

**ACCEPTANCE OF CONDITIONAL RESOLUTION
AND WAIVER OF RIGHT TO HEARING;**

**SETTLEMENT AGREEMENT AND STIPULATION FOR ENTRY OF ADMINISTRATIVE
CIVIL LIABILITY ORDER WQ 2018-0008-EXEC (UPON EXECUTION)**

Uni-Kool Partners
EPL No. Order WQ 2018-0008-EXEC
Waste Discharge Requirements Order Nos. R3-2005-0046 and R3-2013-0002
National Pollutant Discharge Elimination System (NPDES) Permit No. CA0005720

By signing below and returning this Acceptance of Conditional Resolution and Waiver of Right to Hearing (Acceptance and Waiver) to the State Water Resources Control Board (State Water Board), Uni-Kool Partners (Permittee) hereby accepts the "Offer to Participate in Expedited Payment Program" and waives the right to a hearing before the State Water Board to dispute the alleged violations described in the Notice of Violation (NOV) attached to the Offer as Exhibit A and incorporated herein by reference.

The Permittee agrees that the NOV shall serve as a complaint pursuant to Article 2.5 of the Water Code and that no separate complaint is required for the State Water Board to assert jurisdiction over the alleged violations through its Enforcement Staff. The Permittee agrees to pay the penalties authorized by California Water Code section 13385, as specified in the NOV (Expedited Payment Amount), which shall be deemed payment in full of any civil liability pursuant to the Water Code sections 13385 and 13385.1 that otherwise might be assessed for the violations described in the NOV.

Expedited Payment Amount: \$120,000.

The Permittee understands that it may pay up to the maximum allowable portion¹ of the Expedited Payment Amount towards the Supplemental Environment Project (SEP) it indicates with an "X" in the first column of the table below. If selecting this option, the Permittee will indicate in the second column of the table below how much of the maximum allowable portion it will direct to the selected SEP. If the Permittee does not select the SEP option, the Permittee shall pay the total Expedited Payment Amount to the State Water Resources Control Board Cleanup and Abatement Account.

Maximum Allowable Portion for SEPs: **\$67,500.**

Check Below to Select the SEP Option	Amount (\$) of Maximum Allowable Portion for this SEP	SEP Name
		Central Coast Ambient Monitoring Program – Groundwater Assessment and Protection (CCAMP-GAP)

¹ Pursuant to Water Code section 13385(l)(1), if the penalty amount exceeds \$15,000, the amount the Water Board may direct to a SEP may not exceed \$15,000 plus 50 percent of the penalty amount over \$15,000. For penalty amounts of \$15,000 or less, the Water Board may direct half of the full amount to a SEP.

**ACCEPTANCE OF CONDITIONAL RESOLUTION
AND WAIVER OF RIGHT TO HEARING;**

**SETTLEMENT AGREEMENT AND STIPULATION FOR ENTRY OF ADMINISTRATIVE
CIVIL LIABILITY ORDER NO. OE-2017-XXXX (UPON EXECUTION)**

Uni-Kool Partners
EPL No. OE-2017-XXXX
Waste Discharge Requirements Order Nos. R3-2005-0046 and R3-2013-0002
National Pollutant Discharge Elimination System (NPDES) Permit No. CA0005720

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✓	\$67,500	Central Coast Ambient Monitoring Program – Groundwater Assessment and Protection (CCAMP-GAP)

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The Central Coast Ambient Monitoring Program – Groundwater Assessment and Protection (CCAMP-GAP) program is the SEP option offered above. CCAMP-GAP is focused on addressing drinking water issues in disadvantaged communities. Information on CCAMP-GAP is available here:

http://www.waterboards.ca.gov/centralcoast/water_issues/programs/gap/index.shtml

Funding for CCAMP-GAP is managed and administered by the non-profit Bay Foundation of Morro Bay. No SEP funds are directed to the Central Coast Water Board.

