

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



One Broadway Plaza, LLC
Settlement Offer No. R8-2019-0018
WDID No. 8 30C344848

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 (Regional Board), One Broadway Plaza, LLC (Permittee) hereby accepts the "Offer to Participate in Expedited Payment Program" and waives the right to a hearing before the Regional Board to dispute the violations described in the Notices of Non-Compliance (NNCs) which are attached and incorporated herein by reference.

The Permittee 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 Regional Board to assert jurisdiction over the alleged violations through its Chief Prosecutor. The Permittee agrees to pay the administrative civil liability authorized by California Water Code section 13399.30, in the sum of \$2,050 (Expedited Payment Amount) which shall be deemed payment in full of any civil liability pursuant to California Water Code section 13399.30 that otherwise might be assessed for the violations described in the NNCs.

The Permittee 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 Permittee 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 Permittee, the completed Acceptance and Waiver and proof of the Annual Report electronic submittal via SMARTS shall be returned to:

Michael Kashak, Coastal Storm Water Unit
Expedited Payment Program
Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501

The Permittee understands that federal regulations set forth at title 40, Code of Federal Regulations, section 123.27(d)(2)(iii) require the Regional Board to publish notice of and provide at least thirty (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 Regional Board Executive Officer, will be published as required by law for public comment.

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

The Permittee understands that if significant comments are received in opposition to the Expedited Payment Amount, the offer on behalf of the Regional Board to resolve the violations

Settlement Offer No. R8-2019-0018
WDID No. 8 30C344848

set forth in the NNCs may be withdrawn. In that circumstance, the Permittee 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 Regional Board. In the event that this matter proceeds to 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.

The Permittee further understands that once this Acceptance and Waiver is executed by the Regional 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 \$2,050 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 Regional Board Executive Officer.

Please mail check to:

State Water Resources Control Board
Re: Order No. R8-2019-0018
Division of Administrative Services, Accounting Branch
1001 I Street, 18th Floor, 95814
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 Permittee in the making and giving of this Acceptance and Waiver.

One Broadway Plaza, LLC

By:



(Signed Name)

Mike Harrah

(Printed or Typed name)

04/16/2019

(Date)

President

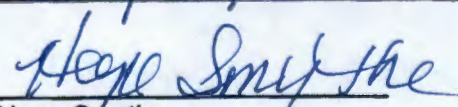
(Title)

IT IS SO ORDERED PURSUANT TO CALIFORNIA WATER CODE SECTION 13399.30

Date:

May 20, 2019

By:



Hope Smythe
Executive Officer



GAVIN NEWSOM
GOVERNOR



JARED BLUMENFELD
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Santa Ana Regional Water Quality Control Board

March 4, 2019

Michael Harrah
One Broadway Plaza, LLC
1103 North Broadway
Santa Ana, CA 92701

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
Claim No. 7005 1820 0000 6734 9798

SETTLEMENT OFFER NO. R8-2019-0018: OFFER TO PARTICIPATE IN EXPEDITED PAYMENT PROGRAM RELATING TO VIOLATIONS OF THE STATE WATER RESOURCES CONTROL BOARD'S NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH CONSTRUCTION AND LAND DISTURBANCE ACTIVITIES FOR ONE BROADWAY PLAZA, LLC, 1001 NORTH BROADWAY (ORDER NO. 2009-0009-DWQ AMENDED BY 2010-0014-DWQ AND 2012-0006-DWQ, NPDES PERMIT NO. CAS000002, WDID NO. 8 30C344848)

Dear Michael Harrah:

This letter is to notify One Broadway Plaza, LLC (hereinafter "Permittee 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 Permittee to participate in the Santa Ana Regional Water Quality Control Board's (Regional Board) Expedited Payment Program for Reporting Violations to address mandatory minimum penalties that must be assessed pursuant to California Water Code sections 13385 and 13385.1.

NOTICE OF VIOLATION:

Based on information in the Storm Water Multiple Application & Report Tracking System (SMARTS), the Regional Board alleges that the Permittee is in violation of the National Pollutant Discharge Elimination System (NPDES) Statewide General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order No. 2009-0009-DWQ as amended by 2010-0014-DWQ and 2012-0006-DWQ (Order), for failure to submit the **Fiscal Year 2017-2018** Annual Report for the construction project located at 1001 N. Broadway in the City of Santa Ana. Annual Reports are due to the Regional Board by **November 15, 2018** as required by Section I.4.c of the Order. The Permittee has failed to submit the Annual Report requested in the Notices of Non-Compliance (NNCs) issued on September 17, 2018 and October 16, 2018, respectively. The Permittee will have the opportunity to address the alleged violations as discussed below.

