



EDMUND G. BROWN JR.  
GOVERNOR



MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

**Santa Ana Regional Water Quality Control Board**

January 11, 2018

Mr. John Engelhardt  
Ford of Upland  
555 West Foothill Boulevard  
Upland, CA 91786

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

**TRANSMITTAL OF MANDATORY MINIMUM PENALTY (MMP) COMPLAINT NO. R8-2018-0025, FORD OF UPLAND, WDID No. 8 36C377055**

Dear Mr. Engelhardt:

Enclosed is Mandatory Minimum Penalty Complaint No. R8-2018-0025 (Complaint). The Complaint alleges that Ford of Upland has violated the State's 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 ( Construction General Permit) by failing to submit the 2016-2017 annual report by September 1, 2017 for Parcel Map 19562, located at North Campus Avenue, in the city of Upland.

The Complaint proposes that a penalty in the amount of three thousand, one hundred twelve dollars (\$3,112) be imposed. The penalty amount is comprised of mandatory minimum penalties and staff costs as authorized by California Water Code Sections 13399.33(c) and 13399.33(d).

A public hearing on this matter is scheduled for the Regional Board meeting on **March 23, 2018**. A proposed Order, the staff report regarding this Complaint and the meeting agenda will be provided to you not less than 10 days prior to the hearing. A meeting agenda will also be available at: [http://www.waterboards.ca.gov/santaana/board\\_info/agendas/](http://www.waterboards.ca.gov/santaana/board_info/agendas/).

Pursuant to California Water Code Section 13323, Ford of Upland has the option to waive its right to a hearing. Should the Ford of Upland waive its right to a hearing and pay the proposed assessment, the Regional Board may not hold a public hearing on this matter. If the Ford of Upland chooses to waive its right to a hearing, please sign and submit the enclosed Waiver Form by **February 12, 2018**. Please make the check payable to the Waste Discharge Permit Fund for three thousand, one hundred twelve dollars (\$3,112) and include the Complaint Number on the memo line. Please send the following information to the appropriate location:

**Mail Waiver Form to:**

RWQCB  
Attn: Keith Elliott  
3737 Main Street, Suite 500  
Riverside, CA 92501

**Mail Payment to:**

SWRCB – Accounting Office  
Attn: Storm Water MMP Payment  
P.O. Box 1888  
Sacramento, CA 95812-1888

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

3737 Main St., Suite 500, Riverside, CA 92501 | [www.waterboards.ca.gov/santaana](http://www.waterboards.ca.gov/santaana)

♻️ RECYCLED PAPER

Mr. John Engelhardt  
Ford of Upland  
WDID No. 8 36C377055

- 2 -

January 11, 2018

If the Ford of Upland does not wish to waive its right to a hearing, a pre-hearing meeting is recommended. Should you wish to schedule a pre-hearing meeting, please submit your request to Keith Elliott by email at [keith.elliott@waterboards.ca.gov](mailto:keith.elliott@waterboards.ca.gov) or by phone at (951) 782-4925 prior to January 22, 2018.

A Proposed Hearing Procedure pertaining to this Complaint is also enclosed. The Proposed Hearing Procedure sets forth important requirements and deadlines for participation in the hearing. Additionally, a Fact Sheet describing the complaint process is available at:

[http://www.waterboards.ca.gov/santaana/public\\_notices/enforcement\\_actions.shtml](http://www.waterboards.ca.gov/santaana/public_notices/enforcement_actions.shtml)

The Fact Sheet describes the complaint process and explains what Ford of Upland can expect and its obligations as the process proceeds. If preferred, a hard copy of the Fact Sheet may be obtained by contacting Keith Elliott at [kelliott@waterboards.ca.gov](mailto:kelliott@waterboards.ca.gov) or by calling (951) 782-4925.

Please read the Proposed Hearing Procedure carefully. The Regional Board may adopt an Order requiring that you pay a penalty.

If you have any questions regarding the Complaint or the enclosed documents, please contact Keith Elliott at [kelliott@waterboards.ca.gov](mailto:kelliott@waterboards.ca.gov) or by calling (951) 782-4925. All legal questions should be directed to Catherine Hawe, Office of Enforcement, by email at [catherine.hawe@waterboards.ca.gov](mailto:catherine.hawe@waterboards.ca.gov) or by phone at (916) 322-3538.

