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## Colorado River Basin Regional Water Quality Control Board

**CERTIFIED MAIL: 7021 1970 0002 0497 5349**

August 29, 2024

Wayne Sterud, Vice President of Operations  
Kent SeaTech, LLC  
P.O. Box 757  
Mecca, CA 92254  
[wsterud@kentseatech.com](mailto:wsterud@kentseatech.com)

**SUBJECT: CONDITIONAL SETTLEMENT OFFER NO. R7-2024-0027: OFFER TO PARTICIPATE IN EXPEDITED PAYMENT PROGRAM RELATING TO ALLEGED VIOLATIONS OF ORDER NOS. R7-2016-0035 AND R7-2022-0020, NPDES NO. CA0105181**

Dear Mr. Sterud:

This letter notifies Kent SeaTech, LLC, Owner/Operator, of Kent SeaTech Corporation Fish Farm (Discharger) of alleged violation(s) of effluent limitations and provides the Discharger the opportunity to settle the violation(s) through payment of **\$30,000** in mandatory minimum penalties pursuant to California Water Code (Water Code) sections 13385 and/or 13385.1. Please reply by **September 29, 2024**.

### **NOTICE OF VIOLATION**

The Assistant Executive Officer alleges that the Discharger has violated the above-referenced National Pollutant Discharge Elimination System (NPDES) permit as identified in Exhibit A, attached hereto, and incorporated by reference. The Discharger can resolve the alleged violations as discussed below.

### **STATUTORY LIABILITY**

Water Code section 13385, subdivisions (h) and (i), require the assessment of a \$3,000 mandatory minimum penalty for specified serious and chronic effluent limitation violations. The Discharger is also subject to discretionary administrative civil liability of up to \$10,000 per day for each violation, plus \$10 for each gallon discharged but not cleaned up in excess of 1,000 gallons. The Colorado River Basin Regional Water Quality Control Board (Regional Water Board) may assess mandatory minimum penalties or discretionary administrative civil liability beginning with the date on which the violations first occurred.

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PETER SATIN, CHAIR | PAULA RASMUSSEN, EXECUTIVE OFFICER

The formal enforcement action that the Regional Water Board uses to assess such liability is an administrative civil liability complaint. Alternatively, the Regional Water Board may refer the matter to the Attorney General's Office for prosecution in the Superior Court. The Superior Court may assess up to \$25,000 per day for each violation, plus \$25 per gallon discharged but not cleaned up in excess of 1,000 gallons.

## **DISCHARGER'S OPTIONS:**

### **OPTION 1: PARTICIPATE IN EXPEDITED PAYMENT PROGRAM**

The Discharger can avoid the issuance of a formal enforcement action and settle the alleged violation(s) identified in Exhibit A by participating in the Regional Water Board's Expedited Payment Program. The Discharger may accept this Conditional Settlement Offer, waive its right to a hearing, and pay the mandatory minimum penalty of **\$30,000** for the violation(s) described in Exhibit A. If the Discharger elects to do so, the Regional Water Board will execute the settlement offer subject to the conditions below. The Regional Water Board will accept the payment in settlement of any enforcement action that would otherwise arise out of the violation(s) identified in Exhibit A. Accordingly, the Regional Water Board will not issue a formal administrative civil liability complaint, will not refer the violation(s) to the Attorney General's Office, and will waive its right to seek additional discretionary civil liability for the violation(s) identified in Exhibit A.

This Conditional Settlement Offer does not address or resolve liability for any violation that is not specifically identified in Exhibit A.

### **DISCHARGER'S OPTIONS FOR RESPONSE TO OFFER**

To accept this Conditional Settlement Offer, the Discharger must complete, sign, and return the enclosed "Acceptance of Conditional Resolution and Waiver of Right to Hearing" (Acceptance and Waiver) on or before **September 29, 2024 (30 days)**. The Acceptance and Waiver is provided as Exhibit B (enclosed).

If the Discharger chooses to contest any of the violations alleged in Exhibit A, please identify the specific violation(s) and the basis for the challenge (factual error, affirmative defense, etc.) on or before the due date specified above. Regional Water Board staff will evaluate the contested violation and take one of two actions:

- 1) Determine that the violation warrants dismissal, dismiss the alleged violation(s) in the California Integrated Water Quality System (CIWQS) database, notify the Discharger of the dismissal, and take no further action against the Discharger for the alleged violation(s); or
- 2) Determine that the alleged violation(s) is/are meritorious and notify the Discharger of that determination. The Discharger will then have 30 days from the date of the notice of determination to accept settlement for the violation by submitting a complete Acceptance and Waiver. If the Discharger chooses not to accept or makes no reply to the determination within 30 days, the Discharger will be contacted by the Regional Water Board staff regarding a formal enforcement proceeding for the contested violation(s). Information received by Regional Water Board staff during any

formal investigation and assessment of the violation(s), as well as staff costs associated with pursuing the enforcement, may increase the liability beyond that set forth in this Conditional Settlement Offer.

