



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Colorado River Basin Regional Water Quality Control Board

CERTIFIED MAIL: 7013 1710 0000 1438 5360

February 23, 2015

Peter M. Ormond
Date Gardens MHP
496 Mountain Avenue
Piedmont, CA 94611

Dear Mr. Peter Ormond:

SUBJECT: ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R7-2015-0001; DATE GARDENS MOBILE HOME PARK WWTP, EL CENTRO

Enclosed please find Administrative Civil Liability Complaint R7-2015-0001 (Complaint) issued by the Assistant Executive Officer of the Colorado River Basin Regional Water Quality Control Board (Colorado River Basin Water Board), pursuant to California Water Code section 13323, alleging violations by the Peter M. Ormond (Discharger) of effluent limitations for bacteria and total suspended solids set forth in Waste Discharge Requirements (WDRs) Order R7-2003-0054 and R7-2008-0010 (National Pollutant Discharge Elimination System Permit CA0104841). The Complaint proposes that administrative civil liability be assessed against the Discharger in the amount of \$42,000.00 for those violations identified in Exhibit "A" of the Complaint, which are subject to mandatory minimum penalties.

The Colorado River Basin Water Board is tentatively scheduled to hold a Hearing to consider this matter on May 13, 2015. The hearing will be held in the City of Palm Desert, California at the Board Room of the Colorado River Basin Water Board, located at 73-720 Fred Waring Drive, Suite 100. At this Hearing, the Colorado River Basin Water Board will consider whether to impose administrative civil liability as proposed in the Complaint or for a different amount up to the maximum penalty provided for by law, decline the administrative civil liability, or refer the matter to the Attorney General for judicial enforcement.

The Discharger may contest the proposed administrative civil liability at the Hearing or, in the alternative, may waive its right to the Hearing by signing the Waiver attached to the Complaint and pursuing one of the following options:

- a. Pay the proposed liability in full by submitting a check for **\$42,000.00** with the Waiver;
- b. Request that the Colorado River Basin Water Board postpone the date of the public hearing;
- c. Propose a supplemental environmental project (SEP), where partial payment of the penalty may be deferred towards completion of an environmental project (Please reference the State Water Board's SEP Policy at the following link for more information on such projects:

ELLEN WAY, CHAIR | ROBERT PERDUE, EXECUTIVE OFFICER

73-720 Fred Waring Drive, Suite 100, Palm Desert, CA 92260 | www.waterboards.ca.gov/coloradoriver

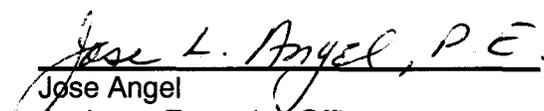
http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/rs2009_0013_sep_finalpolicy.pdf.

The Waiver describes the process in further detail. If the Colorado River Basin Water Board staff does not receive the Discharger's Waiver within 30 days from the date of this letter, this matter will proceed to a Hearing before the Colorado River Basin Water Board on May 13, 2015. Because a 30-day public comment period is required under federal law for any proposed settlement of administrative civil liability, any payment or settlement proposal submitted will not be effective until this public comment period has ended.

Please refer to the enclosed Notice of Public Hearing for additional information about the Colorado River Basin Water Board's process, Hearing procedures, and important deadlines (for submitting comments or evidence, obtaining designated party status, waiving or postponing a Hearing, making objections or rebuttals to evidence, etc.).

If you have any questions please contact Maribel Rodriguez at (760) 776-8941 or maribel.rodriguez@waterboards.ca.gov regarding this matter.

Sincerely,


Jose Angel
Assistant Executive Officer
Colorado River Basin
Regional Water Quality Control Board

MR/tab

Enclosures: Administrative Civil Liability Complaint R7-2015-0001 w/ attachments: Exhibit A, Waiver of Hearing Form, Public Notice 7-15-01 and Hearing Procedures

cc w/encl via email:

Colorado River Basin Water Board Members
Robert Perdue, Executive Officer, Colorado River Basin Water Board
Tom Vandenberg, Office of Chief Counsel, SWRCB, Sacramento
Paul Ciccarelli, Office of Enforcement, SWRCB, Sacramento
Mark Bartson, Division of Drinking Water, SWRCB, Sacramento

cc w/o encl: California Department of Water Resources, Glendale
California Department of Fish and Wildlife, Ontario
Imperial County Department of Environmental Health, El Centro

File: WDID No. 7A131057011, Date Gardens MHP WWTP, Board Order R7-2008-0010

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
COLORADO RIVER BASIN REGION**