The State Water Resources Control Board's Enforcement Policy provides that payments for SEPs shall be treated as suspended liabilities pending completion of the SEP, or portion thereof, at which time the suspended liability becomes permanently waived by the Central Coast Water Board and State Water Board. By selecting the SEP option, the Permittee understands and acknowledges that its SEP obligations are deemed complete and that the suspended portion of its Administrative Civil Liability is permanently suspended upon being paid to the implementing party (the Bay Foundation of Morro Bay). The implementing party will spend the funds towards the SEP in accordance with existing agreements and approved workplans. If the implementing party is unable to spend any portion of the suspended liability towards the SEP, then Central Coast Water Board staff will direct the implementing party to pay that amount to the Cleanup and Abatement Account to permanently suspend the remaining liability.

The Permittee understands that this Acceptance and Waiver does not address or resolve liability for any violation that is not specifically identified in the Notice of Violation.

Upon execution by the Permittee, the Permittee shall return this Acceptance and Waiver to:

Erin Mustain
Senior Water Resource Control Engineer
Office of Enforcement
State Water Board
1001 I Street, 16th Floor
Sacramento, CA 95814

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

The Permittee understands that if significant comments are received in opposition to the Offer, the State Water Board enforcement staff's offer to resolve the violations set forth in the NOV may be withdrawn. In that circumstance, the Permittee will be advised of the withdrawal and an administrative civil liability complaint may be issued and the matter may be set for a hearing before the Central Coast Water Board or State Water Board. For such a liability hearing, the Permittee understands that this Acceptance and Waiver executed by the Permittee will be treated as a settlement communication and will not be used as evidence in that hearing.

**Expedited Payment Letter (EPL) No. SWB-2008-3-0020
NPDES Permit No. CA0005720**

The Central Coast Ambient Monitoring Program – Groundwater Assessment and Protection (CCAMP-GAP) program is the SEP option offered above. CCAMP-GAP is focused on addressing drinking water issues in disadvantaged communities. Information on CCAMP-GAP is available here:

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If no comments are received within the notice period that causes the Executive Director to reconsider the Offer, the Executive Director will execute the Acceptance and Waiver as Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order WQ 2018-0008-EXEC. (Settlement and Order).

The Permittee understands that after the signed Acceptance and Waiver is publicly noticed and executed by the Executive Director of the State Water Board, Water Board staff will transmit the executed Settlement and Order to the Permittee with payment instructions and due dates. Furthermore, the Permittee understands that full payment of the Expedited Payment Amount, including any allowable portion of which is authorized for use in SEPs, within 30 days after staff transmits the executed Settlement and Order is a condition of this Acceptance and Waiver.

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

By: _____ (Date) _____
(Signed Name)

(Printed or typed name)

(Title)

Expedited Payment Letter (EPL) No. SWB-2008-3-0020
NPDES Permit No. CA0005720

If no comments are received within the notice period that causes the Executive Director to reconsider the Offer, the Executive Director will execute the Acceptance and Waiver as Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order No. OE-2017-XXXX (Settlement and Order).

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

By: Stephen J Kovack (Signed Name) 1-5-18 (Date)
STEPHEN J KOVACK+1 (Printed or typed name)
GENERAL MANGER (Title)

Expedited Payment Letter (EPL) No. **SWB-2008-3-0020**
NPDES Permit No. CA0005720

IT IS SO ORDERED PURSUANT TO WATER CODE SECTION 13385

Date: _____

By: _____
Eileen Sobeck
Executive Director
State Water Resources Control Board

Expedited Payment Letter (EPL) No. SWB-2008-3-0020
NPDES Permit No. CA0005720

IT IS SO ORDERED PURSUANT TO WATER CODE SECTION 13385

Date: 3/12/2018

By: 

Eileen Sobeck
Executive Director
State Water Resources Control Board

Exhibit A – Notice of Violation
Uni-Kool – Vegetable Packing Facility
 ALLEGED VIOLATIONS (June 7, 2007 – June 30, 2017)
 MANDATORY MINIMUM PENALTY VIOLATIONS REQUIRING ENFORCEMENT