### **CONDITIONS FOR REGIONAL WATER BOARD ACCEPTANCE OF RESOLUTION**

Federal regulations require the Regional Water Board to publish and allow the public at least 30 days to 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, Regional Water Board staff will publish a notice of the proposed resolution of the violation(s).

If Regional Water Board staff do not receive comments within the 30-day comment period and no new material facts become available to the Regional Water Board, the Executive Officer will execute the Acceptance and Waiver as a stipulated order assessing the uncontested mandatory minimum penalty amount pursuant to Water Code sections 13385 and/or 13385.1.

If, however, significant comments are received in opposition to the Settlement, the Offer may be withdrawn. In that case, the Discharger's waiver pursuant to the Acceptance and Waiver will also be treated as withdrawn and the violation(s) will be addressed in a liability assessment proceeding. At the liability assessment hearing the Discharger will be free to make arguments as to any of the alleged violations, and the Discharger's agreement to accept this conditional settlement offer will not in any way be binding or used as evidence against the Discharger. The Discharger will be provided with further information on the liability assessment proceeding.

In the event the Executive Officer executes the Acceptance and Waiver, full payment of the assessed amount shall be due within 30 calendar days from the date of the Executive Officer's signature. Funds collected for violations under Water Code sections 13385 and 13385.1 shall be deposited in the State Water Pollution Cleanup and Abatement Account. Accordingly, the **\$30,000** liability shall be paid by cashiers or certified check made out to the "State Water Pollution Cleanup and Abatement Account". Failure to pay the full penalty within the required time may subject the Discharger to further liability.

### **OPTION 2: ENGAGE IN SETTLEMENT DISCUSSIONS TO PROPOSE A SUPPLEMENTAL ENVIRONMENTAL PROJECT**

Sign and return the "Agreement to Engage in Settlement Discussions to Propose a Supplemental Environmental Project (Agreement) form on or before **September 29, 2024**. The Agreement is provided as Exhibit C (enclosed).

If the Discharger does not respond, it will be contacted regarding a formal enforcement action that will be initiated for the contested violations.

Wayne Sterud, Vice President of Operations  
Kent SeaTech Corporation Fish Farm

August 29, 2024

Please send your reply to the attention of Logan Raub, either by email or U.S. mail. If you want to discuss or have questions regarding this Conditional Settlement Offer, please contact Logan Raub by email at [Logan.Raub@waterboards.ca.gov](mailto:Logan.Raub@waterboards.ca.gov).

Sincerely,

Original Signed By

Cassandra D. Owens  
Assistant Executive Officer  
Colorado River Basin  
Regional Water Quality Control Board

Enclosure: Exhibit A – Effluent Limitation Violations Requiring Mandatory Minimum Penalties  
Exhibit B - Acceptance of Conditional Resolution and Waiver of Right to Hearing  
Exhibit C – Agreement to Engage in Settlement Discussions

Cc: William Guzman  
[wguzman@kentseatech.com](mailto:wguzman@kentseatech.com)

Claudia Kent Hertzog, Executive Vice President  
[claudia@kentseatech.com](mailto:claudia@kentseatech.com)

File: WDID No. 7A335003001, Kent SeaTech Corporation Fish Farm, R7-2022-0020

MANDATORY PENALTY ADMINISTRATIVE CIVIL LIABILITY

Kent Seatech Corporation

Kent SeaTech Corp Fish Farm

WDID No. 7A335003001 NPDES No. CA0105181

EXHIBIT "A"