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R7-2015-0001
IN THE MATTER OF
PETER M. ORMOND
DATE GARDENS MOBILE HOME PARK, WWTP
EL CENTRO – IMPERIAL COUNTY

PETER M. ORMOND, IS HEREBY GIVEN NOTICE THAT:

1. Peter M. Ormond (Discharger) is alleged to have violated effluent limitations of Waste Discharge Requirements (WDRs) Orders R7-2003-0054 (NPDES No. CA0104841) and R7-2008-0010 (NPDES No. CA0104841) for which the Regional Water Quality Control Board, Colorado River Basin (Colorado River Basin Water Board) may impose civil liability pursuant to California Water Code section 13385.
2. Water Code section 13323 authorizes the Executive Officer of the Colorado River Basin Water Board to issue this Administrative Civil Liability Complaint (Complaint); and Water Code section 7 authorizes the Executive Officer to delegate these powers and duties to the Assistant Executive Officer. The Executive Officer of this Colorado River Basin Water Board has delegated the issuance of complaints to the Assistant Executive Officer.
3. The Discharger owns and operates the Date Gardens Mobile Home Park (MHP) Wastewater Treatment Plant (hereinafter "Facility") located at 1020 West Even Hewes Highway, El Centro in Imperial County. The treatment system consists of two activated sludge treatment plants operated in parallel. One of the package plants has a design capacity of 0.005 MGD ("Unit 1") and the other plant has a design capacity of 0.015 MGD ("Unit 2"). Wastewater exits the activated sludge treatment basin(s) through a pipe into a circular clarifier. Clarifier effluent, e.g. overflow, is then directed through two dual media filters, and then through an ultraviolet (UV) disinfection system prior to being directed through a final effluent channel and weir box. Wastewater is discharged from Discharge Point 001 to Rice Drain No. 3, an Imperial Valley Drain, a water of the United States. Rice Drain No. 3 flows for a distance of approximately 7 miles before entering the New River at a point approximately 30 miles to the Salton Sea.
4. The Colorado River Basin Water Board adopted WDRs Order R7-2003-0054 on May 7, 2003. The purpose of this order is to regulate discharges of wastewater from the Facility. This order includes effluent limitations, receiving water limitations, specifications, and provisions necessary to protect the beneficial uses of surface and ground waters within the Colorado River Basin Region.
5. WDR Order R7-2003-0054 contains the following effluent limitations for Total Suspended Solids (page 4, section A.1.) with which the Discharge is required to maintain compliance at Rice Drain No. 3:

Parameter	Effluent Limitations		
	Units	Average Monthly	Average Weekly
Total Suspended Solids	mg/L	30	45
	lbs/day	5.3	7.9

6. The Colorado River Basin Water Board rescinded WDRs Order R7-2003-0054 and adopted WDRs Order R7-2008-0010 on June 25, 2008. The purpose of this order is to regulate discharges of wastewater from the Facility. This order includes effluent limitations, prohibitions, specifications, and provisions necessary to protect the beneficial uses of surface and ground waters within the Colorado River Basin Region.
7. WDRs Order R7-2008-0010 contains the following final effluent limitations for Total Suspended Solids (page 13, section IV.A.1.a.) with which the Discharger is required to maintain compliance at Discharge Point 001:

Parameter	Effluent Limitations		
	Units	Average Monthly	Average Weekly
Total Suspended Solids	mg/L	30	45
	lbs/day	5.0	7.5

Percent Removal. The average monthly percent removal of total suspended solids shall not be less than 85 percent.

8. WDRs Order R7-2008-0010 contains the following final effluent limitations for bacteria (page 13 and 14, section IV.A.1.d.) with which the Discharger is required to maintain compliance at Discharge Point 001:

E. Coli. The geometric mean bacterial density (based on a minimum of not less than five samples equally spaced over a 30-day period) shall not exceed a Most Probable Number (MPN) of 126 MPN, nor shall any sample exceed the maximum allowable bacterial density of 400.

Fecal Coliform. The geometric mean bacterial density (based on a minimum of not less than five samples equally spaced over a 30-day period) shall not exceed a MPN of 200, nor shall more than ten percent of the total samples during any 30-day period exceed 400 MPN per 100 milliliters.

ALLEGATIONS:

9. Self-monitoring reports submitted by the Discharger show that the wastewater discharged from the Facility exceeded the effluent limitations for bacteria and total suspended solids set forth in WDRs Orders R7-2003-0054 and R7-2008-0010 on fifteen (15) occasions, as identified in Exhibit "A". The Discharger also submitted a late May 2011 self-monitoring report, which is also identified in Exhibit "A". The May 2011 self-monitoring report was 67 days, (2) complete periods of 30 days following the deadline for submitting the report. Exhibit "A" is attached hereto and is incorporated herein by this reference. This Complaint only addresses administrative civil liability for the fourteen (14) violations specifically identified in Exhibit "A" as subject to Mandatory Minimum Penalties (MMPs) under Water Code section 13385.

