

**State of California  
California Regional Water Quality Control Board  
Santa Ana Region**

IN THE MATTER OF:

Placentia Hospitality LLC	)	Proposed Findings of Fact
640 West Lambert Road	)	and Conclusions of Law
Brea, CA 92821	)	Order No. R8-2023-0012

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The California Regional Water Quality Control Board, Santa Ana Region (Santa Ana Water Board), having held a public hearing on September 22, 2023 to receive testimony and take evidence on the allegations contained in Mandatory Minimum Penalty Complaint No. R8-2023-0012 (Complaint), and on the recommendation for the imposition of penalties and staff costs pursuant to Water Code section 13399.33 in the amount of four thousand one hundred sixty-five dollars (\$4,165). The Santa Ana Water Board finds as follows:

1. Construction sites that discharge stormwater associated with construction activities are required to obtain coverage under the National Pollutant Discharge Elimination System (NPDES) 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 and Order No. 2012-0006-DWQ, NPDES No. CAS000002 (General Permit). General Permit coverage is required for construction sites that result in disturbance greater than one acre of total land area. Dischargers enrolled under the General Permit are required to comply with reporting requirements, including the requirement to submit an Annual Report by September 1 of each year.
2. On August 22, 2019, Placentia Hospitality LLC (SHS Placentia or Discharger) obtained General Permit coverage under Waste Discharge Identification Number 8 30C387858, for SHS Placentia construction site located at 380 South Placentia Avenue, in the city of Placentia. General Permit coverage authorizes discharges of stormwater associated with construction activity so long as the dischargers comply with all requirements, provisions, limitations, and prohibitions in the permit.
3. On August 4, 2022, the State Water Resources Control Board (State Water Board) sent a courtesy email reminder to dischargers reiterating the September 1, 2022, Annual Report submittal deadline.
4. On August 24, 2022, the State Water Board sent a second courtesy email reminder to dischargers reiterating the September 1<sup>st</sup> deadline for the submittal of the Annual Report.

5. On September 1, 2022, the Discharger's Annual Report for the 2021-2022 reporting year was due per General Permit Section II.I.4.b.
6. On September 19, 2022, the Santa Ana Water Board issued a Notice of Non-Compliance (NNC) to SHS Placentia based on its failure to submit the 2021-2022 Annual Report. The NNC required the Discharger to submit the 2021-2022 Annual Report via the Stormwater Multiple Application and Report Tracking System (SMARTS) no later than October 18, 2022.
7. On September 23, 2022, Santa Ana Water Board staff received the United States Postal Service certified mail return receipt for the first NNC. However, the Discharger did not submit the late Annual Report in response to the initial notice.
8. On October 18, 2022, a second NNC was issued to SHS Placentia for the failure to submit the 2021-2022 Annual Report by the deadline specified in the first NNC. The second NNC required the Discharger to submit the 2021-2022 Annual Report via SMARTS by November 17, 2022.
9. On October 20, 2022, Santa Ana Water Board staff spoke to Mr. Ken Pansuria, President of Fine Hospitality Group, via phone and via email regarding the NNCs and the missing Annual Report. Mr. Pansuria stated the project was complete and had been since the 4<sup>th</sup> quarter of 2020. Santa Ana Water Board staff informed Mr. Pansuria that if the project was complete, that the 2021-2022 Annual Report must be submitted prior to submitting a Notice of Termination (NOT). Mr. Pansuria acknowledged the deadline and stated that he would hire a consultant to complete the documentation required. Santa Ana Water Board staff also provided SMARTS help guides via email to complete both the Annual Report and NOT.
10. On October 24, 2022, Santa Ana Water Board staff received the United States Postal Service certified mail receipt for the second NNC.
11. On November 14, 2022, Santa Ana Water Board staff left a voicemail for Mr. Pansuria regarding the Discharger's failure to submit the 2021-2022 Annual Report for the SHS Placentia construction site. Santa Ana Water Board staff requested a status update on the progress made by the Discharger in responding to the NNCs.
12. On November 16, 2022, Santa Ana Water Board staff spoke to SHS Placentia Receptionist, Ms. Jen Gutierrez, regarding the NNCs. Ms. Gutierrez stated that Ms. Jessica Marquez (the most recent Legally Responsible Person on file) no longer worked for the company and that Mr. Pansuria was unavailable to speak with Santa Ana Water Board staff. Ms. Gutierrez stated that she would pass along Santa Ana Water Board staff's contact information to Mr. Pansuria.
13. On November 17, 2022, Santa Ana Water Board staff again spoke with Ms. Gutierrez regarding the NNCs and reiterated the November 17, 2022, deadline to

submit the 2021-2022 Annual Report. Santa Ana Water Board staff informed her that a mandatory minimum penalty (MMP) of \$1,000 plus staff costs would be imposed if the Annual Report was not received by the deadline. Ms. Gutierrez stated that Mr. Pansuria was out of the country and unavailable. Ms. Gutierrez also stated that she had spoken to Mr. Pansuria the previous day and stated he was planning to reach out to Santa Ana Water Board staff. Mr. Pansuria contacted Santa Ana Water Board staff later that day and requested an extension due to him being out of the country. Santa Ana Water Board staff informed Mr. Pansuria that there would be no extension, as two NNCs had already been issued, to which Mr. Pansuria responded that he would resolve the issue when he returned.

