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JARED BLUMENFELD
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Santa Ana Regional Water Quality Control Board

January 24, 2019

Mr. Bob Kubashek
LBACPT Industrial Company VI LLC
3347 Michelson Drive, Suite 200
Irvine, CA 92612

**VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

SETTLEMENT OFFER NO. R8-2019-0023: EXPEDITED PAYMENT PROGRAM FOR VIOLATION OF WATER CODE SECTION 13399.33(C), WDID NO. 8 33C375894

Dear Mr. Kubashek,

This letter is to notify LBACPT Industrial Company VI LLC (hereinafter Permittee or you) of alleged violations of the California Water Code (Water Code). The violation is your failure to submit the 2017-18 Annual Report by September 1, 2018 for the construction site located at Northwest corner of I-15 and Cantu Galleano Ranch Road in the City of Eastvale.

This is an invitation to participate in the Santa Ana Regional Water Quality Control Board's (Regional Board) Expedited Payment Program to address mandatory minimum penalties that must be assessed pursuant to California Water Code sections 13385 and 13385.1.

ALLEGED VIOLATION:

Regional Board staff alleges that the Permittee has violated provisions 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).

Provision I.4.c. of the Order requires that the Permittee submit Annual Reports due to the Regional Board by **September 1 of each year**.

Regional Board staff requested that the Permittee submit the 2017-18 Annual Report in the Notices of Noncompliance (NNC) issued on 10/29/2018 and 12/13/2018. Based on information in the Storm Water Multiple Application & Report Tracking System (SMARTS), as of January 23, 2019, the Annual Report has not been submitted.

WILLIAM RUH, CHAIR | HOPE SMYTHE, EXECUTIVE OFFICER

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

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 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. 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.** If the permittee chooses to accept this offer, you must comply with the Order and submit the requested Annual Report(s) and agree to pay a settlement of **\$1597**. This settlement offer is based on Water Code section 13399.33(c) which requires \$1,000 per missing report plus staff costs. Staff costs in this matter are **\$597**.

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 February 25, 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(s) in SMARTS and an original (blue ink) signed Acceptance and Wavier form to:

Santa Ana Regional Water Quality Control Board
Attn: Keith Elliott, Inland Stormwater Unit
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 violation.** To contest the violation the Permittee must submit, in writing, the basis of your challenge with supporting evidence. For example, you may have evidence that you previously submitted your Annual Report(s) or you are no longer in business. If you choose this option, you must **submit your written documentation**

by February 25, 2019. We will review your submission and, if we agree, 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 at the address listed in the above paragraph.

If you do not respond in a manner described in the above options, Regional Board staff 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 amount set forth in this Conditional Offer. Moreover, additional staff costs may be considered in the recommended liability amount.

CONDITIONS FOR REGIONAL BOARD ACCEPTANCE OF RESOLUTION:

This offer to participate in the Expedited Payment Program is conditioned upon the Regional Board's receipt of confirmation that the Permittee has submitted the Annual Reports in SMARTS on or before **February 25, 2019**. If you choose not to, or fail to, submit the Annual Reports on or before that date, this offer will be deemed withdrawn and a formal enforcement action will be pursued.

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)).

If you accept the Expedited Payment Program offer, the settlement will be published in the following manner:

1. Upon receipt of the Permittee's Acceptance and Waiver, the Annual Reports, and other requested technical reports on or before **February 25, 2019**, Regional Board staff will publish a notice of the proposed resolution of the alleged violations.
2. If Regional Board staff receives no comments 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.
3. If Regional Board staff receives significant comments in opposition to the settlement, this offer may be withdrawn. 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 enclosed NNCs. The Regional Board

reserves the right to pursue formal enforcement of any violations not specifically cited in the enclosed NNCs.

Should you have any questions about this Expedited Payment Program or Notice of Noncompliance, please contact Keith Elliott at (951) 782-4925 or at keith.elliott@waterboards.ca.gov.

Sincerely,



Jayne Joy
Assistant Executive Officer

Enclosures:

- Notice of Noncompliance dated 10/29/2018
- Notice of Noncompliance dated 12/13/2018
- Acceptance of Conditional Resolution and Waiver of Right to Hearing; proposed Order

cc: Catherine Hawe, Office of Enforcement, State Water Resources Control Board

7016 2070 0000 6806 4337

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<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$6.67
Postmark Here EPL	
8 33C375894 470519	
Sent To Mr. Bob Kubashek	
Street and Apt. No. (or PO Box No.) EBACPT Industrial Company VI LLC	
City, State, ZIP+4® 3347 Michelson, Suite 200 Irvine, CA 92612	
PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions	

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Tracking Number: 70162070000068064337

Remove X

Your item was delivered to an individual at the address at 11:20 am on January 28, 2019 in IRVINE, CA 92612.