The Enforcement Staff of the State Water Resource Control Board (State Water Board) on behalf of the Regional Water Quality Control Board, Central Coast Region (Central Coast Regional Water Board) reviewed information submitted by this facility to determine whether the discharger is subject to mandatory minimum penalties (MMPs) pursuant to subdivisions (h) and (i) of California Water Code section 13385. The following table lists this facility’s alleged violations of Waste Discharge Requirements Order R3-2005-0046 and Order R3-2013-0002, NPDES Permit CA0005720 from June 7, 2007 through June 30, 2017, for which the Central Coast Regional Water Board has not assessed MMPs. Final calculation of MMP amounts owed and definitions of some of the terms used in this document are listed below the table.

For additional information about the alleged violations listed in the table, please refer to the State Water Resources Control Board CIWQS Public Reports webpage http://www.waterboards.ca.gov/water_issues/programs/ciwqs/publicreports.shtml and select the “Mandatory Minimum Penalty (MMP) Report” link located under the “Violations Reports” category. Once in the Mandatory Minimum Penalty Reports search page, select Region 3 along with the beginning and ending dates shown in this exhibit, select Run Report, and then select your facility to access the list of violations. Expand the “Effluent MMP Violations” section of the page by selecting the “+” icon to the left of the section title. To view details of a violation, select the Violation ID number. For chronic (non-serious) violations, select the “Chronic” link in the “MMP Type” column to see a list of the three or more violations preceding each chronic violation within 180 days and thus qualifying the chronic violation as a MMP.

#	Violation Number	Violation Date	Pollutant	Pollutant Type	Limitation Period	Limit	Result	Units	% Over Limit	Serious or Non-Serious Violation	Date 180 Days Prior	No. of Viols within 180 days	Penalty
1	645843	06/07/2007	pH	Other	Instantaneous Maximum	8.3	8.4	SU	N/A	N/A	12/09/2006	1	\$ 0
2	645845	06/07/2007	Nitrate (as N)	Group 1	Daily Maximum	10	27	mg/L	170	S	12/09/2006	N/A	\$ 3,000
3	645844	06/07/2007	Boron, Total	Group 1	Daily Maximum	0.5	0.8	mg/L	60	S	12/09/2006	N/A	\$ 3,000
4	698981	08/08/2007	pH	Other	Instantaneous Maximum	8.3	8.4	SU	N/A	N	02/09/2007	4	\$ 3,000

EPL OE-2017-XXXX – Exhibit A
 Uni-Kool Partners – Vegetable Packing Facility

#	Violation Number	Violation Date	Pollutant	Pollutant Type	Limitation Period	Limit	Result	Units	% Over Limit	Serious or Non-Serious Violation	Date 180 Days Prior	No. of Viols within 180 days	Penalty
5	743955	10/08/2007	pH	Other	Instantaneous Maximum	8.3	8.4	SU	N/A	N	04/11/2007	5	\$ 3,000
6	906094	05/12/2011	Settleable Solids	Group 1	Maximum Daily	0.3	1	ml/L	233	S	11/13/2010	N/A	\$ 3,000
7	911236	08/10/2011	Settleable Solids	Group 1	Maximum Daily	0.3	0.5	ml/L	67	S	02/11/2011	N/A	\$ 3,000
8	911235	09/06/2011	Settleable Solids	Group 1	Maximum Daily	0.3	0.6	ml/L	100	S	03/10/2011	N/A	\$ 3,000
9	911237	09/22/2011	Settleable Solids	Group 1	Maximum Daily	0.3	0.4	ml/L	33	N	03/26/2011	4	\$ 3,000
10	918077	10/25/2011	Dissolved Oxygen	Other	Instantaneous Minimum	5.0	4.9	mg/L	N/A	N	04/28/2011	5	\$ 3,000
11	1004907	04/19/2012	Biochemical Oxygen Demand	Group 1	Maximum Daily	90	210	mg/L	133	S	10/22/2011	N/A	\$ 3,000
12	931829	04/30/2012	Biochemical Oxygen Demand	Group 1	Monthly Average	60	210	mg/L	250	S	11/02/2011	N/A	\$ 3,000
13	931827	05/22/2012	Biochemical Oxygen Demand	Group 1	Maximum Daily	90	516	ml/L	473	S	11/24/2011	N/A	\$ 3,000
14	1004908	05/31/2012	Biochemical Oxygen Demand	Group 1	Monthly Average	60	516	mg/L	760	S	12/03/2011	N/A	\$ 3,000
15	938580	07/12/2012	Dissolved Oxygen	Other	Instantaneous Minimum	5	0	mg/L	N/A	N	01/14/2012	6	\$ 3,000
16	1004892	07/31/2012	Biochemical Oxygen Demand	Group 1	Monthly Average	60	76	mg/L	27	N	02/02/2012	6	\$ 3,000
17	938581	08/07/2012	Dissolved Oxygen	Other	Instantaneous Minimum	5	0	mg/L	N/A	N	02/09/2012	8	\$ 3,000

