



Santa Ana Regional Water Quality Control Board

March 8, 2022

George Cardenas
Highland Hospitality LLC
7426 Cherry Avenue, Suites 210-535
Fontana, California 92336
(Via USPS Mail)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

George Cardenas
george@glabs.net
(Via Email)

Agent for Service of Process for Highland Hospitality LLC
Darren P Trone
3838 Orange Street
Riverside, CA 92501
(Via Certified Mail)

SETTLEMENT OFFER NO. R8-2022-0026: OFFER 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 AS AMENDED BY ORDER NO. 2010-0014-DWQ AS AMENDED BY ORDER NO. 2012-0006-DWQ, NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM NPDES NO. CAS000002, FOR HIGHLAND HOSPITALITY LLC, 16757 SLOVER AVENUE, FONTANA, WQID NO. 8 36C392193

Dear Mr. Cardenas:

This letter is to notify Highland Hospitality LLC (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 Storm Water 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, Order No. 2009-0009-DWQ as Amended by Order No. 2010-0014-DWQ as Amended by Order No.

KRISTINE MURRAY, CHAIR | JAYNE JOY, EXECUTIVE OFFICER

2012-0006-DWQ (Construction General Permit), for failure to submit the 2020-2021 Annual Report for the construction site/project located at 16757 Slover Avenue in the City of Fontana. The Annual Report was due to the Santa Ana Water Board by September 1, 2021, as required by Section XVI.A of the Construction General Permit. Notices of Non-Compliance (NNCs) were issued on November 23, 2021 and January 13, 2022, requesting that the construction site's late Annual Report be submitted by January 24, 2022. The 2020-2021 Annual Report has still not been submitted. 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 within sixty (60) days after the first NNC was sent in accordance with Water Code section 13399.31. 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, 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 TO 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 eight hundred fifty dollars (\$1850)**. 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 \$850. 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 7, 2022**. 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:

Keith Elliott, Inland 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 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 were not in business during the reporting period. If you choose this option, you must **submit your written documentation by April 7, 2022**. 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 Keith Elliott.

If you do not respond in a manner described in the above options, the Santa Ana Water 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 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 administrative civil liability complaint.

CONDITIONS FOR SANTA ANA WATER BOARD ACCEPTANCE OF RESOLUTION:

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 and other requested technical reports on or before **April 7, 2022**, 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.

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, please contact Keith Elliott via email at keith.elliott@waterboards.ca.gov regarding this matter.

Sincerely,

Ann E.  Sturdivant
Digitally signed by Ann
E. Sturdivant
Date: 2022.03.08
10:38:04 -08'00'

Ann Sturdivant, PG, CEG, CHG
Assistant Executive Officer

Enclosures:

Notice of Non-Compliance, dated November 23, 2021
Notice of Non-Compliance, dated January 13, 2022
Acceptance of Conditional Resolution and Waiver of Right to Hearing; (proposed)
Order

cc: LRP George Cardenas, george@glabs.net
Tony Mata, Fontana NPDES Coordinator tmata@fontana.org