14. On February 2, 2023, the Santa Ana Water Board issued Conditional Settlement Offer (Settlement Offer) No. R8-2023-0012 to SHS Placentia inviting the Discharger to participate in an Expedited Payment Program relating to violations of the General Permit, which would have provided the opportunity for the Discharger to resolve the alleged violations by paying a MMP of \$1,413, including staff costs. Staff advised the Discharger that they were still required to submit the 2021-2022 Annual Report via SMARTS. The Discharger was given a deadline of March 3, 2023, to respond to the Settlement Offer.
15. On March 6, 2023, Santa Ana Water Board staff verified that the Settlement Offer had been delivered according to the United States Postal Service's website.
16. On March 8, 2023, Santa Ana Water Board staff again spoke with Mr. Pansuria and informed him that the Santa Ana Water Board still had not received any response regarding the Settlement Offer issued on February 2, 2023, and of SHS Placentia's continuing violation for the failure to submit the 2021-2022 Annual Report. Mr. Pansuria acknowledged receipt of the Settlement Offer and stated that the project had already been completed but the "owners were unable to close the project in SMARTS". Santa Ana Water Board staff informed Mr. Pansuria that all violations must be addressed prior to submitting a NOT and that several deadlines had already passed. Mr. Pansuria stated that the Settlement Offer response would be completed by March 10, 2023, and the associated violations would be addressed by the following week.
17. On May 17, 2023, Santa Ana Water Board staff conducted a compliance inspection of the SHS Placentia construction site. Construction at the site had been completed and the hotel was open for business. Santa Ana Water Board staff spoke with Mr. Robert Hussey, General Manager for the Springhill Suites location, and explained that two NNCs were issued for the failure to submit the 2021-2022 Annual Report which was followed by a Settlement Offer for the failure to respond and adequately address the NNCs' requirements. Mr. Hussey was handed copies of both the NNCs and the Settlement Offer. He then signed the Document Receipt form and stated that he would follow up with the corporate office to complete all

items outlined in the Settlement Offer, and then submit a NOT as all construction activities have been completed on site.

18. On May 30, 2023, Santa Ana Water Board staff again spoke to the receptionist regarding the Settlement Offer and the Discharger's failure to respond. She stated that Mr. Pansuria was unavailable and took Santa Ana Water Board staff's contact information to pass along to him. The receptionist was reminded that if the Santa Ana Water Board did not receive a response, there would be continued enforcement action.
19. As of June 26, 2023, the Discharger neither submitted the 2021-2022 Annual Report nor responded to the Settlement Offer and ignored outreach efforts made by Santa Ana Water Board staff.
20. On June 26, 2023, the Branch Manager for Surface Water and Agriculture issued the Mandatory Minimum Penalty Complaint No. R8-2023-0012 to SHS Placentia, which included notice of the hearing on September 22, 2023.
21. The Santa Ana Water Board concludes that the Discharger failed to submit the 2021-2022 Annual Report in violation of Water Code section 13399.31 and is liable for \$4,165 in mandatory minimum penalties pursuant to Water Code sections 13399.33, subdivisions (c) and (d). By adopting this Order, the Santa Ana Water Board incorporates the findings in Complaint No. R8-2023-0012 and affirms the penalty specified therein. Staff costs are enumerated in a declaration and summary of billing costs that are part of the administrative record.
22. This Order on Complaint No. R8-2023-0012 is effective and final upon issuance by the Santa Ana Water Board. Payment must be received by the Santa Ana Water Board no later than thirty (30) days from the date on which this Order is issued.
23. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (CEQA), in accordance with California Code of Regulations, title 14, section 15321, subdivision (a), because it is an enforcement action by a regulatory agency.
24. Any aggrieved person may petition the State Water Board to review this action by the Santa Ana Water Board in accordance with Water Code section 13320 and the State Water Board's regulations. The petition must be received by the State Water Board within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions are available at the Water Boards' Petition Website and will also be provided upon request.

**IT IS HEREBY ORDERED THAT:**

1. Pursuant to Water Code section 13399.33, subdivisions (c) and (d), the Santa Ana Water Board imposes a mandatory minimum penalty in the amount of one thousand

dollars against the Discharger and requires the Discharger to pay staff costs incurred in the enforcement of the matter of three thousand one hundred sixty-five dollars for a total liability of four thousand one hundred sixty-five dollars (\$4,165).

2. The Discharger shall make a payment of \$4,165 to the Waste Discharge Permit Fund within 30 days from the Santa Ana Water Board's adoption of this Order. The Discharger must make a check payable to "State Water Resources Control Board – Waste Discharge Permit Fund" with a reference to "MMP Order R8-2023-0012" and send the check to the following address:

State Water Resources Control Board  
Division of Administrative Services, Accounting Branch  
PO Box 1888  
Sacramento, CA 95812-1888

3. If the Discharger fails to make the specified payment to the Waste Discharge Fund within the time limit specified in this Order, the Santa Ana Water Board's Executive Officer is hereby authorized to collect as any other civil judgement the full amount due under the settlement in any manner permitted by California Law, including a referral to the Attorney General's Office.

I, Jayne E. Joy, Executive Officer, do hereby certify that the forgoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on September 22, 2023.

**Jayne Joy**  Digitally signed by Jayne Joy  
Date: 2023.09.27 14:05:06 -07'00'

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Jayne E. Joy, P.E.  
Executive Officer  
Santa Ana Regional Water Quality Control Board