Sincerely,



Jayne Joy  
Assistant Executive Officer  
Regional Board Prosecution Team

Enclosures: MMP Complaint No. R8-2018-0025  
Proposed Hearing Procedure  
Waiver Form  
Attachment 1: 1<sup>st</sup> Notice of Non-Compliance, dated 9/12/17  
Attachment 2: 2<sup>nd</sup> Notice of Non-Compliance, dated 10/18/17  
Attachment 3: Emails

cc: Regional Board

Mrs. Hope Smythe, RWQCB, Riverside (Regional Board Advisory Team)  
Ms. Teresita Sablan, Office of Chief Counsel, SWRCB, Sacramento (Regional Board  
Advisory Team Attorney) [Teresita.Sablan@waterboards.ca.gov](mailto:Teresita.Sablan@waterboards.ca.gov)  
Ms. Catherine Hawe, Office of Enforcement, SWRCB, Sacramento;  
[Catherine.Hawe@waterboards.ca.gov](mailto:Catherine.Hawe@waterboards.ca.gov)  
Ms. Arlene Chun, County of San Bernardino Program Manager,  
[Arlene.Chun@dpw.sbcounty.gov](mailto:Arlene.Chun@dpw.sbcounty.gov)  
Mr. Robert Herbster, City of Upland NPDES Coordinator, [rherbster@ci.upland.ca.us](mailto:rherbster@ci.upland.ca.us)

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Sent To **Mr. John Engelhardt**  
 Street and Ap **Ford of Upland**  
**555 West Foothill Boulevard**  
 City, State, Zi **Upland, CA 91786**

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

IN THE MATTER OF:

Mr. John Engelhardt	)	Complaint No. R8-2018-0025
555 West Foothill Boulevard	)	for
Upland, CA 91786	)	Mandatory Minimum Penalty and Staff Costs
Attn: Mr. Kirk David Bowlus	)	
	)	

**YOU ARE HEREBY GIVEN NOTICE THAT:**

1. You are alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Regional Board), must impose liability under section 13399.33 of the California Water Code.
2. Unless waived, a hearing concerning this Complaint will be held before the Regional Board at its regular meeting on March 23, 2018, at a to be determined location. The Ford of Upland representative will have an opportunity to appear and be heard, and to contest the allegations in this Complaint and the imposition of mandatory penalties by the Regional Board. An agenda for the meeting will be provided to Ford of Upland not less than 10 days before the hearing date. A meeting agenda will also be available at: [http://www.waterboards.ca.gov/santaana/board\\_info/agendas/](http://www.waterboards.ca.gov/santaana/board_info/agendas/).
3. Ford of Upland can waive its right to a hearing to contest the allegation contained in this Complaint by signing and submitting the enclosed waiver and paying the liability in full or by taking other actions as described in the waiver form. If this matter proceeds to a hearing, the Prosecution Team reserves the right to seek an increase in the penalty amount to cover the costs of enforcement incurred subsequent to the issuance of this Complaint through hearing. The enforcement costs may be recovered pursuant to Water Code Section 13399.33(d).
4. At the hearing, the Regional Board will consider whether to affirm, reject, or modify the proposed mandatory minimum penalties and assessment of costs pursuant to Water Code section 13399.33, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.

**THIS COMPLAINT IS BASED ON THE FOLLOWING FACTS:**

5. The construction site, WDID **8 36C377055** identified as Parcel Map 19562, located at North Campus Avenue, in the city of Upland, is regulated under the State's 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 and Order No. 2012-0006, NPDES No. CAS000002 (Construction General Permit).
6. Section XVI.A. of the General Permit requires that an Annual Report be submitted by September 1st each year via the online SMARTS database. Ford of Upland's 2016-2017

annual report was not received by Regional Board staff by the September 1, 2017 deadline. Therefore, a Notice of Non-Compliance (NNC) was issued to Ford of Upland, by certified mail, on September 12, 2017. The NNC requested that Ford of Upland submit the 2016-2017 annual report by October 13, 2017 to the Regional Board. The NNC is attached to this complaint as Attachment 1.

7. On October 18, 2017, Regional Board staff received no response to the first NNC, therefore a second NNC was issued. The second NNC requested that Ford of Upland submit the 2016-2017 annual report by November 13, 2017. The second NNC is attached to this complaint as Attachment 2.
8. On August 21, 2017 State Board staff sent an email to all active Construction General Permit facility owners reminding them that the Annual Report was due on September 1, 2017 and to contact them if they needed assistance accessing the SMARTS system.
9. On September 12, 2017, an email notification that the 2016-2017 Annual report was late and to contact Regional Board Staff with any questions was sent to the facility owner contact in SMARTS, Mr. John Engelhardt [jengelhardt@go-imaging.com](mailto:jengelhardt@go-imaging.com). Mr. Engelhardt read the email on September 14, 2017. Another email was sent to Mr. Engelhardt on October 23, 2017. He read the email on October 25, 2017. These emails are attached to this complaint as Attachment 3.

#### LEGAL AUTHORITY

10. Water Code section 13399.31, subdivision (d), provides that "[i]f a discharger to which a notice is sent pursuant to subdivision (c) fails to submit the annual report ... to the regional board within 60 days from the date on which the notice is sent pursuant to subdivision (b), the regional board shall impose the penalties described in subdivision (c) of Water Code section 13399.33."
11. Water Code section 13399.33, subdivision (c) requires the regional board to assess a mandatory minimum penalty of \$1,000 for each violation when the discharger fails to submit an annual report in accordance with Water Code section 13399.31.
12. Water Code section 13399.33, subdivision (d) provides that the regional board shall "[r]ecover from the persons described in subdivisions (a), (b), and (c) the costs incurred by the regional board in regards to those persons."
13. While this Complaint only seeks the mandatory minimum penalty amount pursuant to Water Code section 13399.33, the maximum amount of administrative civil liability assessable pursuant to Water Code section 13385, subdivision (c) is \$10,000 per day per violation.

