
Santa Ana Regional Water Quality Control Board

NOTICE OF SETTLEMENT WITH BAKER FURNACE INC

On April 27, 2020, Baker Furnace, Inc. waived its right to a hearing, pursuant to California Water Code Section 13323, to respond to the allegations in Expedited Payment Letter Complaint No. R8-2020-0022 and instead has agreed to pay the penalty amount of \$5,336 to the Waste Discharge Permit Fund. Notwithstanding the resolution of this matter, the public may submit comments for 30 days after this notice, until June 12, 2020. If comments or information received during the public comment period do not reasonably affect the proposed settlement of this matter by way of the Regional Board's acceptance of the discharger's payment, the waiver and settlement will become final. If you have any questions, please contact Kaitlin Diaz by phone at (951) 782-4992 or by email at Kaitlin.Diaz@waterboards.ca.gov.

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

Baker Furnace
Settlement Offer No. R8-2020-0022

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), Baker Furnace (Discharger) 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 Non-Compliance (NNCs) which are attached and incorporated herein by reference.

The Discharger 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 Discharger agrees to pay the administrative civil liability authorized by California Water Code section 13399.30, in the sum of \$5,336 (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 Discharger 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 Discharger 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 Discharger, submit the completed Acceptance and Waiver:

Kaitlin Diaz, Coastal Storm Water Unit
Expedited Payment Letter
Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501

The Discharger 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 of and provide at least (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.

IT IS SO ORDERED PURSUANT TO CALIFORNIA WATER CODE SECTION 13323
AND GOVERNMENT CODE SECTION 11415.60.

Date: _____

By: _____
Hope Smythe
Executive Officer



GAVIN NEWSOM
GOVERNOR



JARED BLUMENFELD
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Santa Ana Regional Water Quality Control Board

March 26, 2020

Baker Furnace
2680 Orbiter Street
Brea, CA 92821
(Via Regular Mail)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Sergio Luevano
sluevano@bakerfurnace.com
(Via Email)

C T Corporation System (Agent for Service of Process)
818 West Seventh Street, Suite 930
Los Angeles, CA 90017
(Via Certified Mail)

SETTLEMENT OFFER NO. R8-2020-0022: OFFER TO PARTICIPATE IN EXPEDITED PAYMENT PROGRAM RELATING TO VIOLATIONS OF THE GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITIES, ORDER NO. 2014-0057-DWQ, NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM NPDES NO. CAS000001, FOR BAKER FURNACE, 2680 ORBITER STREET

Dear Mr. Luevano:

This letter is to notify Baker Furnace, (hereinafter “Discharger” or “you”) of alleged violations of the California Water Code (Water Code) identified in the State Water Resources Control Board’s water quality data system and to allow the Discharger to participate in the Santa Ana Regional Water Quality Control Board’s (Regional Board) Expedited Payment Program for Reporting Violations to address mandatory minimum penalties that must be assessed pursuant to California Water Code section 13399.33.

NOTICE OF VIOLATION:

Based on information in the Storm Water Multiple Application & Report Tracking System (SMARTS), the Regional Board alleges that the Discharger is in violation of the General Permit Associated with Industrial Activities within the Santa Ana Region, Order No. 2014-0057-DWQ, National Pollutant Discharge Elimination System (NPDES) Permit No. CAS000001 (Industrial General Permit), for failure to obtain permit coverage for the facility located at 2680 Orbiter Street in the City of Brea. You failed to obtain permit

WILLIAM RUH, CHAIR | HOPE SMYTHE, EXECUTIVE OFFICER

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coverage as required in the Notices of Non-Compliance (NNCs) issued on December 4, 2019 and January 2, 2020. On February 3, 2020, three days after the final NNC deadline, you submitted a No Exposure Certification (NEC) via SMARTS for the facility. The Discharger will have the opportunity to address the alleged violations as discussed below.

STATUTORY LIABILITY:

Pursuant to Water Code section 13399.33(a)(1), the Discharger is subject to a minimum penalty of not less than five thousand dollars (\$5,000) plus staff costs for failing to submit the required permit registration documents in accordance with Water Code section 13399.30 within sixty (60) days after the first NNC was sent. The Discharger is also subject to discretionary administrative civil liabilities of up to ten thousand dollars (\$10,000) for each day in which the violation occurs. These minimum and discretionary administrative civil liabilities may be assessed by the 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, although 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.

DISCHARGER'S OPTIONS FOR RESPONSE TO OFFER:

You have two options to respond as outlined below.

1. **Accept the Expedited Payment Program offer** by complying with the Order and agreeing to pay a settlement of **five thousand three hundred and thirty-three dollars (\$5,336)**. The minimum administrative civil liability pursuant to California Water Code section 13399.33(a)(1) is \$5,000 per year of noncompliance or fraction thereof. Staff costs in this matter are \$336. This is a Conditional Offer subject to certain terms and conditions set forth below. If you chose this option **you must sign and submit the enclosed Acceptance and Waiver form by April 24, 2020**. The form provides submittal instructions. Final closure of this action is only possible after submission of payment.

