



Santa Ana Regional Water Quality Control Board

April 27, 2015

Mr. Alan Kapanicas, City Manager
City of Beaumont
550 East 6th Street
Beaumont, CA 92223

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

EXPEDITED PAYMENT OPTION TO ADDRESS MANDATORY MINIMUM PENALTIES FOR VIOLATIONS OF ORDER NO. R8-2006-0003, NPDES NO. CA0105376

Dear Mr. Kapanicas:

This is to notify the City of Beaumont (hereinafter the "City"), that the City is alleged to have violated California Water Code (CWC) Section 13385(i) for which the Regional Board shall assess mandatory minimum penalties. This letter outlines an expedited methodology for settling the outstanding violations and the mandatory minimum penalties associated with them.

VIOLATIONS AND STATUTORY AND DISCRETIONARY LIABILITIES:

Attachment 1 to this letter identifies the City's violations of its Waste Discharge Requirements that are subject to mandatory penalties. Pursuant to CWC Section 13385(i), a mandatory penalty of three thousand dollars (\$3,000) shall be assessed for each chronic violation that occurs four or more times in any period of six consecutive months, except that the requirement to assess the mandatory minimum penalty shall not be applicable to the first three violations that occur in any six-month period, provided that they are not serious violations.

As shown in Attachment 1, in accordance with Section 13385 (i), the City incurred a total of nineteen reported violations between January 2011 and September 2014. For the nine month period covered by Attachment 1, three non-serious violations (one violation in June 2012, one violation in December 2012, and one violation in May 2013) are not subject to mandatory penalty assessments. Therefore, sixteen violations out of the total of nineteen are subject to mandatory penalties of \$3,000 for each violation. In accordance with Water Code Section 13385 (i), the total mandatory penalty for the sixteen effluent limit violations cited in Attachment 1 is forty-eight thousand dollars (16 x \$3,000 = \$48,000).

Alternatively, in accordance with Water Code Section 13385(c), the Regional Board may impose discretionary administrative civil liability for the nineteen violations cited in Attachment 1. Although, nineteen violations are cited, these violations represent over three hundred and thirty days of violation (many of the violations are of daily limits). Therefore, in accordance with Section 13385 (c), the maximum administrative civil liability in accordance with Section 13385 (c) that may be imposed for these violations is \$3,300,000 (\$10,000 per day of violation, plus an additional assessment of \$10 per gallon of effluent discharged during the duration of the violation episode, in excess of the first 1000 gallons of effluent.)

EXPEDITED PAYMENT PROGRAM:

Generally, the Regional Board would issue a formal administrative civil liability complaint to assess these penalties and conduct a public hearing. To conserve the City as well as the Regional Board staff resources, the State Water Resources Control Board, through its Office of Enforcement, has developed a methodology for the City to settle these types of violations through an expedited payment program. If the City desires to have an expedited settlement as stipulated in Attachment 2, "Acceptance of Expedited Payment and Waiver of Right to a Hearing, City of Beaumont, Order No. R8-2015-0012", you must sign the Attachment and make a payment of forty-eight thousand dollars (\$48,000) to this office. If the City accepts this option by executing Attachment 2, you would also be waiving your right to a hearing. The Regional Board will then forgo issuance of a formal administrative complaint and will waive its right to seek additional discretionary civil liabilities for the violations identified in Attachment 1. Please note that the expedited payment option does not address any violation that is not specifically identified in Attachment 1.

CITY'S OPTIONS:

1. Accept this offer for expedited payment by signing and returning Attachment 2 by June 15, 2015. Federal regulations require the Regional Board to publish and seek public comments on any proposed settlement of actions related to NPDES permit violations (40 CFR 123.27(d)(2)(iii)). Upon receipt of the City's acceptance of the expedited payment option (signed Attachment 2), Regional Board staff will publish a notice of the proposed resolution of the violations cited in Attachment 1. If no significant public comments are received within 30 days, the Executive Officer will counter-sign Attachment 2 and it will be returned to you for payment of the mandatory minimum penalty of \$48,000 within 30 days of acceptance by the Executive Officer. If significant public comments are received during the public comment period, Board staff will try to address those comments. If the comments cannot be satisfactorily addressed by staff, the expedited payment option will be withdrawn and a formal administrative complaint may be issued and a public hearing may be scheduled at a regularly scheduled Regional Board meeting.

2. If the City chooses to contest any of the violations cited in Attachment 1, please identify the specific violation(s) and the basis for the challenge (e.g., factual error, affirmative defense, analytical error, etc.) prior to June 15, 2015 and contact Najah Amin of my staff at 951-320-6362. We will evaluate the contested violation(s) and determine that either the violation(s) is/are not supported and amend Attachment 1, or determine that the alleged violation(s) is/are meritorious and inform the City of the staff decision. If the City is not satisfied with the staff decision, a formal administrative complaint and a public hearing may be considered.

If you have any questions about this letter or the attachments, please contact Najah Amin of my staff at 951-320-6362 (najah.amin@waterboards.ca.gov).

Sincerely,



Michael J. Adackapara
Division Chief

Enclosures: Attachment 1- Effluent Limit Violations of Order No. R8-2006-0003,
NPDES No. CA0105376
Attachment 2- Acceptance of Expedited Payment and Waiver of right to a
Hearing

cc w/enclosures (by electronic mail only):

Board Members
Executive Officer (Regional Board Advisory Team)
State Water Resources Control Board, Office of Chief Counsel – David Rice
(Regional Board Advisory Team Attorney)
State Water Resources Control Board, Office of Enforcement – Julie Macedo
(Regional Board Prosecution Team Attorney)
U.S. Environmental Protection Agency, Region 9 (WTR-7) – Ken Greenberg