#### VIOLATION

14. Ford of Upland failed to submit the 2016-2017 Annual Report and must be assessed the Mandatory Minimum Liability: The first NNC issued on September 12, 2017 and the second NNC issued on October 18, 2017 gave Ford of Upland notice that it was obligated to submit the annual report in order to comply with the Construction General Permit. To date, the annual report has not been submitted.

**PROPOSED MANDATORY MINIMUM PENALTIES AND ASSESSMENT OF COSTS**

15. Pursuant to Water Code section 13399.33(c), the Regional Board shall administratively impose a penalty in an amount that is not less than one thousand dollars (\$1,000) for the violation cited above.
16. Based on the non-submittal of the 2016-2017 annual report by September 1, 2017, Ford of Upland is alleged to have violated the Construction General Permit for 131 days (from September 2, 2017 to January 11, 2018, the date of this Complaint).
17. Water Code section 13399.33(d) allows for the recovery of costs incurred by the Regional Board for enforcement actions against dischargers who fail to submit the required annual report. Staff spent approximately ten (10) hours at \$139/hr, staff's supervisor spent about four (4) hours at \$131/hr, and the AEO spent approximately one (1) hour at \$198/hr for this enforcement action resulting in total staff costs of \$2112. The total liability, including staff costs, is \$3,112 (\$1,000 mandatory penalty+\$2112 in-staff costs).
18. Issuance of this Complaint is an enforcement action and is therefore exempt from the provisions of the California Environmental Quality Act (Pub. Res. Code Section 21000 et seq.) pursuant to Title 14, California Code of Regulations Sections 15308 and 15321, subdivision (a), paragraph (2).

**WAIVER OF HEARING**

Ford of Upland may waive its right to a hearing. If Ford of Upland chooses to do so, please sign the enclosed Waiver Form and return it, together with a check for **\$3,112. Indicate "R8-2018-0017" on the check and make it payable to the Waste Discharge Permit Fund.** Send the check to the following address:

State Water Resources Control Board  
Division of Administrative Services  
Accounting Branch  
P.O. Box 1888  
Sacramento, CA 95814

The waiver and a copy of the check shall also be mailed to the Regional Board at the following address:

Santa Ana Regional Water Quality Control Board  
3737 Main Street, Suite 500  
Riverside, CA 92501-3348  
Attention: Keith Elliott

If Ford of Upland waives its right to a hearing and pays the assessed amount, the Regional Board may not hold a hearing regarding this Complaint.

If you have any questions regarding the Complaint or the enclosed documents, please contact Keith Elliott at [keith.elliott@waterboards.ca.gov](mailto:keith.elliott@waterboards.ca.gov) or by calling (951) 782-4925.

All legal questions should be directed to Catherine Hawe, Office of Enforcement, by email at [Catherine.Hawe@waterboards.ca.gov](mailto:Catherine.Hawe@waterboards.ca.gov) or by phone at (916) 322-3538.

1/11/2018  
Date

  
\_\_\_\_\_  
Jayne Joy  
Assistant Executive Officer  
Regional Board Prosecution Team

Santa Ana Regional Water Quality Control Board

California Regional Water Quality Control Board  
Santa Ana Region

PROPOSED HEARING PROCEDURE  
FOR MANDATORY MINIMUM PENALTY COMPLAINT

NO. R8-2018-0025

ISSUED TO

Mr. John Engelhardt

Ford of Upland

555 West Foothill Boulevard

Upland, CA 91786

For the Construction Site

Parcel Map 19562

North Campus Avenue

Upland, CA 91786

San Bernardino County

**SCHEDULED FOR MARCH 23, 2018**

**PLEASE READ THIS HEARING PROCEDURE CAREFULLY. FAILURE TO COMPLY WITH THE DEADLINES AND OTHER REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF YOUR DOCUMENTS AND/OR TESTIMONY.**

**Background**

On January 11, 2018, the Assistant Executive Officer, acting as head of the Santa Ana Regional Water Quality Control Board (Regional Board) Prosecution Team, issued a Mandatory Minimum Penalty Complaint (Complaint) pursuant to California Water Code (Water Code) Section 13323 against Ford of Upland, alleging that it violated the State's General Permit for Storm Water Discharges Associated with Construction Activities, Order No. 2009-0009-DWQ, NPDES No. CAS000002 (Construction General Permit) by failing to submit the 2016-2017 annual report by September 1, 2017.

This Complaint proposes that the Regional Board impose a mandatory minimum penalty and staff costs in the amount of **three thousand, one hundred and twelve dollars (\$3,112)** pursuant to Water Code Section 13399.33. Unless Ford of Upland pays the proposed liability, a hearing will be held before the Regional Board during its **March 23, 2018** meeting.

