



Santa Ana Regional Water Quality Control Board

January 31, 2023

Huntington Beach Wetlands Conservancy
21900 Pacific Coast Highway
Huntington Beach, CA 92646
(Via Certified Mail)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John Villa
john@hbwetlands.org
(Via Email)

William Weisman
Agent for Service of Process for Huntington Beach Wetlands Conservancy
6147 Laguna Court
Long Beach, CA 90803
(Via Certified Mail)

CONDITIONAL SETTLEMENT OFFER NO. R8-2023-0015 TO PARTICIPATE IN EXPEDITED PAYMENT PROGRAM RELATING TO VIOLATIONS OF THE GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH CONSTRUCTION AND LAND DISTURBANCE ACTIVITIES (ORDER NO. 2009-0009-DWQ, NPDES NO. CAS000002) (GENERAL PERMIT) FOR MAGNOLIA MARSH RESTORATION PROJECT, BETWEEN NEWLAND STREET AND MAGNOLIA STREET NORTH OF PACIFIC COAST HIGHWAY, HUNTINGTON BEACH, WDID NO. 8 30C394666

Dear Mr. Villa,

This letter is to notify Huntington Beach Wetlands Conservancy (hereinafter “Discharger” or “you”) of alleged violations of the California Water Code (Water Code) identified in the State Water Resources Control Board’s water quality data system, and to allow the Discharger to participate in the Santa Ana Regional Water Quality Control Board’s (Santa Ana Water Board) Expedited Payment Program for Reporting Violations to address mandatory minimum penalties that must be assessed pursuant to Water Code section 13399.31.

NOTICE OF VIOLATION:

Based on information in the Stormwater Multiple Application & Report Tracking System (SMARTS), the Santa Ana Water Board alleges that the Discharger is in violation of the General Permit Associated with Construction and Land Disturbance Activities within the Santa Ana Region, Order No. 2009-009-DWQ as amended by Order Nos. 2010-0014-

DWQ and 2012-0006-DWQ, National Pollutant Discharge Elimination System (NPDES) Permit No. CAS000002 (General Permit), for failure to submit the 2021-2022 Annual Report for the construction site/project located between Newland Street and Magnolia Street north of Pacific Coast Highway in the City of Huntington Beach. The Annual Report was due to the Santa Ana Water Board by September 1, 2022, as required by Section XVI.A of the General Permit. The Discharger failed to submit the site's Annual Report by November 17, 2022, as required based on the Notices of Non-Compliance (NNCs) issued on September 19, 2022 and October 18, 2022. The Discharger will have the opportunity to address the alleged violations as discussed below.

STATUTORY LIABILITY:

Pursuant to Water Code section 13399.33(c)-(d), the Discharger is subject to a minimum penalty of not less than one thousand dollars (\$1,000) plus staff costs for failing to submit the required Annual Report in accordance with Water Code section 13399.31 within sixty (60) days after the first NNC was sent. The Discharger is also subject to discretionary administrative civil liabilities of up to ten thousand dollars (\$10,000) for each day in which the violation occurs. These minimum and discretionary administrative civil liabilities may be assessed by the Santa Ana Water Board beginning with the date that the violations first occurred. The formal enforcement action that the Santa Ana Water Board uses to assess such liability is an administrative civil liability complaint (ACLC), although the Santa Ana Water Board may instead refer such matters to the Office of the Attorney General for prosecution. If referred to the Attorney General for prosecution, the Superior Court may assess up to twenty-five thousand dollars (\$25,000) per violation.

DISCHARGER'S OPTIONS FOR RESPONSE TO OFFER:

You have two options to respond as outlined below.

1. **Accept the Expedited Payment Program offer** by complying with the Order and agreeing to pay a settlement of **one thousand three hundred and seventy-two dollars (\$1,372)**. The minimum administrative civil liability pursuant to California Water Code section 13399.33(c) is \$1,000 per year of noncompliance or fraction thereof. Staff costs in this matter are \$372. This is a Conditional Offer subject to certain terms and conditions set forth below. If you choose this option **you must sign and submit the enclosed Acceptance and Waiver form by March 1, 2023**. The form provides submittal instructions. Final closure on this action is only possible after ultimate submission of the settlement amount.

Please submit an original (blue ink) signed Acceptance and Wavier form to:

David Rosas, General Stormwater Unit
Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501-3348

In response to the Conditional Offer and payment in settlement of this enforcement action, the Santa Ana Water Board will forego issuance of a formal administrative complaint, will not refer the violation to the Attorney General, and will waive its right to seek additional discretionary civil liabilities for the violations identified in the NNCs.