Delivered

January 28, 2019 at 11:20 am
Delivered, Left with Individual
IRVINE, CA 92612

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Get Updates v

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Tracking History



January 28, 2019, 11:20 am

Delivered, Left with Individual
IRVINE, CA 92612

Your item was delivered to an individual at the address at 11:20 am on January 28, 2019 in IRVINE, CA 92612.

January 26, 2019, 9:00 am

Delivery Attempted - No Access to Delivery Location
IRVINE, CA 92612

January 26, 2019, 2:29 am

Arrived at USPS Regional Facility
SANTA ANA CA DISTRIBUTION CENTER

January 25, 2019

In Transit to Next Facility

January 24, 2019, 11:40 pm

Arrived at USPS Regional Facility
SAN BERNARDINO CA DISTRIBUTION CENTER

Product Information



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*NOTE: Black and white (grayscale) images show the outside, front of letter-sized envelopes and mailpieces that are processed through USPS automated equipment.

Feedback

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

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), LBACPT Industrial Company VI 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 Noncompliance (NNCs) which are enclosed 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 **\$1597** (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 enclosed NNCs.

Upon execution by the Permittee, the completed Acceptance and Waiver shall be returned to:

Santa Ana Regional Water Quality Control Board
Attn: Keith Elliott, Inland Stormwater Unit
3737 Main Street, Suite 500
Riverside, California 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 and provide at least thirty (30) days for public comment on any proposed resolution of an enforcement action addressing NPDES permit violations. This Acceptance and Waiver will be published for public comment prior to execution by the Regional Board Executive Officer, accordingly. 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 set forth in the Notice of Noncompliance letters, may be withdrawn. In that circumstance, the Permittee will be advised of that withdrawal. An administrative civil liability complaint may be issued and the matter may be set for a hearing before the Regional Board. If 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 **\$1597** liability amount including staff costs, shall be paid by a cashiers or certified check made out to the "**State Water Resources Control Board**" referencing Order number **R8-2019-0023** 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 the

Overnight Delivery Service:

State Water Resources Control Board,
Re: Settlement Offer No. R8-2019-0023; WDID No. 8 33C375894
Division of Administrative Services, Accounting Branch
1001 I Street, 18th Floor,
Sacramento, California 95814

Regular Mail:

State Water Resources Control Board,
Re: Settlement Offer No. R8-2019-0023; WDID No. 8 33C375894
Division of Administrative Services, Accounting Branch
P.O. Box 1888
Sacramento, California 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.

LBACPT Industrial Company VI LLC

By: Bob Kubichek 2/25/19
(Signed Name) (Date)
Bob KUBICHEK DIRECTOR OF DEVELOPMENT
(Printed or Typed name) (Title)

IT IS SO ORDERED PURSUANT TO CALIFORNIA WATER CODE SECTION 13399.30

Date: _____

By: _____
Hope Smythe
Executive Officer

Santa Ana Regional Water Quality Control Board

October 29, 2018

Mr. Bob Kubashek
LBACPT Industrial Company VI LLC
3347 Michelson, Suite 200
Irvine, CA 92612

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. Kubashek:

Regional Board records indicate that LBACPT Industrial Company VI LLC is operating a construction site identified as Eastvale Industrial Development, located at Northwest corner of I-15 and Cantu Galleano Ranch Road in the City of Eastvale. This site is regulated under the Construction General Permit and is identified by **WDID 833C375894** - Application ID: **470519**. 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 LBACPT Industrial Company VI LLC's annual report for the July 1, 2017 to June 30, 2018 reporting period has not been submitted. LBACPT Industrial Company VI LLC is consequently in violation of Section XVI.A. of the General Permit for failure to submit a complete 2017-2018 Annual Report. We request that you submit a complete **2017-2018 Annual Report** via the online SMARTS database no later than **November 29, 2018**.

The online SMARTS database is available at:

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

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

Failure to submit the requested information by **November 29, 2018** 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. You may also contact Keith Elliott at 951-782-4925 or keith.elliott@waterboards.ca.gov.