STATUTORY LIABILITY:

Pursuant to Water Code section 13399.33(c), the Permittee is subject to a minimum penalty of not less than one thousand dollars (\$1,000) plus staff costs for failing to submit **each** Annual Report within sixty (60) days after the first NNC was sent. The Permittee is also subject to

WILLIAM RUH, CHAIR | HOPE SMYTHE, EXECUTIVE OFFICER

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 Regional Board beginning with the date that the violations first occurred. The formal enforcement action that the Regional Board uses to assess such liability is an administrative civil liability complaint, although the Regional Board may instead refer such matters to the Attorney General's Office 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.

PERMITTEE'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 submitting the requested Annual Report and agreeing to pay a settlement of **\$2,050**. The minimum administrative civil liability pursuant to California Water Code section 13399.33(c) is \$1,000 **per missing report plus staff costs**. Staff costs in this matter are \$1,050. 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 April 5, 2019**. The form provides submittal instructions. Final closure on this action is only possible after ultimate submission of the settlement amount.

Please submit the outstanding Annual Report in SMARTS and an original (blue ink) signed Acceptance and Wavier form to:

Michael Kashak, Coastal Storm Water 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 Regional 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 April 5, 2019**. 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 Michael Kashak.

If you do not respond in a manner described in the above options, the Regional Board will prepare an administrative civil liability complaint for the violations cited in the NNCs. The liability amount sought in the administrative civil liability complaint and/or imposed by the Regional 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 administrative civil liability complaint.

CONDITIONS FOR REGIONAL BOARD ACCEPTANCE OF RESOLUTION:

This offer to participate in the Expedited Payment Program is conditional upon the Regional Board's receipt of confirmation that the Permittee has submitted the Annual Report to the Regional Board on or before **April 5, 2019**. 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 Regional 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 Permittee's Acceptance and Waiver, the Annual Report, and other requested technical reports on or before **April 5, 2019**, Regional Board staff will publish a notice of the proposed resolution of the alleged violations.

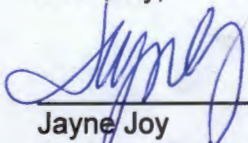
If no comments are received within the notice period, the Regional Board Executive Officer will execute the Acceptance and Waiver as a stipulated order assessing the uncontested penalty amount pursuant to Water Code section 13399.33. You will then be notified that payment is due within 30 days. Failure 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.

If, however, significant comments are received in opposition to the settlement, this offer may be withdrawn. In that case, the Permittee's waiver pursuant to the Acceptance and Waiver will also be treated as withdrawn. In that case, 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 Regional 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 Notice of Non-Compliance, please contact Coastal Storm Water Unit staff Michael Kashak via phone at (951) 782-4469 or via email at Michael.Kashak@waterboards.ca.gov regarding this matter.

Sincerely,



Jayne Joy
Assistant Executive Officer

Enclosures:

Notice of Non-Compliance, dated September 17, 2018
Notice of Non-Compliance, dated October 16, 2018
Acceptance of Conditional Resolution and Waiver of Right to Hearing; (proposed) Order

cc: (via email)
Catherine Hawe, Office of Enforcement, State Water Resources Control Board



EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Santa Ana Regional Water Quality Control Board

September 17, 2018

One Broadway Plaza LLC
1103 N. Broadway
Santa Ana, CA 92701

Certified Mail
Return Receipt Required

Michael Harrah
mfh@caribound.com

NOTICE OF NON-COMPLIANCE: FAILURE TO COMPLY WITH THE GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH CONSTRUCTION AND LAND DISTURBANCE ACTIVITIES, ORDER NO. 2009-0009-DWQ AS AMENDED BY ORDER NO. 2010-0014-DWQ AS AMENDED BY ORDER NO. 2012-0006-DWQ, NPDES NO. CAS000002 (GENERAL PERMIT) WDID NO. 8 30C344848

Dear Michael Harrah:

Your construction site located at 1001 N. Broadway, in the city of Santa Ana, is regulated under the General Permit and is identified by WDID No. 8 30C344848. Section XVI.A of the General Permit requires that you prepare and electronically submit an annual report by September 1 of each year. According to our records, we have not received your 2017-2018 annual report.