LEGAL PROVISIONS UPON WHICH LIABILITY IS BASED

10. Water Code section 13376 prohibits the discharge of pollutants in violation of effluent limitations set forth in waste discharge requirements.

11. Water Code section 13385, subdivision (h)(1) requires the Colorado River Basin Water Board to assess a MMP of three thousand dollars (\$3,000) for each serious violation.
12. Water Code section 13385, subdivision (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."
13. The removal efficiency requirement for total suspended solids is expressed as a minimum effluent limitation, in terms of percent solids removal (i.e., 85 percent removal). To facilitate the determination of whether violations of this limitation are "serious" pursuant to California Water Code section 13385, subdivision (h)(2), the limitation is converted to its equivalent maximum limit, in terms of percent solids remaining (i.e., 15 percent remaining), as shown and noted in Exhibit "A".
14. For the purposes of Water Code section 13385, subdivision (h), Water Code section 13385.1, subdivision (a) further defines a "serious violation" to include "a failure to file a discharge monitoring report required pursuant to Section 13383 for each complete period of 30 days following the deadline for submitting the report, if the report is designed to ensure compliance with limitations contained in waste discharge requirements that contain effluent limitations."
15. Water Code section 13385, subdivision (i)(1) also requires the Colorado River Basin Water Board to assess a MMP of three thousand dollars (\$3,000) for each violation, not counting the first three violations, if the Discharger does any of the following four or more times in a period of six consecutive months (hereinafter "chronic violation"):
 - a. Violates a waste discharge requirement effluent limitation;
 - b. Fails to file a report pursuant to section 13260;
 - c. Files an incomplete report pursuant to section 13260; or
 - d. Violates a toxicity effluent limitation contained in the applicable waste discharge requirements where the waste discharge requirements do not contain pollutant specific effluent limitations for toxic pollutants.
16. Water Code section 13385, subdivision (i)(2) defines a "period of six consecutive months" to mean "the period commencing on the date that one of the violations described in this subdivision occurs and ending 180 days after that date."

PROPOSED CIVIL LIABILITY ASSESSMENT

17. The Assistant Executive Officer of the Colorado River Basin Water Board proposes that the Discharger be assessed a MMP of **forty-two thousand dollars (\$42,000)** for exceeding the effluent limitations for bacteria, total suspended solids and late self-monitoring report specifically identified in Exhibit "A" as subject to MMPs.
18. Pursuant to Water Code section 13323, subdivision (b), the Colorado River Basin Water Board will hold a Public Hearing on this matter within 90 days after service of this Complaint, unless the Discharger chooses either of the following two options:

- a. Waive the right to a Hearing before the Colorado River Basin Water Board and pay the proposed MMPs of **\$42,000** in full; or
 - b. Waive the right to a Hearing before the Colorado River Basin Water Board within 90 days after service of this Complaint to engage the Colorado River Basin Water Board Prosecution Team in settlement discussions.
19. If the Discharger chooses to waive the right to a hearing and pay the proposed penalty, an authorized representative shall within 30-days of this Complaint, sign the enclosed Waiver and make out a check for the full amount of the proposed liability, payable to the "State Water Pollution Cleanup and Abatement Account." The check shall be remitted to the following address:

State Water Resources Control Board
Accounting Office, Attn: ACL Payment
PO Box 1888
Sacramento, California, 95812-1888

The signed Waiver and a copy of the check shall be sent to the following address:

California Regional Water Quality Control Board
Colorado River Basin Region
73-720 Fred Waring Drive, Suite 100
Palm Desert, CA 92260

