the terms of this Order detailing the implementation of the SEP. The SEP Proponent agrees that Regional Board staff has the right to require an audit of the funds provided to it by the Discharger and expended by it to implement the SEP.
22. **Publicity:** Wherever the Discharger or its subcontractors or agents or the SEP proponent or its agents or subcontractors publicizes one or more elements of the SEP project, they shall state in a prominent manner that the project is being undertaken as part of the settlement of an enforcement action by the Regional Board against the Discharger.
23. **Public Notice:** The ACL Complaints, the SEP proposal and this Agreement and Order were publicly noticed at least for 30 days. All public comments received have been considered and responded to.


24. **Regional Board Staff Oversight Costs:** Regional Board staff does not anticipate any staff oversight costs for the proposed SEP.
25. **Submittal of Progress Reports:** The SEP Proponent shall provide quarterly progress reports to the Designated Regional Board Representative on the 15<sup>th</sup> day of the month following the quarter; the first quarterly report is due on: October 15, 2010.
26. **SEP Program Audit:** The SEP Proponent shall allow Regional Board staff to audit the SEP project during normal business hours.
27. **Final Certification:** On or before November 1, 2011, the SEP Proponent shall submit certified statements by responsible corporate officials representing the SEP Proponent documenting the respective expenditures by the SEP Proponent to implement and to complete the SEP. The expenditures may be external payments to outside vendors or contractors implementing the SEP. In making such certification, the official may rely upon normal company project tracking systems that capture employee time expenditures and external payments to outside vendors such as environmental and information technology contractors or consultants. The SEP Proponent shall provide any additional information requested by the Regional Board staff which is reasonably necessary to verify the SEP Proponent's SEP expenditures. The certification need not address any costs incurred by Regional Board staff for oversight. The final report shall include a certification by the Principal Investigator, under penalty of perjury, stating that the SEP has been completed in accordance with Exhibit C and any agreed upon written changes between the authorized representatives of SEP Proponent and Regional Board and the applicable provisions of this Order. Such documentation may include photographs, invoices, receipts, certifications, and other materials reasonably necessary for the Regional Board to evaluate the completion of the SEP and the costs incurred by the SEP Proponent.
28. **Third Party Audit:** If the Designated Regional Board Representative obtains information that causes the representative to reasonably believe that the SEP Proponent has not expended money in the amounts claimed by the SEP Proponent, or has not adequately completed any of the work in the SEP proposal, as described in Exhibit C, the Designated Regional Board Representative, may require, and the SEP Proponent shall submit, at its sole cost, a report prepared by an independent third party(ies) acceptable to the Regional Board providing such party(ies)'s professional opinion that the SEP Proponent has expended money in the amounts claimed by the SEP Proponent. In the event of such an audit, the SEP Proponent agrees that it will provide the third-party auditor with access to all documents which the auditor requests. Such information shall be provided to the Designated Water Board Representative within three (3) months of the completion of the SEP Proponent's SEP obligations. The audit need not address any costs incurred by the Regional Board staff for oversight.
29. **Regional Board's Acceptance of Completed SEP:** Upon the SEP Proponent's satisfaction of its obligations under this Order, the completion of the SEP and any audits, the Designated Water Board Representative, shall