### **Purpose of Hearing**

The purpose of the hearing is to consider relevant evidence and testimony regarding the Complaint and any proposed Order. At the hearing, the Regional Board will consider whether to issue an administrative civil liability order assessing the proposed liability, or a higher or lower amount, or reject the proposed liability.

The public hearing will be held on **March 23, 2018**, and will commence no earlier than 9:00 a.m., as soon thereafter as practical, or as announced in the Regional Board meeting agenda. The meeting will be held at a location to be determined.

Any proposed Order and an agenda for the meeting will be issued at least ten days before the meeting and posted on the Regional Board's web page at:

[http://www.waterboards.ca.gov/santaana/board\\_info/agendas/](http://www.waterboards.ca.gov/santaana/board_info/agendas/)

### **Hearing Procedure**

The hearing will be conducted in accordance with this Proposed Hearing Procedure. If the Advisory Team takes no action in regard to the Proposed Hearing Procedure, this document will become the final hearing procedure on **February 26, 2018**. The procedures governing adjudicatory hearings before the Regional Board may be found at California Code of Regulations, title 23, section 648 *et seq.*, and are available at:

<http://www.waterboards.ca.gov>.

Copies will be provided upon request. In accordance with Section 648(d), any procedure not provided by this Hearing Procedure is deemed waived. Except as provided in Section 648(b) and herein, Chapter 5 of the Administrative Procedures Act (Gov. Code, § 11500 *et seq.*) does not apply to this hearing.

Ford of Upland shall attempt to resolve objections to this Hearing Procedure with the Prosecution Team BEFORE submitting objections to the Advisory Team.

### **Separation of Prosecutorial and Advisory Functions**

To help ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the Regional Board (the Prosecution Team) have been separated from those who will provide legal and technical advice to the Regional Board (the Advisory Team). Members of the Advisory Team are: Hope Smythe, Executive Officer and Teresita Sablan, Staff Counsel. Members of the Prosecution Team are: Jayne Joy, Assistant Executive Officer; Adam Fischer, Senior Environmental Scientist; Keith Elliott, PE, Water Resource Control Engineer; and Catherine Hawe, Attorney, Office of Enforcement.

Any members of the Advisory Team who normally supervise any members of the Prosecution Team are not acting as their supervisors in this proceeding and vice versa. Other members of the Prosecution Team act or have acted as advisors to the Regional Board in other unrelated matters but they are not advising the Regional Board in this

proceeding. Members of the Prosecution Team have not had any *ex parte* communications with the members of the Regional Board or the Advisory Team regarding this proceeding.

### **Hearing Participants**

Participants in this proceeding are designated as either "Designated Parties" or "Interested Persons." Designated Parties may present evidence and cross-examine witnesses and are subject to cross-examination. Interested Persons may present non-evidentiary policy statements, but may not cross-examine witnesses and are not subject to cross-examination. Interested Persons generally may not present evidence (e.g., photographs, eye-witness testimony, monitoring data). At the hearing, both Designated Parties and Interested Persons may be asked to respond to clarifying questions from the Regional Board, staff, or others, at the discretion of the Board Chair.

The following participants are hereby designated as Designated Parties in this proceeding:

1. Regional Board Prosecution Team
2. Ford of Upland

### **Requesting Designated Party Status**

Persons who wish to participate in the hearing as a Designated Party must request designated party status by submitting a request in writing so that it is received no later than the deadline listed under "Important Deadlines" below. The request shall include an explanation of the basis for status as a Designated Party (i.e., how the issues to be addressed at the hearing affect the person, the need to present evidence or cross-examine witnesses), along with a statement explaining why the parties listed above do not adequately represent the person's interest. Any objections to these requests for designated party status must be submitted so that they are received no later than the deadline listed under "Important Deadlines" below.

### **Primary Contacts**

#### **Advisory Team:**

##### General

Hope Smythe, Executive Officer  
Regional Water Quality Control Board – Santa Ana Region  
3737 Main Street, Suite 500, Riverside, CA 92501  
Phone: (951) 782-4493  
[hope.smythe@waterboards.ca.gov](mailto:hope.smythe@waterboards.ca.gov)

Legal

Teresita Sablan  
State Water Resources Control Board  
P.O. Box 100, Sacramento, CA 95812  
Phone: (916) 341-5174  
[Teresita.Sablan@waterboards.ca.gov](mailto:Teresita.Sablan@waterboards.ca.gov)

**Prosecution Team:**

Keith Elliott, PE  
Regional Water Quality Control Board – Santa Ana Region  
3737 Main Street, Suite 500, Riverside, CA 92501  
Phone: (951) 782-4925  
[keith.elliott@waterboards.ca.gov](mailto:keith.elliott@waterboards.ca.gov)

**Discharger:**

Mr. John Engelhardt  
Ford of Upland  
555 West Foothill Boulevard  
Upland, CA 91786  
Phone: (281) 831-8979  
[jengelhardt@go-imaging.com](mailto:jengelhardt@go-imaging.com)

**Ex Parte Communications**

Designated Parties and Interested Persons are forbidden from engaging in *ex parte* communications regarding this matter. An *ex parte* communication is a written or verbal communication related to the investigation, preparation, or prosecution of the Complaint between a Designated Party or an Interested Person and a Board Member or a member of the Board's Advisory Team (see Gov. Code, § 11430.10 *et seq.*). However, if the communication is copied to all other persons (if written) or is made in a manner open to all other persons (if verbal), then the communication is not considered an *ex parte* communication. Communications regarding non-controversial procedural matters are also not considered *ex parte* communications and are not restricted.