20. If a Hearing on this matter is held, the Colorado River Basin Water Board will consider whether to affirm, reject, or modify the proposed Administrative Civil Liability (up to the maximum penalty provided for by law), or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
21. Regulations of the United States Environmental Protection Agency require public notification of any proposed settlement of the civil liability occasioned by violation of the Clean Water Act. Accordingly, interested persons will be given thirty (30) days to comment on any proposed settlement of this Complaint.
22. Issuance of this Complaint is an enforcement action and is, therefore, exempt from the California Environmental Quality Act (Pub. Resources Code section 21000 et seq.), pursuant to California Code of Regulations, title 14, section 15321, subdivision (a)(2). This is an action to enforce the laws and regulations administered by the Colorado River Basin Water Board. The method of compliance with this enforcement action consists entirely of payment of an administrative penalty. As such, the Colorado River Basin Water Board finds that issuance of this Complaint is not considered subject to the provisions of the California Environmental Quality Act (CEQA) as it will not result in a direct or reasonably foreseeable indirect physical change in the environment and is not considered a "project" (Public Resources Code 21065, 21080(a); 15060(c)(2),(3); 15378(a), Title 14, of the California Code of Regulations). In addition, the Colorado River Basin Water Board finds that issuance of this Order is also exempt from the provisions of CEQA in accordance with section 15321(a)(2), Title 14, of the California Code of Regulations as an enforcement action by a regulatory agency and that there are no exceptions that would preclude the use of this exemption. Should the Discharger propose a supplemental environmental project, compliance with the California Environmental Quality Act will be revisited for the appropriate lead agency to address

Peter M. Ormond
Administrative Civil Liability Complaint R7-2015-0001

CEQA requirements prior to implementing a supplemental environmental project that may have a significant impact on the environment.

Jose L. Angel, P.E.

JOSE L. ANGEL
Assistant Executive Officer

2/23/2015

Date

MANDATORY PENALTY ADMINISTRATIVE CIVIL LIABILITY
R7-2015-0001
PETER M. ORMOND
DATE GARDENS MOBILE HOME PARK
WDID 7A131057011 NPDES NO. CA0104841

EXHIBIT "A"

Effluent Limitation Violations Requiring Mandatory Minimum Penalties

#	Violation Number	Violation Date*	Constituent	Pollutant Group	Exempted from MMP?	Limitation Period	Limit^	Result/Average^	Units	% Over Limit^	Date 180 Days Prior	Serious** Violation?	Effluent Violations in Past 180 Days	Mandatory Fine?
1	242620	11/30/03	TSS	CAT1	No	Ave Monthly	30	95	mg/L	N/A	06/03/03	Yes	1	\$3,000
2	819719	03/31/09	TSS	CAT1	No	Ave Monthly	15	25	%	67%	10/02/08	Yes	1	\$3,000
3	978507	05/31/09	TSS	CAT1	No	Ave Monthly	15	31.3	%	109%	12/02/08	Yes	1	\$3,000
4	959718	07/31/09	TSS	CAT1	No	Ave Monthly	15	29	%	93%	02/01/09	Yes	2	\$3,000
5	959717	07/31/09	TSS	CAT1	No	Ave Monthly	30	61.5	mg/L	N/A	02/01/09	Yes	3	\$3,000
6	978483	08/01/09	TSS	CAT1	No	Ave Weekly	45	61.5	mg/L	N/A	02/02/09	No	4	\$3,000
7	978482	08/15/09	TSS	CAT1	No	Ave Weekly	45	52.7	mg/L	N/A	02/16/09	No	5	\$3,000
8	959719	08/31/09	TSS	CAT1	No	Ave Monthly	30	52.7	mg/L	N/A	03/04/09	Yes	6	\$3,000
9	978484	12/18/10	TSS	CAT1	No	Ave Weekly	45	75	mg/L	N/A	6/21/10	Yes	7	\$3,000
10	959720	12/31/10	TSS	CAT1	No	Ave Monthly	30	75	mg/L	N/A	7/4/10	Yes	8	\$3,000
11	978512	12/31/11	TSS	CAT1	No	Ave Monthly	15	17	%	13%	7/4/11	No	1	\$0
12	978518	01/30/12	E.Coli	OEV	No	Instantaneous	400	1299.65	MPN/100 MI	N/A	08/03/11	No	2	\$0
13	959726	1/31/12	Fecal Coliform	OEV	No	%	10	20	%	N/A	8/4/11	No	3	\$0
14	924547	3/09/12	E. Coli	OEV	No	Instantaneous	400	547.5	MPN/100 MI	N/A	9/22/11	No	4	\$3,000
15	924548	03/31/12	Fecal Coliform	OEV	No	%	10	17	%	N/A	10/03/11	No	5	\$3,000

Effluent Limitation Violations Penalty: **\$36,000**

Late Report Violations Requiring Mandatory Minimum Penalties

#	Violation Number	Violation Type	Due Date	Received Date	Days Late	# of Complete 30-Day Periods	Serious** Violation?	Water Code Section 13385	Amount Per 30-Day Period	Mandatory Fine?
16	959740	Late Report	7/02/11	09/06/11	67	2	Yes	(h)(1)	\$3,000	\$6,000

Late Report Violations Penalty: \$6,000

* Violation occurs on sample date or last date of averaging period.