Please submit an original (blue ink) signed Acceptance and Wavier form to:

Kaitlin Diaz, Coastal Storm Water Unit
Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501-3348

In response to the Conditional Offer and payment in settlement of this enforcement action, the 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 violation identified in the NNCs.

2. **Contest the non-filing violation** by submitting in writing, the basis of your challenge with supporting evidence. For example, you may have evidence that you previously submitted permit coverage, or you are no longer in business. If you choose this option, you must **submit your written documentation by April 24, 2020**. We will review your submission, and if we agree with you, we will notify you in writing that you are no longer considered in violation of the Industrial General Permit and that additional enforcement will not be pursued. All responses should be directed to Kaitlin Diaz.

If you do not respond in a manner described in the above options, the Regional Board will prepare an administrative civil liability complaint for the violations cited in the NNCs. The liability amount sought in the administrative civil liability complaint and/or imposed by the Regional Board may be higher than the liability amount set forth in this Conditional Offer. Moreover, additional staff costs associated with formal enforcement may be considered in the recommended liability amount in an administrative civil liability complaint.

CONDITIONS FOR REGIONAL BOARD ACCEPTANCE OF RESOLUTION:

If you accept the Expedited Payment Program offer, the settlement will be published in the following manner: Federal regulations require the 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)). Upon receipt of the Discharger's Acceptance and Waiver and other requested technical reports on or before **April 24, 2020**, Regional Board staff will publish a notice of the proposed resolution of the alleged violations.

If no comments are received 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.

If, however, significant comments are received in opposition to the settlement, this offer may be withdrawn. In that case, the Discharger's waiver pursuant to the Acceptance and Waiver will also be treated as withdrawn. 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 attached NNCs. 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, please contact Kaitlin Diaz via phone at (951) 782-4992 or via email at Kaitlin.Diaz@waterboards.ca.gov regarding this matter.

Sincerely,



Jayne Joy, PE
Assistant Executive Officer

Enclosures:

Notice of Non-Compliance, dated December 4, 2019

Notice of Non-Compliance, dated January 2, 2020

Acceptance of Conditional Resolution and Waiver of Right to Hearing; (proposed)
Order

cc (w/encl):

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



GAVIN NEWSOM
GOVERNOR

JARED BLUMENFELD
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Santa Ana Regional Water Quality Control Board

December 4, 2019

Baker Furnace
2680 Orbiter Street
Brea, California 92821

CERTIFIED MAIL
RETURN RECEIPT REQUIRED

NOTICE OF NON-COMPLIANCE WITH THE GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITIES, ORDER NO. 2014-0057-DWQ, NPDES NO. CAS000001

Dear Sergio Luevano:

The Federal Clean Water Act (Clean Water Act) prohibits certain discharges of storm water containing pollutants except where such discharges occur in compliance with a National Pollutant Discharge Elimination System (NPDES) permit. In the state of California, Order No. 2014-0057-DWQ, NPDES Permit No. CAS000001 (General Permit), authorizes discharges associated with industrial activity subject to certain conditions and limitations.

Further, dischargers subject to the General Permit may qualify for a conditional exclusion from specific requirements if they submit a No Exposure Certification (NEC) demonstrating that their facilities have no exposure of industrial activities and materials to storm water discharges. [The General Permit is available here.](#)

On December 4, 2018, you certified that Baker Furnace had no industrial activities or materials exposed to storm water, that all unauthorized non-storm water discharges had been eliminated, and that all the requirements of the NEC were met. In doing so, you were issued WDID #8 30NEC004769.

As defined in Section XVII.G. of the General Permit, the facility's NEC must be re-certified annually by October 1st of each reporting year. The deadline for this reporting year was October 1, 2019. Baker Furnace was notified via email on July 3, 2019 and September 12, 2019 of the impending deadline to recertify the NEC and the consequences of not recertifying by the deadline. On October 6, 2019, you were notified via email that your facility's NEC coverage would be administratively terminated. Since Baker Furnace did not re-certify the NEC by the deadline, State Board staff administratively terminated the facility's permit on October 23, 2019.

WILLIAM RUH, CHAIR | HOPE SMYTHE, EXECUTIVE OFFICER

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This facility is currently in violation of the General Permit, the California Water Code and the federal Clean Water Act. **You are required to immediately obtain coverage under the General Permit by January 2, 2020.**

Please be advised that the failure to obtain coverage under the General Permit, as requested, will result in a mandatory minimum penalty of \$5,000 under Section 13399.33(a)(1) of the California Water Code. Furthermore, continued violations of the General Permit may result in the imposition of administrative civil liability in an amount of up to \$10,000 for each day of violation under Section 13385 of the California Water Code.