Sincerely,



Adam Fischer, Chief
Inland Storm Water Unit

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Certified Mail Fee	\$3.45
Extra Services & Fees (check box, add fee as appropriate)	\$2.75
<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$4.77
Total Postage and Fees	\$6.67

Postmark
Here
2ndNNC

8 33C375894
470519

Sent To **Mr. Bob Kubashek**
 Street and Address **Lbapt Industrial Company VI LLC**
3347 Michelson, Suite 200
 City, State, ZIP+4® **Irvine, CA 92612**
 PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. Bob Kubashek
Lbapt Industrial Company VI LLC
3347 Michelson, Suite 200
Irvine, CA 92612
WDID: 8 33C375894 AppID: 470519



9590 9402 2001 6123 9380 78

2. Article Number (Transfer from service label)

7015 1660 0000 1555 0013

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee
 B. Received by (Printed Name)
 C. Date of Delivery

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type

<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®
<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™
<input checked="" type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery
<input type="checkbox"/> Certified Mail Restricted Delivery	<input checked="" type="checkbox"/> Return Receipt for Merchandise
<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™
<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery
<input type="checkbox"/> Insured Mail	
<input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)	

Domestic Return Receipt

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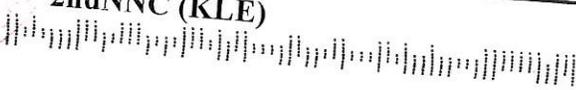
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SANTA ANA REGIONAL
WATER QUALITY CONTROL BOARD
3737 MAIN STREET, SUITE 500
RIVERSIDE, CA 92501-3348

ATTN: INLAND STORM WATER
2017-2018 Construction General Permit
2ndNNC (KLE)





EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Santa Ana Regional Water Quality Control Board

December 13, 2018

CERTIFIED MAIL **RETURN RECEIPT REQUESTED**

Mr. Bob Kubashek
LBACPT Industrial Company VI LLC
3347 Michelson, Suite 200
Irvine, CA 92612

SECOND 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. Kubashek:

Regional Board records indicate that LBACPT Industrial Company VI LLC is operating a construction site identified as Eastvale Industrial Development, located at Northwest corner of I 15 and Cantu Galleano Ranch Road in the City of Eastvale. This site is regulated under the Construction General Permit and is identified by WDID **8 33C375894** - Application ID: **470519**. 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 LBACPT Industrial Company VI LLC's annual report for the July 1, 2017 to June 30, 2018 reporting period has not been submitted. LBACPT Industrial Company VI LLC is consequently in violation of Section XVI.A. of the General Permit for failure to submit a complete 2017-2018 Annual Report. We request that you submit a complete **2017-2018 Annual Report** via the online SMARTS database no later than **January 14, 2019**.

The online SMARTS database is available at:

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

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

Failure to submit the requested information by **January 14, 2019** 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.

Regional Board records show that LBACPT Industrial Company VI LLC has consistently failed to comply with Section XVI.A. of the Construction General Permit since 2016. The 2016-2017 Annual Report was submitted 364 days late on August 30, 2017. The 2015-2016 Annual Report is not in the SMARTS records.

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. You may also contact Keith Elliott at 951-782-4925 or keith.elliott@waterboards.ca.gov.

Sincerely,



Adam Fischer, Chief
Inland Storm Water Unit

3863

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Postage	\$4.7
Total Postage and Fees	\$6.67
Sent To	Mr. Bob Kubashek
Street and Apt. No., or PO Box No.	LBACPT Industrial Company VI LLC
City, State, ZIP+4®	3347 Michelson, Suite 200 Irvine, CA 92612
PS Form 3800, April 2015 PSN 7530-02-000-9047	See Reverse for Instructions

7015 1660 0000 1553 5002 12/13/2018

12/13/2018
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2nd NNC
8 33C375894
470519



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Remove X

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Delivered

December 17, 2018 at 12:57 pm
Delivered, Left with Individual
IRVINE, CA 92612

Get Updates

Feedback

Text & Email Updates

Tracking History

December 17, 2018, 12:57 pm

Delivered, Left with Individual
IRVINE, CA 92612

Your item was delivered to an individual at the address at 12:57 pm on December 17, 2018 in IRVINE, CA 92612.

December 15, 2018, 4:53 pm

Delivery Attempted - No Access to Delivery Location
IRVINE, CA 92612

December 15, 2018, 8:33 am

Out for Delivery
IRVINE, CA 92612

December 15, 2018, 8:23 am

Sorting Complete

IRVINE, CA 92612

December 15, 2018, 7:53 am

Delivery Attempted - No Access to Delivery Location

IRVINE, CA 92612

December 15, 2018, 4:22 am

Arrived at Unit

IRVINE, CA 92619

December 15, 2018, 12:53 am

Departed USPS Regional Facility

SANTA ANA CA DISTRIBUTION CENTER

December 14, 2018, 1:34 pm

Arrived at USPS Regional Facility

SANTA ANA CA DISTRIBUTION CENTER

December 14, 2018, 12:14 am

Arrived at USPS Regional Facility

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