** For Group I pollutants, a violation is serious when the limitation for the parameter of concern is exceeded by more than 40%.

For Group II pollutants, a violation is serious when the limitation for the parameter of concern is exceeded by more than 20%.

^ Biochemical oxygen demand removal violation calculation based on percent remaining.

Mandatory Minimum Penalty = (10 Serious Violations x \$3,000) + (4 Non-Serious Violations x \$3,000) = \$42,000

73-720 Fred Waring Drive, Suite 100
Palm Desert, CA 92260
(760) 346-7491

Public Notice 7-15-01
NPDES Permit CA0104841
February 23, 2015

NOTICE OF PUBLIC HEARING AND HEARING PROCEDURE
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT

R7-2015-0001

ISSUED TO PETER M. ORMOND
DATE GARDENS MOBILE HOME PARK, WWTP
EL CENTRO – IMPERIAL COUNTY

**NOTICE IS HEREBY GIVEN THAT A HEARING WILL BE HELD
BEFORE THE COLORADO RIVER BASIN WATER BOARD ON MAY 13, 2015**

Background

The Assistant Executive Office of the Colorado River Basin Regional Water Quality Control Board (Colorado River Basin Water Board) has issued an Administrative Civil Liability (ACL) Complaint pursuant to California Water Code (Water Code) section 13323 to Peter M. Ormond (hereinafter referred to as Discharger), owner and operator of the Date Gardens Mobile Home Park, Waste Water Treatment Plant (WWTP), alleging that the Discharger exceeded the effluent limitations for bacteria, Total Suspended Solids and late self-monitoring report set forth in Waste Discharge Requirements (WDRs) Order R7-2008-0010 (NPDES No. CA0104841). The Complaint proposes that administrative civil liability in the amount of **\$42,000** be imposed as authorized by Water Code section 13385, subdivisions (h) and (i). Unless the Discharger waives its right to a Hearing and pays the proposed liability, the Hearing will be held before the Colorado River Basin Water Board during its meeting of May 13, 2015. The deadline of March 25, 2015 for waiving the Hearing and all other procedural deadlines are listed in the Table of Important Deadlines (Table) at the end of this Notice. Also, please note that all requests, objections, and any other material submissions for which a deadline has been specified **must be received no later than 5:00 p.m. on the date specified. Unless the recipient(s) indicate otherwise, all written requests and submissions may be provided electronically.**

Purpose of Hearing

The purpose of the Hearing is to receive relevant evidence and testimony regarding the proposed ACL Complaint. At the Hearing, the Colorado River Basin Water Board will consider whether to adopt, modify, or reject the proposed assessment up to the maximum penalty provided by law. If it adopts the proposed assessment, the Colorado River Basin Water Board will issue an administrative civil liability order. The Public Hearing on May 13, 2015 will commence at 9:00 a.m. or as soon thereafter as practical, or as announced in the Colorado River Basin Water Board's meeting agenda. The meeting will be held in the City of Palm Desert, California at the Board Room of the Colorado River Basin Water Board, located at 73-720 Fred Waring Drive, Suite 100. An agenda for the meeting will be issued at least ten days before the meeting and will be posted at <http://www.waterboards.ca.gov/coloradoriver> on the Colorado River Basin Water Board's web page. The agenda will include the final hearing date and location, and estimated start time for the hearing.

Hearing Procedures

The Hearing will be conducted in accordance with this Hearing procedure. This Hearing procedure has been pre-approved by the Colorado River Basin Water Board's Advisory Team in

model format, but the Advisory Team may modify the procedure on its own or at the request of any designated party. A copy of the procedures governing an adjudicatory hearing before the Colorado River Basin Water Board may be found at Title 23 of the California Code of Regulations (CCRs), section 648 et seq., and is available upon request or can be found at http://www.waterboards.ca.gov/coloradoriver/board_info/agenda/docs/bm_procedures.pdf. In accordance with Title 23, CCRs, section 648(d), any procedure not provided by this hearing procedure is deemed waived. Except as provided in Title 23, CCRs, section 648(b), Chapter 5 of the Administrative Procedure Act (commencing with section 11500 of the Government Code) does not apply to adjudicatory hearings before the Colorado River Basin Water Board. This Notice provides additional requirements and deadlines related to this proceeding.

THE PROCEDURES AND DEADLINES DESCRIBED IN THIS NOTICE MAY BE AMENDED BY THE ADVISORY TEAM AS NECESSARY. **ANY OBJECTIONS TO THIS HEARING PROCEDURE MUST BE RECEIVED BY THE COLORADO RIVER BASIN WATER BOARD'S ADVISORY TEAM BY 5:00 P.M. ON THE DATE SPECIFIED IN THE TABLE, OR THEY WILL BE WAIVED.** FAILURE TO COMPLY WITH THE DEADLINES AND REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF DOCUMENTS AND/OR TESTIMONY.