Currently you are in violation of the General Permit, the California Water Code and the federal Clean Water Act for failure to submit a complete 2017-2018 annual report. We request that you submit a complete 2017-2018 annual report via the Storm Water Multiple Application and Report Tracking System (SMARTS) no later than **October 16, 2018**.

Failure to submit the requested information will result in further enforcement action, which may include civil monetary penalties of up to \$10,000 for each day of violation. Please note that Section 13399.33 of the California Water Code stipulates a mandatory minimum penalty of \$1,000 to those permittees that do not submit their annual reports after notification.

If you need assistance in completing the annual report, please contact the SMARTS Help Desk at Stormwater@waterboards.ca.gov. If you have any questions specific to your site, please contact Michael Kashak by phone at (951) 782-4469 or by e-mail at Michael.Kashak@waterboards.ca.gov.

Sincerely,

Jayne Joy
Assistant Executive Officer



EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Santa Ana Regional Water Quality Control Board

October 16, 2018

One Broadway Plaza LLC
1103 N. Broadway
Santa Ana, CA 92701

Certified Mail
Return Receipt Required

Michael Harrah
mfh@caribound.com

NOTICE OF NON-COMPLIANCE: FAILURE TO COMPLY WITH THE GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH CONSTRUCTION AND LAND DISTURBANCE ACTIVITIES, ORDER NO. 2009-0009-DWQ AS AMENDED BY ORDER NO. 2010-0014-DWQ AS AMENDED BY ORDER NO. 2012-0006-DWQ, NPDES NO. CAS000002 (GENERAL PERMIT) WDID NO. 8 30C344848

SECOND NOTICE

Dear Michael Harrah:

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Currently you are in violation of the General Permit, the California Water Code and the federal Clean Water Act for failure to submit a complete 2017-2018 annual report. We request that you submit a complete **2017-2018 annual report** via the Storm Water Multiple Application and Report Tracking System (SMARTS) by **November 15, 2018**.

This is your second and final notice. The first notice was sent on September 17, 2018 and to date, we have not received an adequate response to that notice. Please note that Section 13399.33 of the California Water Code stipulates failure to submit the requested information by the November 15, 2018 due date will result in a mandatory minimum penalty of \$1,000 to those permittees that do not submit their annual reports after notification. Further enforcement action, including civil monetary penalties of up to \$10,000 for each day of violation, may result.

If you need assistance in completing the annual report, please contact the SMARTS Help Desk at Stormwater@waterboards.ca.gov or (866) 563-3107. If you have any questions specific to your site, please contact Michael Kashak by phone at (951) 782-4469 or by e-mail at Michael.Kashak@waterboards.ca.gov.

Sincerely,

Jayne Joy
Assistant Executive Officer

WILLIAM RUH, CHAIR | HOPE A. SMYTHE, EXECUTIVE OFFICER

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

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

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Michael Kashak, Coastal Storm Water Unit
Expedited Payment Program
Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501

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The Permittee understands that if significant comments are received in opposition to the Expedited Payment Amount, the offer on behalf of the Regional Board to resolve the violations

Settlement Offer No. R8-2019-0018
WDID No. 8 30C344848

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Please mail check to:

State Water Resources Control Board
Re: Order No. R8-2019-0018
Division of Administrative Services, Accounting Branch
1001 I Street, 18th Floor, 95814
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 Permittee in the making and giving of this Acceptance and Waiver.

One Broadway Plaza, LLC

By: _____
(Signed Name) (Date)

(Printed or Typed name) (Title)

IT IS SO ORDERED PURSUANT TO CALIFORNIA WATER CODE SECTION 13399.30

Date: _____

By: _____
Hope Smythe
Executive Officer

7005 1820 0000 6734 9798

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

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

OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark
Here

Sent To One Broadway Plaza LLC
 Street, Apt. No.;
 or PO Box No. 1103 N. Broadway
 City, State, ZIP+4 Santa Ana CA 92701