Santa Ana Regional Water Quality Control Board

October 28, 2019

Mr. Danny Hernandez
Armen Derderian
4686 Mercury Street
San Diego, CA 92111

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

SETTLEMENT CONDITIONAL OFFER NO. R8-2019-0079: EXPEDITED PAYMENT PROGRAM FOR VIOLATION OF WATER CODE SECTION 13399.33(C). WDID NO. 8 361022607

Dear Mr. Hernandez,

This letter is to notify Armen Derderian (hereinafter “Permittee or "you") of alleged violations of the California Water Code (Water Code). The violation is a failure to submit the 2018-19 Annual Report by July 15, 2019 for the industrial facility located at 170 North Turner Avenue in the City of Ontario (Site).

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 Industrial Activities, Order No. 2014-0057-DWQ (Order).

Provision XVI.A. of the Order requires that the Permittee submit Annual Reports via SMARTS by July 15th of each year.

Regional Board staff requested that the Permittee submit the 2018-19 Annual Report in the Notices of Noncompliance (NNC) issued on August 8, 2019 and September 12, 2019. Based on information in the Storm Water Multiple Application & Report Tracking System (SMARTS), as of October 24, 2019, the Annual Report has not been submitted. 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 the Annual Report.

WILLIAM RUH, CHAIR  HOPE SMYTHE, EXECUTIVE OFFICER

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

The minimum penalty 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 CONDITIONAL OFFER:

You have two options to respond as outlined below.

1. **Accept the Expedited Payment Program Conditional Offer.** If the permittee chooses to accept this Conditional Offer, they must agree to pay a settlement of $1,604.00. This settlement Conditional 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 $604.00.

   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 November 28, 2019. The form provides submittal instructions. Final closure on this action is only possible after ultimate submission of the settlement amount.

   To accept this Conditional Offer, please submit an original signed (blue ink) Acceptance and Waiver form to:

   Keith Elliott, Inland Stormwater 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 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) prior to July 15, 2019 or you are no longer in business. If you choose this option, you must submit your written documentation by November 11, 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 withdrawn. 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 NNC. 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 may be considered in the recommended liability amount in an administrative civil liability complaint.

CONDITIONS FOR REGIONAL BOARD ACCEPTANCE OF RESOLUTION:

This Conditional 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 November 28, 2019. If you choose not to or fail to submit the Annual Reports on or before that date, this Conditional Offer will be deemed withdrawn and a formal enforcement action will be pursued.

Federal regulations require the Regional Board to publish notice and 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 Conditional Offer, the settlement will be published in the following manner:

1. Upon receipt of the Permittee’s Acceptance and Waiver, and other requested technical reports on or before November 28, 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 may void the Conditional Offer to participate in this Expedited Payment Program.
3. If Regional Board staff receives significant comments in opposition to the settlement, this Conditional 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 Conditional Offer does not address or resolve liability for any violation that is not specifically identified in the attached NNC. 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 Noncompliance, please contact Keith Elliott at (951) 782-4925 or at keith.elliott@waterboards.ca.gov regarding this matter.

Sincerely,

[Signature]

Jayne Joy
Assistant Executive Officer

Enclosures:
- Notice of Noncompliance dated August 8, 2019
- Notice of Noncompliance dated September 12, 2019
- Acceptance of Conditional Resolution and Waiver of Right to Hearing

cc: (via email)

Catherine Hawe, Office of Enforcement, State Water Resources Control Board
Jay Gomez, Transportation Manager, jay@rmgreycling.com
USPS Tracking®

Track Another Package +

Track Packages
Anytime, Anywhere

Get the free Informed Delivery® feature to receive automated notifications on your packages.


Tracking Number: 70191120000229192736

Your item was delivered to an individual at the address at 2:59 pm on October 30, 2019 in SAN DIEGO, CA 92111.

☑ Delivered

October 30, 2019 at 2:59 pm
Delivered, Left with Individual
SAN DIEGO, CA 92111

Tracking History
October 30, 2019, 2:59 pm
Delivered, Left with Individual
SAN DIEGO, CA 92111
Your item was delivered to an individual at the address at 2:59 pm on October 30, 2019 in SAN DIEGO, CA 92111.

October 30, 2019
In Transit to Next Facility

October 29, 2019, 9:43 pm
Departed USPS Regional Facility
SAN DIEGO CA DISTRIBUTION CENTER

October 29, 2019, 10:45 am
Arrived at USPS Regional Facility
SAN DIEGO CA DISTRIBUTION CENTER

October 28, 2019, 10:19 pm
Arrived at USPS Regional Facility
SAN BERNARDINO CA DISTRIBUTION CENTER

Can’t find what you’re looking for?
Go to our FAQs section to find answers to your tracking questions.
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), Armen Derderian (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 (NNC) 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 $1,604.00 (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 shall be returned to:

Keith Elliott, Enforcement Unit  
Expedited Payment Program  
Santa Ana Regional Water Quality Control Board  
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. 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 set forth in the NOVs 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. 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 $1,604.00 liability including staff costs shall be paid by a cashier's 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. R8-2019-0079, WDID No. 8361022607
Division of Administrative Services, Accounting Branch
1001 I Street, 18th Floor, 95814
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.