Hearing Participation

Participants in this proceeding are designated either as "parties" or as "interested persons." Designated parties to the Hearing may present evidence and cross-examine witnesses and are subject to cross-examination. Interested persons may present non-evidentiary policy statements, but may not cross-examine witnesses and are not subject to cross-examination. Both designated parties and interested persons may be asked to respond to clarifying questions from the Colorado River Basin Water Board, staff, or others at the discretion of the Colorado River Basin Water Board.

The following participants are hereby designated as parties in this proceeding:

- (1) Colorado River Basin Water Board Prosecution Team
- (2) Peter M. Ormond

Requesting Designated Party Status

Persons who wish to participate in the Hearing as a designated party shall request party status by submitting a request in writing to Advisory Team counsel, Tom Vandenberg, with copies to the designated parties, **no later than 5:00 p.m. on the date specified in the Table**. The request shall include an explanation of the basis for status as a designated party (e.g., how the issues to be addressed in the hearing and the potential actions by the Colorado River Basin Water Board could affect the person), the information required of designated parties as provided below, and a statement explaining why the party or parties designated above do not adequately represent the person's interest. Any opposition to the request must be submitted to Mr. Vandenberg **no later than 5:00 p.m. on the date specified in the Table**. The parties will be notified in writing by Mr. Vandenberg by **5:00 p.m. on the date specified in the Table** whether the request has been granted or denied.

Contacts

Advisory Team:

Robert Perdue, Executive Officer
Colorado River Basin Regional Water Quality Control Board
73-720 Fred Waring Drive, Suite 100
Palm Desert, CA 92260
Robert.Perdue@waterboards.ca.gov

Tom Vandenberg, Staff Counsel
Office of Chief Counsel
1001 I Street, 22nd Floor
Sacramento, CA 95814
Tom.Vandenberg@waterboards.ca.gov

Prosecution Team:

Jose Angel, Assistant Executive Officer
Colorado River Basin Regional Water Quality Control Board
73-720 Fred Waring Drive, Suite 100
Palm Desert, CA 92260
Jose.Angel@waterboards.ca.gov

Paul Ciccarelli, Staff Counsel
Office of Enforcement
1001 I Street, 16th Floor
Sacramento, CA 95816
Paul.Ciccarelli@Waterboards.ca.gov

Discharger:

Peter M. Ormond
250 E. Las Palmas Avenue, Ste. 67
Patterson, CA 95363

Preliminary Witness List

The Prosecution Team does not expect to testify at this Public Hearing, and also does not expect any other witnesses to testify. Therefore, there is no preliminary witness list. The Prosecution Staff will update the preliminary witness list, if necessary, by **5:00 p.m. on the date specified in the Table.**

Separation of Functions

To help ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the Colorado River Basin Water Board (Prosecution Team) have been separated from those who will provide advice to the Colorado River Basin Water Board (Advisory Team). Members of the Advisory Team are: Robert Perdue, Executive Officer and Tom Vandenberg, Staff Counsel. Members of the Prosecution Staff are: Jose Angel, Assistant Executive Officer and Paul Ciccarelli, Staff Counsel. Although

members of the Prosecution Team may have acted as advisors to the Colorado River Basin Water Board in other, unrelated matters, they are not advising the Colorado River Basin Water Board in this proceeding. Accordingly, the members of the Prosecution Team have not engaged in any *ex parte* communications, as defined below, with members of the Colorado River Basin Water Board or the Advisory Team regarding this proceeding.

Ex Parte Communications

The designated parties and interested persons are forbidden from engaging in *ex parte* communications regarding this matter with members of the Advisory Team or members of the Colorado River Basin Water Board. An "*ex parte* communication" is any written or verbal communication pertaining to the investigation, preparation, or prosecution of the ACL Complaint between a member of a designated party or interested party on the one hand, and a Colorado River Basin Water Board member or an Advisory Team member on the other hand, unless the communication is copied to all other designated and interested parties or made at a proceeding open to all other parties and interested persons (if verbal). Communications regarding non-controversial procedural matters are not *ex parte* communications and thus, are not restricted. Communications among the designated and interested parties themselves are also not *ex parte* communications.

