

August 8, 2019

MEMORANDUM

TO: File

SUBJECT: Settlement Agreement between Aseptic Technology, LLC (Aseptic) and the Orange County Sanitation District (OCSD)

On June 18, 2019, OCSD informed Aseptic Technology, LLC (Aseptic) that OCSD intended to initiate administrative proceedings against Aseptic based on OCSD's determinations that for at least 37 days from April 1, 2019 through June 17, 2019, Aseptic had discharged industrial wastewater without a valid discharge permit, in violation of OCSD's Wastewater Discharge Regulations (Ordinance).

Aseptic has operated a beverage and dietary supplements manufacturing operation located at 24855 Corbit Place, Yorba Linda, CA, 92887, since 2013. Due to a delinquency in making timely payments for user charges, in January 2016, the OCSD Board of Directors approved a 12-month payment agreement with Aseptic in the amount of \$199,228.03. Aseptic made timely payments in accordance with the agreement, and completed the 12-month schedule as of January 2017. However, Aseptic Technology failed to make payments against quarterly invoices after January 2016; thus necessitating a second payment agreement request in July 2017 for delinquent amounts totaling \$451,161.54. The second payment agreement also required Aseptic to remit timely payments against new obligations occurring during the term of the agreement.

In January of 2018, Aseptic requested a third payment agreement for delinquencies owed in the amount of \$252,315.72. This payment agreement request was authorized, and it required a letter of credit and a stipulation that current invoices were to be paid in a timely manner. As a result of the payment agreement, a typical two-year Class 1 permit was not issued to Aseptic, and the permit was renewed for only three months-at-a-time. Due to Aseptic's repeated failure to make timely payments pursuant to this payment agreement, OCSD did not renew the permit which expired on March 31, 2019. However, Aseptic continued to discharge industrial wastewater to the sewer. An Order to Cease Discharge Without a Valid Permit was issued on April 11, 2019.

The permit which expired March 31, 2019 was not renewed until May 6, 2019 when a payment was received – the facility had discharged to OCSD without a permit throughout April and the first week of May – serious violations of OCSD's Wastewater Discharge Regulations Ordinance. When the May 2019 permit expired on May 31, 2019, it was not renewed due to the facility's non-payment of user charges. Another Order to Cease Discharge Without a Valid Permit was issued on June 5,

2019. OCSD met with Aseptic on June 18, 2019, and agreed to settle the violations associated with discharging without a permit.

Pursuant to Government Code Sections 54739 - 54740.5 and Section 616 of OCSD's Ordinance, OCSD is authorized to impose administrative civil penalties up to Five Thousand Dollars (\$5,000.00) for each day of discharge in violation of any waste discharge limit or permit requirement imposed by OCSD.

Pursuant to Resolution No. 11-04, settlement negotiations then took place between OCSD staff and Aseptic. As a result of these negotiations, OCSD staff recommended the settlement of all matters related to the enforcement action in return for payment by Aseptic of **One-hundred-and-Eighty-Five Thousand Dollars (\$185,000.00)**. This amount is based on the allowable penalties considering the magnitude, frequency, duration, intent, and impact of the violations. The staff is willing to accept **One-hundred-and-Eighty-Five Thousand Dollars (\$185,000.00)** with required provisions for Aseptic to return to compliance. Aseptic is willing to settle on these terms.

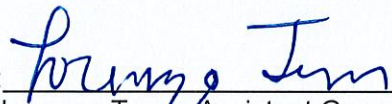
In accordance with Resolution No. 11-04, a committee consisting of the General Manager, or his designee, the Director of Finance and Administrative Services, and the Director of Engineering has the authority to approve settlement of claims up to One-Hundred-Thousand Dollars (\$100,000.00), and the Board of Directors have the authority to approve settlement of claims above One-Hundred-Thousand Dollars (\$100,000.00).

By this memorandum, the committee recommends the Settlement Agreement with Aseptic to be submitted for the Board of Directors' approval.

Dated: 8/15/2019

By: 
Lan Wiborg, Director of Environmental Services

Dated: 8-15-2019

By: 
Lorenzo Tyner, Assistant General Manager
& Director of Finance and Administrative Services

Dated: 8-14-2019

By: 
Kathleen Millea, Director of Engineering

Enforcement ID 2019-00030568