

**STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION**

IN THE MATTER OF:

DHL Express USA Inc)	Affirming Order No. R8-2016-0043
1210 South Pine Island Road)	for
Plantation, FL 33324)	Mandatory Minimum Penalty
Attention: Hugh Danielson)	

INTRODUCTION

This Affirming Order No. R8-2016-0043 (Order) is entered into by and between the Division Chief of the California Regional Water Quality Control Board, Santa Ana Region (Regional Board) on behalf of the Regional Board Prosecution Team and DHL Express USA Inc (Discharger) (the Regional Board and the Discharger are collectively referred to as the Parties) and is presented to the Regional Board or its delegee, for adoption as an Order by settlement, pursuant to Government Code 11415.60. This Order accepts the penalties assessed to the Discharger for violations subject to administrative civil liability pursuant to California Water Code (hereinafter Water Code) sections 13399.33, subdivisions (c) and (d).

RECITALS

1. The Discharger operates an industrial facility engaged in courier services, except by air, located at 1700 Barranca Parkway, in the city of Irvine. Courier services is an industrial activity as described in Standard Industrial Classification (SIC) code 4215. The Discharger obtained coverage under the previous General Permit (Order No. 97-03-DWQ) on December 4, 2004 and was designated with a Waste Discharge Identification Number (WDID) of 8 30I019167. On April 1, 2014, the State Water Resource Control Board adopted a new statewide Industrial General Permit for Storm Water Discharges Associated with Industrial Activities (Order No. 2014-0057-DWQ). This permit became effective July 1, 2015, replacing Order No. 97-03-DWQ. The new General Permit required dischargers with coverage under the previous permit to register for coverage by certifying and submitting permit registration documents via the State's Storm Water Multiple Application and Report Tracking System (SMARTS). Due to a technical issue that affected the bandwidth of SMARTS that restricted access to the database, the July 1, 2015 deadline for recertification was extended to Friday, August 14, 2015.
2. The Discharger did not obtain coverage under the General Permit by the August 14, 2015 deadline. Therefore a Notice of Non-Compliance (NNC) was issued to the Discharger, by certified mail, on September 9, 2015. The NNC requested that the Discharger complete the recertification process by October 8, 2015. The return receipt showed it was received on September 14, 2015.
3. On October 9, 2015, Regional Board staff received no response to the first NNC, therefore a second NNC was issued. The return receipt showed the second NNC was

received on October 13, 2015. The second NNC requested that the Discharger complete the recertification process by November 6, 2015.

4. On November 2, 2015, Regional Board staff contacted Ms. Beverly Ottey, the Discharger's contact on file, where Ms. Ottey indicated that the corporate contact is Mr. Hugh Danielson and that she had sent the NNCs up to management. Regional Board staff contacted Mr. Danielson via email reiterating the final recertification deadline of November 6, 2015 and the impending monetary penalties.
5. On November 3, 2015, Regional Board staff left a voice mail for Mr. Danielson, again reiterating the deadline and impending monetary penalties.
6. On November 5, 2015, Regional Board staff left two voice mails and sent an email to Mr. Danielson reiterating the final recertification deadline of November 6, 2015 and the impending monetary penalties.
7. On November 6, 2015, Regional Board staff contacted Mr. Danielson five times via phone or email regarding monetary penalties.
8. The State Water Resource Control Board received the required documents via SMARTS from the Discharger on November 12, 2015.

LEGAL AUTHORITY

9. Pursuant to California Water Code section 13399.33(a)(1), the Regional Board is required to impose a minimum mandatory penalty of \$5,000 for any person who fails to submit the required notice of intent in accordance with section 13399.30 of the Water Code. Section 13399.33(d) of the Water Code further requires that the Regional Board recover the costs incurred by the Regional Board with regard to those persons (\$900 in staff costs).

SETTLEMENT

10. The Discharger waived its rights to a hearing and has paid the total assessment of \$5,900.
11. The Regional Board Prosecution Team believes that the resolution of the alleged violation is fair and reasonable and fulfills its enforcement objectives and that no further action is warranted concerning the violation.

STIPULATIONS

This Affirming Order is entered into by the Parties to resolve by consent and without further administrative proceedings alleged violations of Complaint No. R8-2016-0012. The Parties incorporate Paragraphs 1 through 11 by this reference, as set forth fully herein and recommend that the Regional Board issue this Affirming Order:

12. **Public Notice:** The Parties acknowledge that the Affirming Order, as signed by the Parties, was noticed for a 30-day public comment period prior to being presented to the Regional Board, or its delegee, for adoption in the Order.
13. **Appeals:** Upon adoption of this Affirming Order, the Discharger waived their right to appeal this Order to the State Board, a California Superior Court and/or any California appellate level court. Nothing in this Order, however, shall be construed to prevent the Discharger from participating as parties or interveners in any appeal of this Order brought by a third party before any California court of law or the State Board.
14. **Water Boards not Liable:** Neither the Regional Board members nor the Regional Board staff, attorneys, or representatives shall be liable for any injury or damage to persons or property resulting from the negligent or intentional acts or omissions by the Discharger or their respective directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Order.
15. **Authority to Enter Stipulated Order:** Each person executing this Affirming Order in a representative capacity represents and warrants that he or she is authorized to execute this Order on behalf of and to bind the entity on whose behalf he or she executes the Order.
16. **Third Party Claims.** Nothing in this Affirming Order shall be deemed to create any rights in favor of, or to inure to the benefit of, any third party or parties, or to waive or release any defense or limitation against third party claims.
17. **Effective Date:** The effective date of the Affirming Order shall be the date on which it is adopted by the Executive Officer

HAVING CONSIDERED THE PARTIES' STIPULATIONS, THE SANTA ANA REGIONAL WATER QUALITY CONTROL BOARD, BY AND THROUGH ITS EXECUTIVE OFFICER, FINDS THAT:

18. In adopting this Order, the Santa Ana Regional Water Quality Control Board or its Delegee has assessed a penalty in accordance with Water Code section 13385(c) and the Enforcement Policy.

18. The Affirming Order resolves an action brought to enforce the laws and regulations administered by the Santa Ana Regional Water Quality Control Board. The Santa Ana Regional Water Quality Control Board, acting through its Executive Officer, finds that issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et seq.), in accordance with sections 15061(b)(3) and 15321(a)(2), of Title 14 of the California Code of Regulations.

PURSUANT TO SECTION 13385 OF THE CALIFORNIA WATER CODE AND SECTION 11415.60 OF THE CALIFORNIA GOVERNMENT CODE, THE EXECUTIVE OFFICER HEREBY ADOPTS THIS ORDER.

Kurt V. Berchtold

Kurt V. Berchtold
Executive Officer
Santa Ana Regional Water Quality Control Board

5/6/16

Date