- request that the Executive Officer issue a "Satisfaction of SEP Letter." The issuance of the Satisfaction of SEP Letter shall terminate any further obligations of the SEP Proponent and the Discharger under this Order.
30. **Failure to Expend All Suspended Liability on the Approved SEP Project:** In the event that the SEP Proponent is not able to demonstrate to the reasonable satisfaction of the Regional Board staff that it has spent the entire SEP Amount for the completed SEP, the SEP Proponent shall pay the difference between the SEP funds and the actual amount expended.
  31. **Failure to Complete the SEP:** If the SEP is not fully implemented as per the schedule in Exhibit C or there has been a material failure to satisfy a Milestone Requirement, the Designated Regional Board Representative shall issue a Notice of Violation. As a consequence, the SEP Proponent shall be liable to pay the entire SEP funds or, some portion thereof less the value of the completion of any Milestone Requirements. Unless otherwise ordered, the SEP Proponent shall not be entitled to any credit, offset, or reimbursement from the Regional Board for expenditures made on the SEP prior to the date of the "Notice of Violation" by the Designated Regional Board Representative. The amount of the SEP funds owed shall be determined via a "Motion for Payment of SEP Funds" before the Regional Board. Upon a determination by the Regional Board of the amount of the SEP funds, the amount owed shall be paid to the State Water Resources Control Board-WDPF within thirty (30) days after the service of the Regional Board's determination. In addition, the SEP Proponent shall be liable for the Regional Board's reasonable costs of enforcement, including but not limited to legal costs and expert witness fees. Payment of the suspended liability amount will satisfy the SEP Proponent's obligations to implement the SEP.
  32. **Regional Board is not Liable:** Neither the Regional Board members nor the Regional Board staff, attorneys, or representatives shall be liable for any injury or damage to persons or property resulting from the negligent or intentional acts or omissions by the SEP Proponent or its respective directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Order, nor shall the Regional Board, its members or staff be held as parties to or guarantors of any contract entered into by the SEP Proponent, or its directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Order.
  33. The SEP Proponent and the Discharger covenant not to sue or pursue any administrative or civil claim or claims against the Regional Board, or its officers, employees, representatives, agents, or attorneys arising out of or relating to any matter expressly addressed by the administrative civil liability, this Order or the SEP project.
  34. Nothing in this Order shall be deemed to create any rights in favor of, or to inure to the benefit of, any third party or parties, or to waive or release any defense or limitation against third party claims.
  35. The Executive Officer may extend any of the due dates in this Order upon the joint request of the Parties. Such extensions must be in writing.

36. The effective date of this Order shall be the date on which it is adopted by the Executive Officer.
37. This Order relates only to administrative civil liability for violations that were alleged in the Complaints and the SEP proposal. The Regional Board reserves all rights to take additional enforcement actions, including without limitation the issuance of administrative civil liability complaints or orders for violations that occur after the date on which the Assistant Executive Officer signed the Complaints.
38. In the event of a dispute, SEP Proponent shall file a "Notice of Dispute" with the Executive Officer or the Executive Officer's Designee within ten (10) days of discovery of the problem. The Regional Board and the SEP Proponent shall then attempt to negotiate a resolution of such claim and, if appropriate, process an amendment to implement the terms of any such resolution. If the Regional Board and SEP Proponent are unable to resolve the dispute, the decision of the Executive Officer or the Executive Officer Designee shall be final, unless appealed to a court of competent jurisdiction.
39. Each person executing this Agreement in a representative capacity represents that he or she is authorized to execute this Agreement on behalf of and to bind the entity on whose behalf he or she executes the Agreement.
40. This Agreement shall not be construed against the party preparing it, but shall be construed as if the Parties jointly prepared it and any uncertainty and ambiguity shall not be interpreted against any one party.
41. This Agreement shall not be modified by any of the Parties by oral representation made before or after the execution of this Agreement. All modifications must be made in writing and approved by the Executive Officer.
42. This Agreement may be executed by the parties and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterparts shall together constitute one document.

This space intentionally left blank.


IT IS SO STIPULATED<sup>1</sup>

  
\_\_\_\_\_  
Michael J. Adackapara, Division Chief  
For the Santa Ana Regional Water Quality Control Board

June 30, 2010  
Date

\_\_\_\_\_  
Alan C. Kapanicas, City Manager  
For the City of Beaumont

\_\_\_\_\_  
Date


  
\_\_\_\_\_  
Charles E. Greer, Jr., Assistant Vice-Chancellor for Research  
For the Regents of the University of California

6/30/2010  
Date

HAVING CONSIDERED THE PARTIES' STIPULATIONS, THE SANTA ANA REGIONAL WATER QUALITY CONTROL BOARD, BY AND THROUGH ITS EXECUTIVE OFFICER, FINDS THAT:

1. Issuance of this Stipulated Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et seq.), in accordance with sections 15061(b)(3) and 15321(a)(2), of Title 14 of the California Code of Regulations.
2. In adopting this Stipulated Order, the Executive Officer has considered all the factors prescribed in California Water Code section 13327. The Executive Officer's consideration of these factors is based upon information and comments provided by the Parties and by members of the public.
3. The foregoing Stipulation is incorporated into this Order.