2. **Contest the non-filing violation** by submitting, in writing, the basis of your challenge with supporting evidence. For example, you may have evidence that you previously submitted your Annual Report, or you are no longer in business. If you choose this option, you must **submit your written documentation by March 1, 2023**. We will review your submission, and if we agree with you, we will notify you in writing that you are no longer considered in violation of the permit and that our enforcement action has been terminated. All responses should be directed to David Rosas.

If you do not respond in a manner described in the above options, the Santa Ana Water Board will prepare an ACLC for the violations cited in the NNCs. The liability amount sought in the ACLC and/or imposed by the Santa Ana Water Board may be higher than the liability amount set forth in this Conditional Offer. Moreover, additional staff costs associated with formal enforcement may be considered in the recommended liability amount in an ACLC.

CONDITIONS FOR SANTA ANA WATER BOARD ACCEPTANCE OF RESOLUTION:

This offer to participate in the Expedited Payment Program is conditional upon the Santa Ana Water Board's receipt of confirmation that the Discharger has submitted the Annual Report to the Santa Ana Water Board on or before March 1, 2023. If you choose not to or fail to submit the Annual Report on or before that date, this offer will be deemed withdrawn and a formal enforcement action will be pursued.

If you accept the Expedited Payment Program offer, the settlement will be published in the following manner: Federal regulations require the Santa Ana Water Board to publish notice of, and to provide at least thirty (30) days for public comment on, any settlement of an enforcement action addressing NPDES permit violations (40 C.F.R. section 123.27(d)(2)(iii)). Upon receipt of the Discharger's Acceptance and Waiver, the Annual Report, and other requested technical reports on or before **March 1, 2023**, Santa Ana Water Board staff will publish a notice of the proposed resolution of the alleged violations.

If no comments are received within the notice period, the Santa Ana Water Board Executive Officer will execute the Acceptance and Waiver as a stipulated order assessing the uncontested penalty amount pursuant to Water Code section 13399.33. You will then be notified that payment is due within 30 days. Failure to pay the penalty within that time frame may result in further liability, referral of the matter to the Attorney General, and/or may void the offer to participate in this Expedited Payment Program.

January 31, 2023

If, however, significant comments are received in opposition to the settlement, this offer may be withdrawn. In that case, the Discharger's waiver pursuant to the Acceptance and Waiver will also be treated as withdrawn, and the violations will be addressed through a formal enforcement action.

This Expedited Payment Program offer does not address or resolve liability for any violation that is not specifically identified in the attached NNCs. The Santa Ana Water Board reserves the right to pursue formal enforcement of any violations not specifically cited in the attached NNCs.

Should you have any questions about this Expedited Payment Program or Notices of Non-Compliance, please contact David Rosas via email at david.rosas@waterboards.ca.gov or via phone at (951) 394-9476.

Sincerely,

Ann E.

Sturdivant

 Digitally signed by Ann E.
Sturdivant
Date: 2023.01.31 07:59:25
-08:00'
Water Boards

Ann E. Sturdivant, PG, CEG, CHG
Assistant Executive Officer
Santa Ana Water Board Prosecution Team

enclosures:

Notice of Non-Compliance, dated September 19, 2022

Notice of Non-Compliance, dated October 18, 2022

Acceptance of Conditional Resolution and Waiver of Right to Hearing; (proposed)
Order

7021 0350 0001 5502 3866
998 2055 T000 0560 T201

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com

OFFICIAL USE

Certified Mail Fee	
\$	
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$ _____
<input type="checkbox"/> Return Receipt (electronic)	\$ _____
<input type="checkbox"/> Certified Mail Restricted Delivery	\$ _____
<input type="checkbox"/> Adult Signature Required	\$ _____
<input type="checkbox"/> Adult Signature Restricted Delivery	\$ _____

Postmark
Here

Postage	\$
Agent for Service of Process for Huntington	
Beach Wetlands Conservancy	
6147 Laguna Court	
Long Beach, CA 90803	
8 30C394666	

7021 0350 0001 5502 3699

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com

OFFICIAL USE

Certified Mail Fee	
\$	_____
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$ _____
<input type="checkbox"/> Return Receipt (electronic)	\$ _____
<input type="checkbox"/> Certified Mail Restricted Delivery	\$ _____
<input type="checkbox"/> Adult Signature Required	\$ _____
<input type="checkbox"/> Adult Signature Restricted Delivery	\$ _____

Postmark
Here

Postage

Huntington Beach Wetlands
Conservancy
21900 Pacific Coast Highway
Huntington Beach, CA 92646
8 30C394666



Santa Ana Regional Water Quality Control Board

ACCEPTANCE OF CONDITIONAL RESOLUTION AND WAIVER OF RIGHT TO HEARING: **(Proposed) ORDER**

Huntington Beach Wetlands Conservancy
Settlement Offer No. R8-2023-0015

By signing below and returning this Acceptance of Conditional Resolution and Waiver of Right to Hearing (Acceptance and Waiver) to the Santa Ana Regional Water Quality Control Board (Santa Ana Water Board), Huntington Beach Wetlands Conservancy (Discharger) hereby accepts the "Offer to Participate in Expedited Payment Program" and waives the right to a hearing before the Santa Ana Water Board to dispute the violations described in the Notices of Non-Compliance (NNCs) which are attached and incorporated herein by reference.