**Hearing Time Limits**

To ensure that all participants have an opportunity to participate in the hearing, the following time limits shall apply: each Designated Party shall have a combined 20 minutes to present evidence (including evidence presented by witnesses called by the Designated Party), to cross-examine witnesses (if warranted), and to provide a closing statement. Each Interested Person shall have 3 minutes to present a non-evidentiary policy statement. Participants with similar interests or comments are requested to make joint presentations and participants are requested to avoid redundant comments. Participants who would like additional time must

submit their request to the Advisory Team so that it is received no later than the deadline listed under "Important Deadlines" below. Additional time may be provided at the discretion of the Advisory Team (prior to the hearing) or the Board Chair (at the hearing) upon a showing that additional time is necessary. Such showing shall explain what testimony, comments, or legal argument requires extra time, and why it could not have been provided in writing by the applicable deadline.

A timer will be used, but will not run during Board questions or the responses to such questions, or during discussions of procedural issues.

### **Submission of Evidence and Policy Statements**

The Prosecution Team and all other Designated Parties (including Ford of Upland) must submit the following information in advance of the hearing:

1. All documentary evidence and exhibits to be offered at the hearing.
2. All legal and technical arguments or analysis.
3. The name of each witness, if any, whom the Designated Party intends to call at the hearing, the subject of each witness' proposed testimony, and the estimated time required by each witness to present direct testimony. Alternatively, the testimony of any witness may be presented by declaration, so long as that witness will be available for cross-examination at the hearing.
4. The qualifications of each expert witness, if any.

**Prosecution Team:** The Prosecution Team's information must include the legal and factual basis for its claims against Ford of Upland; a list of all evidence on which the Prosecution Team relies, which must include, at a minimum, all documents cited in the Complaint, Staff Report, or other material submitted by the Prosecution Team; and the witness information required under items 3-4 for all witnesses, including Board staff.

**Designated Parties** (including Ford of Upland): All Designated Parties shall submit comments regarding the Complaint along with any additional supporting evidence not cited by the Regional Board's Prosecution Team no later than the deadline listed under "Important Deadlines" below.

**Rebuttal:** Any Designated Party that would like to submit evidence, legal analysis, or policy statements to rebut information previously submitted by other Designated Parties shall submit this rebuttal information so that it is received no later than the deadline listed under "Important Deadlines" below. "Rebuttal" means evidence, analysis or comments offered to disprove or contradict other submissions. Rebuttal shall be limited to the scope of the materials previously submitted. Rebuttal information that is not responsive to information previously submitted may be excluded.

**Copies:** For each evidentiary deadline, each Designated Party shall send one electronic copy of the above materials to each of the other Designated Parties at the address or addresses provided above by 5:00 p.m. on the deadline described above.

**Interested Persons:** Interested Persons who would like to submit written non-evidentiary policy statements are encouraged to submit them to the Advisory Team as early as possible, but they must be received by the deadline listed under "Important Deadlines" to be included in the Board's agenda package. Interested Persons do not need to submit written comments in order to speak at the hearing.

**Prohibition on Surprise Evidence:** In accordance with California Code of Regulations, title 23, section 648.4, the Regional Board endeavors to avoid surprise testimony or evidence. Absent a showing of good cause and lack of prejudice to the parties, the Board Chair may exclude evidence and testimony that is not submitted in accordance with this Hearing Procedure. Excluded evidence and testimony will *not* be considered by the Regional Board and will not be included in the administrative record for this proceeding.

**Presentations:** Power Point and other visual presentations may be used at the hearing, but their content shall not exceed the scope of other submitted written material. These presentations must be provided to the Advisory Team at or before the hearing both in hard copy and in electronic format so that they may be included in the administrative record.

**Witnesses:** All witnesses who have submitted written testimony shall appear at the hearing to affirm that the testimony is true and correct, and shall be available for cross-examination.

### **Questions**

Questions concerning this proceeding may be addressed to the Advisory Team attorney (contact information above).