Hearing Time Limits

To ensure that all participants have an opportunity to participate in the Hearing, the following time limits shall apply: Each designated party shall have 15 minutes to testify, present evidence, and cross-examine witnesses, and each interested person shall have 3 minutes to present a non-evidentiary policy statement. Participants with similar interests or comments are requested to make joint presentations, and participants are requested to avoid making redundant comments. Additional time may be provided at the discretion of the Advisory Team (prior to the Hearing) or the Colorado River Basin Water Board Chair (at the Hearing) upon a showing that additional time is necessary.

Submission of Evidence and Policy Statements

Prosecution Team: Send to Tom Vandenberg, the Discharger, and any other designated parties by **5:00 p.m. on the date specified in the Table.**

Discharger: Send to Tom Vandenberg, the Prosecution Team, and any other designated parties by **5:00 p.m. on the date specified in the Table.**

1. All evidence, testimony (except rebuttal testimony) and exhibits proposed to be offered at the Hearing. Evidence and exhibits already in the public files of the Colorado River Basin Water Board may be submitted by reference so long as the exhibits and their location are clearly identified in accordance with Title 23, CCR, section 648.3.
2. All legal and technical arguments or analysis.
3. The name of each witness, if any, whom the designated party intends to call at the hearing, the subject of each witness' proposed testimony, and the estimated time required by each witness to present direct testimony.
4. The qualifications of each expert witness, if any.

In lieu of electronically transmitting copies of the above information, the Prosecution Team may create an "ftp" website or similar electronic data website containing this information so long as it is accessible to the Advisory Team, the Discharger, and any other designated party. If such a website is used, the Prosecution Team shall confirm as soon as possible with the Advisory Team, the Discharger, and any other designated party that the website is accessible. If the website is not accessible to any party, the Prosecution Team shall provide the information contained on the website to that party in electronic form, unless otherwise directed by that party.

Any designated party, who would like to submit information that rebuts the information previously submitted by other designated parties, may provide that rebuttal information to Tom Vandenberg, the Discharger, and all other designated parties **no later than 5:00 p.m. on the date specified in the Table** in electronic form, unless otherwise directed by the recipient(s). Rebuttal information shall be limited to the scope of the information previously submitted by the other designated parties. Rebuttal information that is not responsive to information previously submitted by other designated parties may be excluded.

Interested persons may submit one (1) paper copy of non-evidentiary policy statements by the close of the hearing.

In accordance with Title 23, CCR, section 684.4, the Colorado River Basin Water Board endeavors to avoid surprise testimony or evidence. Accordingly, oral testimony offered at the Hearing that is beyond the scope of the previously submitted written testimony may be excluded. Power Point and other computer assisted visual presentations must be submitted to the Advisory Team by **5:00 p.m. on the date specified in the Table**. Electronic submissions are acceptable, unless otherwise directed by any intended recipient(s). Additionally, any witness providing written testimony shall appear at the hearing and affirm that the written testimony is true and correct.

Request for Pre-hearing Conference

A designated party may request that a pre-hearing conference be held before the Hearing in accordance with Water Code section 13228.15. A pre-hearing conference may address any of the matters described in Government Code section 11511.5(b), including, but not limited to, the following matters:

- (1) Exploration of settlement possibilities;
- (2) Preparation of stipulations;
- (3) Clarification of issues;
- (4) Rulings on identity and limitation of the number of witnesses;
- (5) Objections to proffers of evidence;
- (6) Order of presentation of evidence and cross-examination;
- (7) Rulings regarding issuance of subpoenas and protective orders;
- (8) Schedules for the submission of written briefs and schedules for the commencement and conduct of the hearing; and,
- (9) Exchange of witness lists and of exhibits or documents to be offered in evidence at the hearing.

Requests must contain a description of the issues proposed to be discussed during that conference, and must be submitted as early as practicable to the Advisory Team with a copy to all other designated parties. The requests may be electronically submitted, unless otherwise directed by any recipient(s). No party who participates in a pre-hearing conference is precluded from

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appearing before the Colorado River Basin Water Board at any subsequent Hearing relating to the matter.

Evidentiary Objections

Any designated party objecting to evidence, testimony, or exhibits submitted by another designated party must submit a written objection (electronic submission is acceptable, unless otherwise directed by any recipient) to the Advisory Team with a copy to all other designated parties by **5:00 p.m. on the date specified in the Table**. The Advisory Team will notify the parties in writing as soon as possible about further action to be taken on such objections and when that action will be taken. At the discretion of the Advisory Team, a pre-hearing telephonic conference may be scheduled to discuss any further actions to be taken on the objections.