Armen Derderian

By: ____________________________
(Signed Name)

(Date)

(Signed Name)

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

August 8, 2019

Mr. Efren Garcia
Armen Derderian
4686 Mercury Street
San Diego, CA 92111

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Notice of Noncompliance: Failure to Comply with the General Permit for Storm Water Discharges Associated with Industrial Activities, Order No. 2014-0057-DWQ, NPDES NO. CAS000001 (General Permit), Waste Discharge Identification (WDID) 8 361022607.

Dear Mr. Garcia:

Your facility located at 170 North Turner Avenue in the City of Ontario, is regulated under the General Permit and is identified by WDID 8 361022607. Section XVI of the General Permit requires that an Annual Report be submitted by July 15 of each year via the online SMARTS database. Our records show that your annual report for the July 1, 2018 to June 30, 2019 reporting period has not been submitted.


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

The following links are to assist you with the online SMARTS database system:

Main page for the SMARTS guides:

How to submit an Annual Report guide:

WILLIAM ROH, CHAIR | HOPE SMYTHE, EXECUTIVE OFFICER

3737 Main St., Suite 600, Riverside, CA 92501 | www.waterboards.ca.gov/santaana

*RECYCLED PAPER*
How to submit an Ad Hoc (storm water sample) Report guide:


You must also provide a statement along with the Annual Report as an Attachment. The statement must explain why the Annual Report was not submitted by the July 15 deadline and the measures you have taken to ensure timely submittals in the future.

Failure to submit the 2018-2019 Annual Report via the online SMARTS database may result in enforcement action, including civil monetary penalties of up to $10,000 for each day of violation. Please note that Section 13396.33 of the California Water Code stipulates a 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 or Keith Elliott at keith.elliott@waterboards.ca.gov or 951-782-4925.

Sincerely,

Adam Fischer, Chief
Inland Stormwater Unit
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.

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PS Form 3811, July 2015 PSN 7830-02-000-8053
Domestic Return Receipt
United States Postal Service

* Sender: Please print your name, address, and ZIP+4 in this box *

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

ATTN: INLAND STORM WATER
2018-2019 Industrial General Permit
1st-NNC (KLE)
Santa Ana Regional Water Quality Control Board

September 12, 2019

Armen Derderian
4686 Mercury Street
San Diego, CA 92111

Danny Hernandez
Armen Derderian
170 North Turner Avenue
Ontario, CA 91761

FINAL NOTICE OF NON-COMPLIANCE WITH THE GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITIES, ORDER NUMBER 2014-0057-DWQ, NPDES PERMIT NUMBER CAS000001 (GENERAL PERMIT) WDID NO. 8 361022607

Dear Mr. Hernandez:

Your facility, located at 170 North Turner Avenue in the City of Ontario, is regulated under the General Permit and is identified by WDID 8 361022607. Section XVI of the General Permit requires that an Annual Report be submitted by July 15 of each year via the online SMARTS database. Our records show that your Annual Report for the July 1, 2018 to June 30, 2019 reporting period has not been submitted.


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William Ruh, chair | Hope Smythe, executive officer

3737 Main St, Suite 500, Riverside, CA 92501 | www.waterboards.ca.gov/santaana
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You must also provide a statement along with the Annual Report as an Attachment. The statement must explain why the Annual Report was not submitted by the July 15 deadline and the measures you have taken to ensure timely submittals in the future.

This is your second and final notice. The first notice sent to you on August 8, 2019. Failure to submit the 2018-2019 Annual Report via the online SMARTS database by October 7, 2019 may result in enforcement action, including 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 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; or Keith Elliott at keith.elliott@waterboards.ca.gov or 951-782-4925.

Sincerely,

Adam Fischer, Chief
Inland Storm Water Unit
Hi Keith,

I have cc'd my boss the Executive VP of the company. We will get this done ASAP.
Thank you for the email.

DH

Thank you and best regards,

Danny Hernandez
General Manager

The Resource Management Group Inc.
RMG / DCMG / Apollo Southwest Operations
170 North Turner Ave. Ontario, CA 91761
Cell: (619) 665-5772
Email: danny@rmgrecycling.com
Web: www.rmgrecycling.com

Video about us:
https://vimeo.com/314434041/06517f9a83

Dear Mr. Hernandez,

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

Program Type: Industrial  Permit WDID Number: 8 361022607  SMARTS AppID: 402927
Site's Name: Armen Derderian
Site's Registered Location: 170 North Turner Avenue, Ontario
Site's Designated Legally Responsible Person Contact:
Site's Designated Operator Contact: Danny Hernandez (danny@rmgrecycling.com)
Site's Designated Contact: Danny Hernandez (danny@rmgrecycling.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 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, 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