### **IMPORTANT DEADLINES**

*All required submissions must be received by 5:00 p.m. on the respective due date.*

January 11, 2018	<ul style="list-style-type: none"><li>• Prosecution Team issues Complaint and Proposed Hearing Procedure on Ford of Upland.</li></ul>
January 22, 2018	<ul style="list-style-type: none"><li>▪ Ford of Upland deadline to request a pre-hearing meeting.</li></ul>
February 12, 2018	<ul style="list-style-type: none"><li>▪ Ford of Upland. deadline to submit 90-Day Hearing Waiver Form and payment.</li><li>▪ Ford of Upland deadline to submit the 2016-17 Annual Report in SMARTS <a href="https://smarts.waterboards.ca.gov">https://smarts.waterboards.ca.gov</a> .</li><li>▪ Objections due on Proposed Hearing Procedure.</li></ul> <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons, Prosecution Team Attorney, Advisory Team Attorney</p> <p><u>Electronic or Hard Copies to:</u> Prosecution Team Primary Contact, Advisory Team Primary Contact</p>
February 16, 2018*	<ul style="list-style-type: none"><li>▪ Prosecution Team's deadline for submission of information required under "Submission of Evidence and Policy Statements," above.</li></ul> <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons</p>

	<u>Electronic or Hard Copies to:</u> Advisory Team Primary Contact, Advisory Team Attorney
February 20, 2018*	<ul style="list-style-type: none"> <li>▪ Deadline to request "Designated Party" status.</li> </ul> <u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons, Prosecution Team Attorney, Advisory Team Attorney <u>Electronic or Hard Copies to:</u> Prosecution Team Primary Contact, Advisory Team Primary Contact
February 22, 2018*	<ul style="list-style-type: none"> <li>▪ Deadline to submit opposition to requests for Designated Party status.</li> </ul> <u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons, Prosecution Team Attorney, Advisory Team Attorney <u>Electronic or Hard Copies to:</u> Prosecution Team Primary Contact, Advisory Team Primary Contact
February 26, 2018*	<ul style="list-style-type: none"> <li>▪ Advisory Team adopts Proposed Hearing Procedure with any applicable modifications. If the Advisory Team takes no actions with regard to the Hearing Procedure, the Proposed Hearing Procedure will become final.</li> <li>▪ Advisory Team issues decision on requests for Designated Party status.</li> </ul>
March 1, 2018*	<ul style="list-style-type: none"> <li>▪ Remaining Designated Parties' (including Ford of Upland) deadline to submit all information required under "Submission of Evidence and Policy Statements" above. This includes all written comments regarding the complaint and any rebuttal evidence, any rebuttal to legal arguments and/or policy statements, and all evidentiary objections.</li> <li>▪ Interested Persons' comments are due.</li> </ul> <u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons, Prosecution Team Attorney, Advisory Team Attorney <u>Electronic or Hard Copies to:</u> Prosecution Team Primary Contact, Advisory Team Primary Contact
March 5, 2018*	<ul style="list-style-type: none"> <li>▪ Prosecution Team's deadline to submit any rebuttal evidence, any rebuttal to legal arguments and/or policy statements, and all evidentiary objections.</li> <li>▪ Deadline to submit requests for additional time.</li> <li>▪ If rebuttal evidence is submitted, all requests for additional time (to respond to the rebuttal at the hearing) must be made within 3 working days of <i>this</i> deadline.</li> </ul> <u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons, Prosecution Team Attorney, Advisory Team Attorney <u>Electronic or Hard Copies to:</u> Prosecution Team Primary Contact, Advisory Team Primary Contact
March 13, 2018*†	<ul style="list-style-type: none"> <li>▪ Advisory Team submits Hearing information on the parties and Board.</li> </ul> <u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons <u>Electronic or Hard Copies to:</u> Advisory Team Primary Contact, Advisory Team Attorney
March 23, 2018*	Hearing

\* Ford of Upland has the right to a hearing before the Board within 90 days of receiving the Complaint, but this right can be waived (to facilitate settlement discussions, for example). By submitting the waiver form, Ford of Upland is not waiving the right to a hearing; unless a settlement is reached, the Board will hold a hearing prior to imposing civil liability. However, if the Board accepts the waiver, all deadlines marked with an "\*" will be revised if a settlement cannot be reached.

† This deadline is set based on the date that the Board Members' agenda packages are compiled. Any material received after this deadline will not be included in the Board Members' agenda packages.

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Santa Ana Regional Water Quality Control Board

## WAIVER FORM FOR MANDATORY MINIMUM PENALTY COMPLAINT

By signing this waiver, I affirm and acknowledge the following:

I am duly authorized to represent Ford of Upland in connection with Mandatory Minimum Penalty Complaint No. R8-2018-0025 (Complaint). I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served with the complaint. The person(s) who have been issued a complaint may waive the right to a hearing."