Evidentiary Documents and File

The ACL Complaint, related evidentiary documents, and comments received are on file and may be inspected or copied at the office of the Colorado River Basin Regional Water Quality Control Board, 73-720 Fred Waring Drive, Suite 100, Palm Desert, CA. This file shall be considered part of the official administrative record for this hearing. Other submittals received for this proceeding will be added to this file and will become a part of the administrative record, absent a contrary ruling by the Colorado River Basin Water Board Chair. In addition, many of these documents may also be posted on-line at www.waterboards.ca.gov/coloradoriver. Although the web page is updated regularly, please contact Maribel Rodriguez at Maribel.rodriguez@waterboards.ca.gov (760) 776-8941 to assure access to the latest information.

Questions

Questions concerning this proceeding may be addressed to Tom Vandenberg by e-mail at Tom.Vandenberg@waterboards.ca.gov or by phone at (916) 341-5195.

TABLE OF IMPORTANT DEADLINES

February 23, 2015	Prosecution Team issues ACL Complaint to Discharger and Advisory Team, electronically posts the Notice of Public Hearing and Hearing Procedure, and sends the Discharger a copy of the Notice.
March 2, 2015	Deadline for objections, if any, to proposed hearing procedure.
March 9, 2015	Deadline for requests for designated party status.
March 16, 2015	Deadline for oppositions to requests for designated party status.
March 19, 2015	Advisory Team issues decision on any requests for designated party status.
March 25, 2015	Discharger's deadline for waiving right to hearing.
March 25, 2015	Discharger's deadline for submitting proposed Supplemental Environmental Project, if applicable, for consideration at the Board hearing
April 1, 2015	Prosecution Team's deadline for submitting all information required under "Submission of Evidence and Policy Statements" and Preliminary Witness List.
April 8, 2015	Remaining Designated Parties' deadline for submitting all information required under "Submission of Evidence and Policy Statements".
April 15, 2015	Designated Parties' deadline for submitting any evidentiary objections.
April 20, 2015	Designated Parties' deadline for submitting any rebuttal information, Power Point, and other computer assisted visual presentations for use at the hearing.
May 13, 2015	Hearing Date.

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
COLORADO RIVER BASIN REGION
WAIVER OF 90-DAY HEARING REQUIREMENT FOR
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

By signing this Waiver, I affirm and acknowledge the following:

- a) I am duly authorized to represent **Peter M. Ormond** (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint R7-2015-0001 (hereinafter the "Complaint");
 - b) I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served" with the Complaint;
 - c) I hereby waive any right the Discharger may have to a hearing before the California Regional Water Quality Control Board, Colorado River Basin Region (Regional Board) within ninety (90) days of service of the Complaint; and
1. **Option 1 (Check here if the Discharger will waive the hearing requirement and will pay the fine)**
- a. I certify that the Discharger will remit payment for the civil liability imposed in the amount of **\$42,000.00** by March 25, 2015, by check that references "ACLC R7-2015-0001" and is made payable to the "State Water Pollution Cleanup and Abatement Account." Payment must be received by March 25, 2015 or the Regional Board may adopt an Administrative Civil Liability Order requiring payment.
 - b. I understand the payment of the above amount constitutes a settlement of the Complaint, and that any settlement will not become final until after the 30-day public notice and comment period mandated by Federal regulations (40 CFR 123.27) expires. Should the Regional Board receive new information or comments from any source (excluding the Regional Board's Prosecution Team) during this comment period, the Regional Board's Assistant Executive Officer may withdraw the Complaint, return payment, and issue a new complaint.
 - c. I understand that this proposed settlement is subject to approval by the Regional Board and that the Regional Board may consider this proposed settlement in a public meeting or hearing. I also understand that approval of the settlement will result in the Discharger having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
 - d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.
2. **Option 2 (Check here if the Discharger waives the 90-day hearing requirement in order to engage in settlement discussions.)** I hereby waive any right the Discharger may have to a hearing before the Regional Board within 90 days after service of the Complaint, but I reserve the ability to request a hearing in the future. I certify that the Discharger will promptly engage the Regional Board Prosecution Team in settlement discussions to propose a supplemental environmental project. By checking this box, the Discharger requests that the Regional Board delay the hearing so that the Discharger and the Prosecution Team can discuss settlement. It remains within the discretion of the Regional Board to agree to delay the hearing. Any proposed settlement is subject to the conditions described above.
3. **Option 3 (Check here if the Discharger waives the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines. Attach a separate sheet with the amount of additional time requested and the rationale.)** By checking this box, the Discharger requests that the Regional Water Board delay the hearing and/or hearing deadlines so that the Discharger may have additional time to prepare for the hearing. It remains within the discretion of the Regional Board to approve the extension.

Date

(Signature)

(Print Name and Title)