EPL OE-2017-XXXX – Exhibit A
 Uni-Kool Partners – Vegetable Packing Facility

#	Violation Number	Violation Date	Pollutant	Pollutant Type	Limitation Period	Limit	Result	Units	% Over Limit	Serious or Non-Serious Violation	Date 180 Days Prior	No. of Viols within 180 days	Penalty
18	938579	08/07/2012	Biochemical Oxygen Demand	Group 1	Maximum Daily	90	116	mg/L	29	S	02/09/2012	N/A	\$ 3,000
19	1004901	08/29/2012	Flow	Other	Daily Discharge	0.10	0.11	MGD	N/A	N	03/02/2012	10	\$ 3,000
20	1004893	08/31/2012	Biochemical Oxygen Demand	Group 1	Monthly Average	60	116	mg/L	93	S	03/04/2012	N/A	\$ 3,000
21	938577	09/06/2012	Dissolved Oxygen	Other	Instantaneous Minimum	5	0	mg/L	N/A	N	03/10/2012	12	\$ 3,000
22	938578	09/06/2012	Biochemical Oxygen Demand	Group 1	Maximum Daily	90	292	mg/L	224	S	03/10/2012	N/A	\$ 3,000
23	1004902	09/29/2012	Flow	Other	Daily Discharge	0.10	0.11	MGD	N/A	N	04/02/2012	14	\$ 3,000
24	1004895	09/30/2012	Total Dissolved Solids	Group 1	Monthly Average	1300	1338	mg/L	3	N	04/03/2012	15	\$ 3,000
25	1004896	09/30/2012	Total Suspended Solids	Group 1	Monthly Average	60	80	mg/L	33	N	04/03/2012	16	\$ 3,000
26	1004894	09/30/2012	Biochemical Oxygen Demand	Group 1	Monthly Average	60	292	mg/L	387	S	04/03/2012	N/A	\$ 3,000
27	942659	10/09/2012	Settleable Solids	Group 1	Maximum Daily	0.3	0.4	ml/L	33	N	04/12/2012	18	\$ 3,000
28	1004904	10/31/2012	Biochemical Oxygen Demand	Group 1	Monthly Average	60	70	mg/L	17	N	05/04/2012	16	\$ 3,000
29	1004905	10/31/2012	Flow	Other	Daily Discharge	0.10	0.11	MGD	N/A	N	05/04/2012	17	\$ 3,000
30	1004911	05/08/2013	pH	Other	Instantaneous Maximum	8.3	8.4	SU	N/A	N/A	11/09/2012	1	\$ 0