If you have any questions regarding this matter, please contact Kaitlin Diaz via email at Kaitlin.Diaz@waterboards.ca.gov or via phone at (951) 782-4992.

Sincerely,



Michelle R. Beckwith, Chief
Coastal Storm Water Unit

cc: OC Public Works – James Fortuna
City of Brea, NPDES Coordinator – Brian Ingallinera

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- Adult Signature Restricted Delivery \$ _____

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Baker Furnace
2680 Orbiter Street
Brea, California 92821

C

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

See Reverse for Instructions

7018 3090 000J 0920 2666



GAVIN NEWSOM
GOVERNOR

JARED BLUMENFELD
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Santa Ana Regional Water Quality Control Board

January 2, 2020

Baker Furnace
2680 Orbiter Street
Brea, California 92821

CERTIFIED MAIL
RETURN RECEIPT REQUIRED

NOTICE OF NON-COMPLIANCE WITH THE GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITIES, ORDER NO. 2014-0057-DWQ, NPDES NO. CAS000001

SECOND NOTICE

A Notice of Non-Compliance (NNC) was set to Baker Furnace on December 4, 2019, via certified mail, requesting that Baker Furnace obtain coverage under the General Permit by January 2, 2020. To date, permit coverage was not obtained.

NPDES Permit No. CAS000001 (General Permit), authorizes discharges associated with industrial activity subject to certain conditions and limitations. Dischargers may qualify for a conditional exclusion from specific requirements if they submit a No Exposure Certification (NEC). [The General Permit is available here.](#)

You are required to immediately obtain coverage under the General Permit. Failure to obtain coverage by January 31, 2020, will result in a minimum mandatory penalty of \$5,000. Failure to submit the requested information may result in further enforcement action, including civil monetary penalties of up to \$10,000 for each day of violation.

If you have any questions regarding this matter, please contact Kaitlin Diaz via email at Kaitlin.Diaz@waterboards.ca.gov or via phone at (951) 782-4992.

Sincerely,

Michelle R. Beckwith, Chief
Coastal Storm Water Unit

cc: OC Public Works – James Fortuna
City of Brea, NPDES Coordinator – Brian Ingallinera

WILLIAM RUH, CHAIR | HOPE SMYTHE, EXECUTIVE OFFICER

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<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$

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Postage

\$

Total Po

\$

Sent To

Street ad

City, Sta

PS Form

Baker Furnace
2680 Orbiter St.
Brea, CA
92821

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:

Baker Furnace
2680 Orbiter St.
Brea, CA
92821



9590 9402 5053 9092 6384 93

2. Article Number (Transfer from service label)

7018 3090 0001 0920 2772

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

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

B. Received by (Printed Name)

Agent

Addressee

C. Date of Delivery

1/6/20

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

3. Service Type

Adult Signature

Adult Signature Restricted Delivery

Certified Mail®

Certified Mail Restricted Delivery

Collect on Delivery

Collect on Delivery Restricted Delivery

Insured Mail

Insured Mail Restricted Delivery (over \$500)

Priority Mail Express®

Registered Mail™

Registered Mail Restricted Delivery

Return Receipt for Merchandise

Signature Confirmation™

Signature Confirmation Restricted Delivery

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USPS
Permit No. G-10

United States
Postal Service

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

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

LM1D



Santa Ana Region 8

JAN 2020

Received

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

Baker Furnace
Settlement Offer No. R8-2020-0022

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), Baker Furnace (Discharger) 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 Non-Compliance (NNCs) which are attached and incorporated herein by reference.

The Discharger 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 Discharger agrees to pay the administrative civil liability authorized by California Water Code section 13399.30, in the sum of \$5,336 (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 Discharger 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 Discharger 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 Discharger, submit the completed Acceptance and Waiver:

Kaitlin Diaz, Coastal Storm Water Unit
Expedited Payment Letter
Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501

The Discharger 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 of and provide at least (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 Discharger 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 NNCs may be withdrawn. In that circumstance, the Discharger will be advised of that withdrawal, and 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 Discharger understands that this Acceptance and Waiver executed by the Discharger will be treated as a settlement communication and will not be used as evidence in that hearing.

The Discharger 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(a)(1) and 13399.33(d) shall be deposited in the Waste Discharge Permit Fund. Accordingly, the \$5,336 liability including staff costs shall be paid by a cashiers or certified 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. R8-2020-0022
Division of Administrative Services, Accounting Branch
1001 I Street, 18th Floor, 95814
P.O. Box 1888
Sacramento, CA 95812-1888

I hereby affirm that I am duly authorized to act on behalf of and to bind the Discharger in the making and giving of this Acceptance and Waiver.

Baker Furnace:

By: _____
(Signed Name) (Date)

(Printed or Typed Name) (Title)

IT IS SO ORDERED PURSUANT TO CALIFORNIA WATER CODE SECTION 13323
AND GOVERNMENT CODE SECTION 11415.60.

Date: _____

By: _____
Hope Smythe
Executive Officer