**Effluent Limitation Violations Requiring Mandatory Minimum Penalties**

#	Violation Number	Violation Date	Constituent	Pollutant Group	Limitation Period	Limit	Result/Average	Units	% Over Limit	Date 180 Days Prior	Serious or Chronic Violation?	No. of Violations within 180 days	Mandatory Fine?	Water Code	Penalty
1	1103608	03/16/2022	E.coli	Other	Daily Maximum	400	870	MPN/100	N/A	09/17/2021	N/A	1	N		\$ 0
2	1103607	03/21/2022	E.coli	Other	Daily Maximum	400	2000	MPN/100	N/A	09/22/2021	N/A	2	N		\$ 0
3	1104063	03/31/2022	E.coli	Other	Geometric Mean of	126	287	MPN/100	N/A	10/02/2021	N/A	3	N		\$ 0
4	1108797	08/15/2022	E.coli	Other	Daily Maximum	400	2400	MPN/100	N/A	02/16/2022	C	4	Y	13385(i)	\$ 3,000
5	1108798	08/22/2022	E.coli	Other	Daily Maximum	400	1200	MPN/100	N/A	02/23/2022	C	5	Y	13385(i)	\$ 3,000
6	1108796	08/29/2022	E.coli	Other	Daily Maximum	400	440	MPN/100	N/A	03/02/2022	C	6	Y	13385(i)	\$ 3,000
7	1108799	08/31/2022	E.coli	Other	Geometric Mean of	126	494	MPN/100	N/A	03/04/2022	C	7	Y	13385(i)	\$ 3,000
8	1112178	09/08/2022	E.coli	Other	Daily Maximum	400	1000	MPN/100	N/A	03/12/2022	C	8	Y	13385(i)	\$ 3,000
9	1112180	09/19/2022	E.coli	Other	Daily Maximum	400	1300	MPN/100	N/A	03/23/2022	C	7	Y	13385(i)	\$ 3,000
10	1112179	09/30/2022	E.coli	Other	Geometric Mean of	126	609	MPN/100	N/A	04/03/2022	C	7	Y	13385(i)	\$ 3,000
11	1121411	09/06/2023	E.coli	Other	Daily Maximum	400	1700	MPN/100	N/A	03/10/2023	N/A	1	N		\$ 0
12	1121412	09/11/2023	E.coli	Other	Daily Maximum	400	1300	MPN/100	N/A	03/15/2023	N/A	2	N		\$ 0
13	1121413	09/18/2023	E.coli	Other	Daily Maximum	400	1200	MPN/100	N/A	03/22/2023	N/A	3	N		\$ 0
14	1121410	09/30/2023	E.coli	Other	Geometric Mean of	126	564	MPN/100	N/A	04/03/2023	C	4	Y	13385(i)	\$ 3,000
15	1122813	11/06/2023	E.coli	Other	Daily Maximum	400	410	MPN/100	N/A	05/10/2023	C	5	Y	13385(i)	\$ 3,000
16	1122812	11/09/2023	Oil and Grease	Group 1	Daily Maximum	25	42	mg/L	68%	05/13/2023	S	N/A	Y	13385(h)	\$ 3,000

**Total Penalty:** \$ 30,000

- 1 - Violation occurs on sample date or last date of averaging period.
- 2 - For Group I pollutants, a violation is serious when the limit is exceeded by 40% or more
  - For Group II pollutants, a violation is serious when the limit is exceeded by 20% or more
- 3 - When a serious violation occurs on the same day as a chronic, the serious violation is only assessed an MMP once and is counted last for the day when determining the number of chronic violations to be assessed a

**Violation period ending the last day of November 2023**

Group I Violations Assessed MMP: 1

Group II Violations Assessed MMP: 0

Other Effluent Violations Assessed MMP: 9

Violations Exempt from MMP: 0

Total Violations Assessed MMP: 10

**Mandatory Minimum Penalty = (1 Serious Violations + 9 Non-Serious Violations) x \$3,000 = \$30,000**

**EXHIBIT B**  
**ACCEPTANCE OF CONDITIONAL RESOLUTION**  
**AND WAIVER OF RIGHT TO HEARING**

Kent SeaTech, LLC, Owner/Operator  
Kent SeaTech Corporation Fish Farm  
WDRs Order Nos. R7-2016-0035 and R7-2022-0020 (NPDES No. CA0105181)

By signing below and returning this Acceptance of Conditional Resolution and Waiver of Right to Hearing (Acceptance and Waiver) to the California Regional Water Quality Control Board, Colorado River Basin Region (Regional Water Board), Kent SeaTech, LLC, Owner/Operator, Kent SeaTech Corporation Fish Farm (Discharger) hereby accepts the conditional settlement offer to settle the alleged violations through payment of mandatory minimum penalties and waives the right to a hearing before the Regional Water Board to dispute the alleged violations. The alleged violations are attached to this Acceptance and Waiver as 'Exhibit A' and incorporated by reference.