EPL OE-2017-XXXX – Exhibit A
 Uni-Kool Partners – Vegetable Packing Facility

#	Violation Number	Violation Date	Pollutant	Pollutant Type	Limitation Period	Limit	Result	Units	% Over Limit	Serious or Non-Serious Violation	Date 180 Days Prior	No. of Viols within 180 days	Penalty
31	951764	06/04/2013	pH	Other	Instantaneous Maximum	8.3	8.6	SU	N/A	N/A	12/06/2012	2	\$ 0
32	964629	07/02/2013	pH	Other	Instantaneous Maximum	8.3	8.5	SU	N/A	N/A	01/03/2013	3	\$ 0
33	957549	09/06/2013	Total Dissolved Solids	Group 1	Monthly Average	1300	1320	mg/L	2	N	03/10/2013	4	\$ 3,000
34	964639	10/28/2013	Selenium, Total	Group 2	Monthly Average	4.1	10	ug/L	144	S	05/01/2013	N/A	\$ 3,000
35	964640	10/28/2013	Selenium, Total	Group 2	Daily Maximum	8.2	10	ug/L	22	S	05/01/2013	N/A	\$ 3,000
36	968072	03/06/2014	Selenium, Total	Group 2	Monthly Average	4.1	9	ug/L	120	S	09/07/2013	N/A	\$ 3,000
37	973714	06/24/2014	Selenium, Total	Group 2	Monthly Average	4.1	12	ug/L	193	S	12/26/2013	N/A	\$ 3,000
38	973713	06/24/2014	Selenium, Total	Group 2	Daily Maximum	8.2	12	ug/L	46	S	12/26/2013	N/A	\$ 3,000
39	974386	06/30/2014	Total Dissolved Solids	Group 1	Monthly Average	1300	1417	mg/L	9	N	01/01/2014	5	\$ 3,000
40	979117	09/04/2014	Selenium, Total	Group 2	Monthly Average	4.1	10	ug/L	144	S	03/08/2014	N/A	\$ 3,000
41	979118	09/04/2014	Selenium, Total	Group 2	Maximum Daily	8.2	10	ug/L	22	S	03/08/2014	N/A	\$ 3,000
42	994101	06/09/2015	Selenium, Total	Group 2	Daily Maximum	8.2	67	ug/L	717	S	12/11/2014	N/A	\$ 3,000
43	994103	06/30/2015	Selenium, Total	Group 2	Monthly Average	4.1	67	ug/L	1534	S	01/01/2015	N/A	\$ 3,000
44	1029001	06/30/2017	Bis (2-Ethylhexyl) Phthalate	Group 2	Monthly Average	1.8	2.8	ug/L	56	S	12/31/2016	N/A	\$ 3,000

Total Penalty: \$120,000

Total Mandatory Minimum Penalty Amount for Effluent Violations
 (23 Serious Violation + 17 Non-Serious Violations) × \$3,000 = \$120,000

For Group 1 pollutants, a violation is serious when the limit is exceeded by 40 percent or more, and non-serious (formerly “chronic”) when the limit is exceeded by less than 40 percent.

For Group 2 pollutants, a violation is serious when the limit is exceeded by 20 percent or more, and non-serious when the limit is exceeded by less than 20 percent.

For “Other” (i.e., Other Effluent Violation) pollutants, a violation is non-serious when the limit is exceeded by any amount. For the purposes of MMP enforcement, Other Effluent Violations are not categorized as serious.

Serious violations are subject to a penalty of no less than \$3,000 each, as are non-serious violations when preceded by three or more specified violations within any period of 180 days.

Definitions

CIWQS	California Integrated Water Quality System database used by the Water Boards to manage violation and enforcement activities, as well as other data types relevant to water quality protection.
NPDES	National Pollutant Discharge Elimination System permit program that controls water pollution by regulating point sources that discharge pollutants into waters of the United States.
Violation Number	Identification number assigned to a violation in CIWQS.
Violation Date	Date that a violation actually occurred, with the exception that for some violation types, such as a monthly average, the last day of the reporting period is used. If the occurrence date is unknown, the date used is the day the violation was first discovered by staff, the Discharger, or a third party.
Pollutant Types: Group 1 & 2	Groups of pollutants defined in the State Water Resources Control Board Water Quality Enforcement Policy. Also referred to as Category 1 or CAT1, Category 2 or CAT2, respectively.
Pollutant Type: Other	“Other” refers to “Other Effluent Violation”. Group of pollutants other than those included in Group 1 or 2.