

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

TENTATIVE

ORDER NO. R9-2011-0011

**ADMINISTRATIVE CIVIL LIABILITY
FOR
MANDATORY MINIMUM PENALTIES
AGAINST
SEA WORLD, INC.
SEAWORLD, SAN DIEGO
FOR
VIOLATIONS OF
ORDER NO. R9-2005-0091**

The California Regional Water Quality Control Board, San Diego Region (hereinafter San Diego Water Board), having considered in a public meeting on January 12, 2011, all comments received on the issuance of liability against Sea World, Inc. regarding violations alleged in Complaint No. R9-2010-0138, dated October 7, 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 Mandatory Minimum Penalties (MMPs) in the amount of \$6,000 finds as follows:

1. Sea World, Inc. owns and operates SeaWorld, San Diego located at 500 SeaWorld Drive, San Diego, California.
2. Effluent discharged to Mission Bay from SeaWorld, San Diego is subject to Order No. R9-2005-0091, NPDES Permit No. CA0107336 (Order). The Order prescribes effluent limitations for the discharge of wastewater from exhibit pools, intermittent flows during pool drainage and cleaning operations, runoff from landscape irrigation and facility wash down water to Mission Bay.
3. Sea World, Inc. has violated provisions of law for which 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 under Water Code section 13385(a)(2). The violations consisted of eight (8) effluent limitation exceedances of waste discharge requirements for discharge of pollutants from point sources to waters of the United States.

4. Sea World, Inc. has violations provisions of law for which the San Diego Water Board must assess two \$3,000 MMPs pursuant to Water Code sections 13385(h) and (i) as described in Attachment 1, *Reported Violations*.
5. 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 violations 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.”
6. Water Code section 13385(i) requires that an MMP of \$3,000 be imposed for each effluent limitation violation beginning with the fourth violation in any six-month period.
7. On October 28, 2010, Sea World, Inc. waived its right to a public hearing before the San Diego Water Board and paid the recommended \$6,000 MMP to the State Water Resources Control Board’s Cleanup and Abatement Account.
8. 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)92), 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 cause a significant effect on the environment.
9. The San Diego Water Board incurred costs totaling \$2,700 which includes investigation, preparation of enforcement documents and communication with Sea World, Inc. regarding the enforcement action.

IT IS HEREBY ORDERED, that pursuant to Water Code sections 13385(h) and (i) that civil liability is imposed on Sea World, Inc. in the amount of \$6,000, and that Sea World, Inc.’s waiver of its right to a public hearing and offer of \$6,000 in satisfaction of Complaint No. R9-2010-0138 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 January 12, 2011.

TENTATIVE

DAVID W. GIBSON
Executive Officer

CIWQS Entries
Place ID 256121
Party ID 523232
Regulatory Measure ID 376133
Violation ID 872933
872934
872935
872936
872680
872676
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