The Discharger agrees that the Expedited Payment Program Offer shall serve as a complaint pursuant to Article 2.5 of the California Water Code and that no separate complaint is required for the Santa Ana Water Board to assert jurisdiction over the alleged violations through its Chief Prosecutor. The Discharger agrees to pay the administrative civil liability authorized by California Water Code sections 13399.31 and 13399.33, in the sum of \$1,372 (Expedited Payment Amount) which shall be deemed payment in full of any civil liability pursuant to California Water Code section 13399.33 that otherwise might be assessed for the violations described in the NNCs.

The Discharger understands that this Acceptance and Waiver waives its right to contest the allegations in the NNCs and the amount of civil liability for such violations. The Discharger understands that this Acceptance and Waiver does not address or resolve liability for any violation that is not specifically identified in the NNCs.

Upon execution by the Discharger, the completed Acceptance and Waiver should be mailed to the following:

David Rosas, General Stormwater Unit
Expedited Payment Letter
Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501

The Discharger understands that federal regulations set forth at title 40, Code of Federal Regulations, section 123.27(d)(2)(iii) require the Santa Ana Water Board to publish notice of and provide at least (30) days for public comment on any proposed resolution of an enforcement action addressing NPDES permit violations. Accordingly, this Acceptance and Waiver, prior to execution by the Santa Ana Water Board Executive Officer, will be published as required by law for public comment.

KRISTINE MURRAY, CHAIR | JAYNE JOY, EXECUTIVE OFFICER

3737 Main Street, Suite 500, Riverside, CA 92501-3348 | www.waterboards.ca.gov/santaana

January 31, 2023

If no comments are received within the notice period that causes the Santa Ana Water Board Executive Officer to question the Expedited Payment Amount, the Santa Ana Water Board Executive Officer will execute the Acceptance and Waiver.

The Discharger understands that if significant comments are received in opposition to the Expedited Payment Amount, the offer on behalf of the Santa Ana Water Board to resolve the violations set forth in the NNCs may be withdrawn. In that circumstance, the Discharger will be advised of that withdrawal, and an administrative civil liability complaint may be issued, and the matter may be set for a hearing before the Santa Ana Water Board. In the event that this matter proceeds to hearing, the Discharger understands that this Acceptance and Waiver executed by the Discharger will be treated as a settlement communication and will not be used as evidence in that hearing.

The Discharger further understands that once this Acceptance and Waiver is executed by the Santa Ana Water Board Executive Officer, the full payment required by the deadline set forth below is a condition of this Acceptance and Waiver. In accordance with California Water Code section 13399.37(a), funds collected for violations pursuant to sections 13399.33(c) and 13399.33(d) shall be deposited in the Waste Discharge Permit Fund. Accordingly, the \$1,372 liability including staff costs shall be paid by a cashiers or certified check made out to the "State Water Resources Control Board" referencing this Order number for deposit into the Waste Discharge Permit Fund. The payment must be submitted to the State Water Resources Control Board no later than thirty (30) calendar days after the date the Acceptance and Waiver is executed by the Santa Ana Water Board Executive Officer.

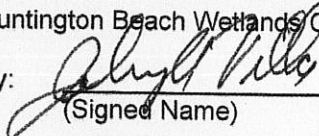
Please mail check to:

State Water Resources Control Board
Re: Order No. R8-2023-0015
Division of Administrative Services, Accounting Branch
P.O. Box 1888
Sacramento, CA 95812-1888

I hereby affirm that I am duly authorized to act on behalf of and to bind the Discharger in the making and giving of this Acceptance and Waiver.

Huntington Beach Wetlands Conservancy

By:



(Signed Name)

28 MAR 2023

(Date)

JOHNNY A. VILLA

(Printed or Typed Name)

EXECUTIVE DIRECTOR

(Title)

IT IS SO ORDERED PURSUANT TO CALIFORNIA WATER CODE SECTION 13323 AND GOVERNMENT CODE SECTION 11415.60.

By:

Jayne E. Joy, PE
Executive Officer