Pursuant to section 13385 of the California Water Code and section 11415.60 of the California Government Code, the Executive Officer hereby adopts this Order.

  
\_\_\_\_\_  
Kurt V. Berchtold  
Executive Officer  
Santa Ana Regional Water Quality Control Board


7/2/10  
Date

<sup>1</sup> The final version of this document may include more than one page with the same page number to accommodate the various executing signatures.

IT IS SO STIPULATED<sup>1</sup>

\_\_\_\_\_  
Michael J. Adackapara, Division Chief  
For the Santa Ana Regional Water Quality Control Board

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Alan C. Kapanicas, City Manager  
For the City of Beaumont

\_\_\_\_\_  
7/1/10  
Date

\_\_\_\_\_  
Charles E. Greer, Jr., Assistant Vice-Chancellor for Research  
For the Regents of the University of California

\_\_\_\_\_  
Date

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Kurt V. Berchtold  
Executive Officer  
Santa Ana Regional Water Quality Control Board

\_\_\_\_\_  
Date

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# California Regional Water Quality Control Board

## Santa Ana Region



Alan C. Lloyd, Ph.D.  
Agency Secretary

3737 Main Street, Suite 500, Riverside, California 92501-3348  
Phone (951) 782-4130 - FAX (951) 781-6288  
<http://www.waterboards.ca.gov/santaana>

Arnold Schwarzenegger  
Governor

August 6, 2006

Charles E. Greer, Jr.  
Assistant Vice-Chancellor for Research  
Office of Research  
University of California, Riverside  
Riverside, CA 92521-0217

### **CITY OF BEAUMONT - SUPPLEMENTAL ENVIRONMENTAL PROJECT TO INVESTIGATE THE PRESENCE OF SEPTIC SYSTEM WASTES IN BEAUMONT GROUNDWATER MANAGEMENT ZONE**

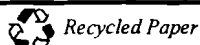
Dear Mr. Greer:

The City of Beaumont has agreed to make a payment of \$105,450 to the Regents of the University of California for a Supplemental Environmental Project (SEP) as part of the settlement for Administrative Civil Liability Complaints No. R8-2009-0068 and R8-2010-0007. The City has requested that the money be used to fund the above-referenced SEP project in accordance with Settlement Agreement No. R8-2010-0022. We are enclosing a certified copy of the Settlement Agreement (please note that the attachments are excluded as they were provided to you earlier) and two checks received from the City for a total of \$105,450.

The principal investigator, Dr. James O. Sickman, submitted a SEP proposal to conduct a study to detect the presence of septic system waste in the Beaumont groundwater management zone (Exhibit C of the Settlement Agreement). The SEP proposal indicated that the project would be completed by December 1, 2011. The first task of the SEP project is to review existing publications and data and to develop a detailed Sampling and Analysis Plan (SAP) and a Quality Assurance Project Plan (QAPP). The SAP and QAPP should be submitted to us by August 31, 2010 for our review and approval.

Upon completion of the project please submit the following to us by December 31, 2011: (1) A database on water quality in and around the City of Beaumont; (2) A copy of field and laboratory data sheets; (3) A final report that summarizes and interprets analytical results, and a groundwater modeling with the input of the new chemical data; (4) Sufficient supporting documentation (invoices, purchase orders, etc.) to confirm that these funds have been spent in accordance with the scope of work and the Settlement Agreement; and (5) A fully executed copy of the enclosed Certificate of Completion.

*California Environmental Protection Agency*



If you have any questions, please contact Dr. Cindy Li at 951-782-4906.

Sincerely,



Kurt V. Berchtold  
Executive Officer

Enclosures: City of Beaumont check # 070640 for \$49,950.00  
and check # 071785 for \$55,500.00  
Certificate of Completion  
Settlement Agreement No. R8-2010-0022

cc: City of Beaumont, Alan C. Kapanicas (w/ a certified copy of the Settlement Agreement)  
Dr. James O. Sickman, University of California, Riverside,  
james.sickman@ucr.edu