**(Check here if Ford of Upland waives the hearing requirement and will pay the liability in full.)**

- a. I hereby waive any right Ford of Upland may have to a hearing before the Regional Water Board.
- b. I certify that Ford of Upland will remit payment for the proposed penalty in the full amount of **three thousand, one hundred and twelve dollars (\$3,112)** by submitting a check made payable to the "Waste Discharge Permit Fund," that references "Complaint No. R8-2018-0025." Payment must be received by the Regional Water Board by **February 12, 2018** or the Regional Water Board may adopt an Order requiring payment.
- c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after the 30-day public notice and comment period. Should the Regional Water Board receive significant new information or comments from any source (excluding the Water Board's Prosecution Team) during this comment period, the Regional Water Board's Assistant Executive Officer may withdraw the complaint, return payment, and issue a new complaint. I understand that this proposed settlement is subject to approval by the Regional Water Board (or the Regional Board's delegate), and that the Regional Water Board may consider this proposed settlement in a public meeting or hearing. I also understand that approval of the settlement will result in Ford of Upland having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
- d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type

alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

\_\_\_\_\_  
(Print Name and Title)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

# **Attachment 1**



EDMUND G. BROWN JR.  
GOVERNOR

MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

**Santa Ana Regional Water Quality Control Board**

September 12, 2017

John Engelhardt  
Ford of Upland  
555 West Foothill Boulevard  
Upland, CA 91786

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

**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, NPDES NO. CAS000002 (GENERAL PERMIT) WDID NO. 8 36C377055**

Dear Mr. Engelhardt:

Your construction site identified as Parcel Map 19562, located at North Campus Avenue, in the city of Upland is regulated under the General Permit and is identified by **WDID 8 36C377055**. Section XVI.A. of the General Permit requires that an Annual Report be submitted by September 1st each year via the online SMARTS database. Our records show that your annual report for the July 1, 2016 to June 30, 2017 reporting period has not been submitted.

Ford of Upland is consequently in violation of Section XVI.A. of the General Permit for failure to submit a complete 2016-2017 Annual Report. We request that you submit a complete **2016-2017 Annual Report** via the online SMARTS database no later than **October 13, 2017**.

**The online SMARTS database is available at:**

<https://smarts.waterboards.ca.gov>

Please note that in order to submit the annual report, the Legally Responsible Person (LRP) or the legal owner of the property must complete the e-Authorization Form if the e-Authorization Form was not processed in the prior years. This form can be accessed, once logged into SMARTS, under the main menu. Click on the "Update User Profile" link on the left. The LRP must complete the form shown, sign it, and mail the original form to one of the Sacramento addresses noted at the end of the e-Authorization Form. You will be notified when the e-Authorization Form has been processed, enabling you to submit the report electronically.

You must also provide a statement explaining why the annual report was not submitted by the September 1 deadline, propose the measures you will take to ensure timely

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

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submittals in the future, and upload the statement as part of SMARTS annual report Attachments.

Failure to submit the requested information within 30 days of the date of this letter 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.

Should you need assistance in completing the Annual Report or have any questions relating to SMARTS, please contact the SMARTS Helpdesk at [stormwater@waterboards.ca.gov](mailto:stormwater@waterboards.ca.gov). You may also contact Keith Elliott at 951-782-4925 or [keith.elliott@waterboards.ca.gov](mailto:keith.elliott@waterboards.ca.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Ann Sturdivant". The signature is written in a cursive style with a large, looped initial "A".

Ann Sturdivant, PG, CEG, CHG  
Supervising Engineering Geologist  
Chief, Groundwater and Regulatory Division

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1st NNC

Postage \$4.47

8 36C377055

Total Postage and Fees \$6.47

475644

Sent To Mr. John Engelhardt

Street and Apt. No., or Po Box No.  
Ford of Upland

City, State, ZIP+4®  
555 West Foothill Boulevard  
Upland, CA 91786

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

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for an electronic return receipt, see a retail associate for assistance. To receive a duplicate return receipt for no additional fee, present this USPS®-postmarked Certified Mail receipt to the retail associate.

- Restricted delivery service, which provides delivery to the addressee specified by name, or to the addressee's authorized agent.
- Adult signature service, which requires the signee to be at least 21 years of age (not available at retail).
- Adult signature restricted delivery service, which requires the signee to be at least 21 years of age and provides delivery to the addressee specified by name, or to the addressee's authorized agent (not available at retail).
- To ensure that your Certified Mail receipt is accepted as legal proof of mailing, it should bear a USPS postmark. If you would like a postmark on this Certified Mail receipt, please present your Certified Mail item at a Post Office™ for postmarking. If you don't need a postmark on this Certified Mail receipt, detach the barcoded portion of this label, affix it to the mailpiece, apply appropriate postage, and deposit the mailpiece.

**IMPORTANT: Save this receipt for your records.**

# **Attachment 2**



EDMUND G. BROWN JR.  
GOVERNOR

MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

**Santa Ana Regional Water Quality Control Board**

October 18, 2017

Mr. John Engelhardt  
Ford of Upland  
555 West Foothill Boulevard  
Upland, CA 91786

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

**FINAL NOTICE OF NON-COMPLIANCE - GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH CONSTRUCTION AND LAND DISTURBANCE ACTIVITIES, ORDER NO. 2009-0009-DWQ, NPDES NO. CAS000002**

Dear Mr. Engelhardt:

The construction site identified as Parcel Map 19562, located at North Campus Avenue, in the city of Upland is regulated under the General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (General Permit) and is identified by **8 36C377055**.

