REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

SETTLEMENT AGREEMENT
COMPLAINT NO. R2-2008-0068

In the Matter of
MR. CUONG CHON HUYNH
Pete's Stop
290 Keyes Street, San Jose
Santa Clara County

The Assistant Executive Officer of the Regional Water Quality Control Board, San Francisco Bay Region, ("Regional Water Board") and Mr. Cuong Chon Huynh (collectively hereinafter the "Parties") hereby agree to this Settlement Agreement ("Agreement") of Mandatory Minimum Penalty Complaint No. R2-2008-0068, dated August 11, 2008 (the "Complaint").

1. This Agreement is entered into by the Parties to resolve by consent and without further administrative proceedings certain alleged violations of the California Water Code ("CWC") and Waste Discharge Requirements Order No. 01-100 (the "WDRs").

2. The Assistant Executive Officer agrees that full compliance with this Agreement constitutes settlement of the Complaint. The Complaint alleges that Mr. Cuong Chon Huynh committed eleven effluent limit violations of the WDRs between May 19, 2006 and August 14, 2006, and five reporting violations for late submittal of the 2nd Quarter 2006 Self-Monitoring Report. The Complaint proposes a mandatory minimum penalty in the amount of $48,000.

3. The Parties believe that settlement of this matter is in the best interest of the people of the State. Therefore, to settle the Complaint, Mr. Cuong Chon Huynh hereby agrees to comply with the terms and conditions of this Agreement.

4. Mr. Cuong Chon Huynh hereby agrees to pay $48,000 to the State Water Resources Control Board Waste Discharge Permit Fund Abatement Account no later than 120 days following the issuance of the Regional Water Board's Order approving this Agreement.

5. In consideration of Mr. Cuong Chon Huynh's compliance with this Agreement, the Assistant Executive Officer hereby agrees not to initiate any other administrative or judicial enforcement actions against Mr. Cuong Chon Huynh for the violations alleged in the Complaint.

6. In settling this matter, Mr. Cuong Chon Huynh does not admit to any of the findings of the Complaint, or that he has been or is in violation of the WDRs, the CWC, or any other federal, state, or local law or ordinance, provided, however, Mr. Cuong Chon Huynh agrees that in the event of any future enforcement actions by the Regional Water Board, this Agreement may be used as evidence of a settlement consistent with CWC Section 13327.

7. The Assistant Executive Officer acknowledges that there are no other violations of the WDRs' effluent limitations for the period covered by the 2nd Quarter 2006 Self-Monitoring Report, and that the 2nd Quarter 2006 Self-Monitoring Report required under the WDRs has been submitted to the Regional Water Board as of the date of this Agreement.

8. Subject to the qualifications set forth in paragraph 10, below, the Assistant Executive Officer has the authority to settle this matter in accordance with CWC Section 13323 and Government Code Section 11415.60. All other persons signing this Agreement confirm they have the authority to bind the party they represent to the terms of this Agreement..

9. Mr. Cuong Chon Huynh has been informed of the rights provided by CWC Section 13323, subdivision (b), and hereby waives his right to a hearing before the Regional Water Board.

10. Mr. Cuong Chon Huynh understands that this Agreement and the proposed Administrative Civil Liability Order approving this Agreement must be noticed for a 30-day public review period. In the event objections are raised during the public comment period for the proposed Administrative Civil Liability Order, the Regional Water Board or the Executive Officer may, under certain circumstances, require a public hearing regarding the proposed Administrative Civil Liability Order. In that event, the Parties agree to meet and confer concerning any such objections, and may agree to revise or adjust the Agreement as necessary or advisable under the circumstances.

11. Mr. Cuong Chon Huynh understands that payment in accordance with this Agreement is not a substitute for compliance with applicable laws, and that continuing violations of the type alleged in the Complaint may subject him to further enforcement, including additional administrative civil liability.

12. This Agreement is severable; should any provision be found invalid the remainder shall remain in full force and effect.

13. This Agreement may be executed in counterparts and by facsimile signature.

14. This Agreement shall not be construed against the Party preparing it, but shall be construed as if the Parties prepared it jointly. Any uncertainty or ambiguity shall not be interpreted against any one Party.

15. This Agreement shall not be modified by any of the Parties by oral representation made before or after its execution. All modifications to the Agreement must be in writing and signed by all Parties.

16. Each Party to this Agreement shall bear all attorneys' fees and costs arising from the Party's own counsel in connection with the matters set forth herein.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their respective officers on the dates set forth, and this Agreement is effective as of the most recent date signed.

California Regional Water Quality Control Board
San Francisco Bay Region

By: Dyan C. Whyte 2008.09.30 13:15:38 -07'00'
Dyan C. Whyte, Assistant Executive Officer
Date: _____

Mr. Cuong Chon Huynh

By: Cuong Huynh
Mr. Cuong Chon Huynh
Date: 09-24-08

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