Section XVI.A. of the General Permit requires that an Annual Report be submitted by September 1st each year via the online SMARTS database. Our records show that your annual report for the July 1, 2016 to June 30, 2017 reporting period has not been submitted.

Ford of Upland is consequently in violation of Section XVI.A. of the General Permit for failure to submit a complete **2016-2017 Annual Report**. We request that you submit a complete 2016-2017 Annual Report via the online SMARTS database no later than **November 13, 2017**.

The online SMARTS database is available at <https://smarts.waterboards.ca.gov>.

Please note that in order to submit the annual report, the Legally Responsible Person (LRP) or the legal owner of the property must complete the e-Authorization Form if the e-Authorization Form was not processed in the prior years. This form can be accessed, once logged into SMARTS, under the main menu. Click on the "Update User Profile" link on the left. The LRP must complete the form shown, sign it, and mail the original form to one of the Sacramento addresses noted at the end of the e-Authorization Form. You will be notified when the e-Authorization Form has been processed, enabling you to submit the report electronically.

You must also provide a statement explaining why the annual report was not submitted by the September 1 deadline, describe the measures you will take to ensure timely

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Mr. John Engelhardt  
Ford of Upland

- 2 -

October 18, 2017

submittals in the future, and upload the statement as part of SMARTS annual report Attachments.

Failure to submit the requested information by **November 13, 2017**, 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 who do not submit their annual reports after notification.

Should you need assistance in completing the Annual Report or have any questions relating to SMARTS, please contact the SMARTS Helpdesk at [stormwater@waterboards.ca.gov](mailto:stormwater@waterboards.ca.gov). You may also contact Keith Elliott at 951-782-4925 or [keith.elliott@waterboards.ca.gov](mailto:keith.elliott@waterboards.ca.gov).

Sincerely,

Original Signed by:

Lauma Willis  
Environmental Program Manager  
Chief, Planning Division  
Santa Ana Regional Water Quality Control Board

# **Attachment 3**

**From:** [Elliott\\_Keith@Waterboards](mailto:Elliott_Keith@Waterboards)  
**To:** "n5041c@yahoo.com"  
**Subject:** WDID 8 36C377055 2nd NNC for 2016-2017 CGP Annual Report  
**Date:** Monday, October 23, 2017 8:28:00 AM  
**Attachments:** [C377055\\_2016-2017\\_2ndNNC\\_CertMail to Owner.pdf](#)

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Dear Mr. Engelhardt,

You have been designated to receive a copy of the attached document.

Program Type: Construction Permit WDID Number: 8 36C377055 SMARTS AppID: 475644  
Site's Name: Parcel Map 19562  
Site's Registered Location: North Campus Avenue, Upland  
Site's Designated Legally Responsible Person Contact: John Engelhardt (n5041c@yahoo.com)  
Site's Designated Operator Contact: John Engelhardt (n5041c@yahoo.com)  
Site's Designated Contact: John Engelhardt (n5041c@yahoo.com)  
Site's Designated Developer Contact: John Engelhardt (n5041c@yahoo.com)

In an effort to improve efficiency the Santa Ana Regional Water Quality Control Board no longer mails paper copies to those designated to receive copies (cc's) of letters and other documents; these are transmitted through email only.

All large attachments and other documents (such as tentative and adopted orders), will be posted on our website and not attached to this e-mail notification. To access these documents, please see our website at: <http://www.waterboards.ca.gov/santaana>

Document(s) can be viewed using Adobe Acrobat Reader. The free reader can be downloaded from [www.adobe.com](http://www.adobe.com) or from our web site.

If you have any questions or have received this email in error, please contact the SMARTS Helpdesk at [stormwater@waterboards.ca.gov](mailto:stormwater@waterboards.ca.gov), reply to this email, or call me at the phone number below.

Sincerely,

Keith L. Elliott, P.E., QSD  
Water Resource Control Engineer  
Inland Storm Water Unit  
Santa Ana Regional Water Quality Control Board  
3737 Main Street, Ste. 500  
Riverside, CA 92501-3348  
951-782-4925 Voice  
951-781-6288 Fax  
[Keith.Elliott@waterboards.ca.gov](mailto:Keith.Elliott@waterboards.ca.gov)

**From:** John Engelhardt  
**To:** [Elliott, Keith@Waterboards](mailto:Elliott, Keith@Waterboards)  
**Subject:** Read: WDID 8 36C377055 1st NNC for 2016-2017 CGP Annual Report  
**Date:** Thursday, September 14, 2017 12:35:57 AM  
**Attachments:** [Read WDID 8 36C377055 1st NNC for 2016-2017 CGP Annual Report.msg](#)

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**From:** John Engelhardt  
**To:** [Elliott\\_Keith@Waterboards](mailto:Elliott_Keith@Waterboards)  
**Subject:** Read: WDID 8 36C377055 2nd NNC for 2016-2017 CGP Annual Report  
**Date:** Wednesday, October 25, 2017 11:16:45 AM  
**Attachments:** [Read WDID 8 36C377055 2nd NNC for 2016-2017 CGP Annual Report.msg](#)

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