The Discharger agrees that 'Exhibit A' 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 Water Board to assert jurisdiction over the alleged violations through its Assistant Executive Officer. The Discharger agrees to pay the penalties required by California Water Code sections 13385 and/or 13385.1, in the sum of **\$30,000** (Expedited Payment Amount), which shall be deemed payment in full of any civil liability pursuant to Water Code section 13385 that otherwise might be assessed for the violation(s) described in 'Exhibit A'. The Discharger understands that this Acceptance and Waiver waives its right to contest the allegations in 'Exhibit A' and the amount of civil liability assessed for the violations.

The Discharger understands that this Acceptance and Waiver does not address or resolve liability for any violation that is not specifically identified in 'Exhibit A'.

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

California Regional Water Quality Control Board, Colorado River Basin  
Attention: Logan Raub  
73720 Fred Waring Drive, Suite 100  
Palm Desert, CA 92260

The Discharger understands that federal regulations set forth at Code of Federal Regulations, title 40, section 123.27(d)(2)(iii) require the Regional Water Board to publish notice of 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 will be published as required by law for public comment prior to the Executive Officer's execution.

The Discharger understands that if no comments are received within the public notice period that causes the Executive Officer to question the conditional settlement offer, the Executive Officer will execute this Acceptance and Waiver.

The Discharger understands that if significant comments are received in opposition to the conditional settlement offer, the offer may be withdrawn. In that circumstance, the Discharger will be advised of the withdrawal and an administrative civil liability complaint may be issued and the matter may be set for a hearing before the Regional Water Board. For such a liability hearing, the Discharger understands that its executed Acceptance and Waiver will be treated as a settlement communication and will not be used as evidence in that hearing.

The Discharger understands that once the Executive Officer executes this Acceptance and Waiver, the full payment required by the deadline set forth below is a condition of this Acceptance and Waiver.

The Discharger understands that funds collected for violations under Water Code sections 13385 and 13385.1 shall be deposited in the State Water Pollution Cleanup and Abatement Account. Accordingly, the liability shall be paid by a cashier's or certified check for **\$30,000** made out to the "State Water Pollution Cleanup and Abatement Account."

The Discharger understands that payment must be submitted to the State Water Resources Control Board no later than thirty (30) calendar days after the date on which the Executive Officer executes this Acceptance and Waiver.

The Discharger shall mail the check to:

State Water Resources Control Board  
Division of Administrative Services, Accounting Branch  
Attn: ACL Payment  
PO 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.

**Kent SeaTech, LLC**

By: <u>Original Signed by</u>	<u>9/29/24</u>
Signed Name	Date
<u>Claudia Kent Hertzog</u>	<u>Executive VP</u>
Printed or Typed Name	Title

**Note: Please return the signed Acceptance and Waiver with Exhibit A, together.**

IT IS SO ORDERED PURSUANT TO WATER CODE SECTION 13385.

By: \_\_\_\_\_ Date \_\_\_\_\_  
PAULA RASMUSSEN  
Executive Officer



**EXHIBIT C**  
**AGREEMENT TO ENGAGE IN SETTLEMENT DISCUSSIONS**  
**TO PROPOSE A SUPPLEMENTAL ENVIRONMENTAL PROJECT**

Kent SeaTech, LLC, Owner/Operator  
Kent SeaTech Corporation Fish Farm  
WDRs Order Nos. R7-2016-0035 and R7-2022-0020 (NPDES No. CA0105181)

By signing below and returning this Agreement to Engage in Settlement Discussions to Propose a Supplemental Environmental Project (Agreement) to the California Regional Water Quality Control Board, Colorado River Basin Region (Regional Water Board), I affirm and acknowledge the following:

I am duly authorized to represent Kent SeaTech, LLC, Owner/Operator, Kent SeaTech Corporation Fish Farm (Discharger) in connection with Conditional Settlement Offer No. R7-2024-0027 (Conditional Settlement Offer). I certify that the Discharger will contact the Regional Water Board Prosecution Team (Prosecution Team) contact below within **five** business days of submittal of this Agreement to request an opportunity to engage in settlement discussions with the Prosecution Team to resolve the alleged violations subject to mandatory minimum penalties pursuant to Water Code section 13385, subdivision (h) and (i). The alleged violations are attached to this Agreement as Exhibit A. The purpose of the settlement discussions is to provide the Discharger an opportunity to propose a supplemental environmental project (SEP) to offset a portion of the mandatory minimum penalty amount of \$30,000 (MMP Amount), to the extent such project is authorized by law and the State Water Resources Control Board's Policy on Supplemental Environmental Projects. Pursuant to Water Code section 13385, subdivision (l), the Discharger can expend up to **\$22,500** of the MMP Amount towards a SEP approved by the Regional Water Board. The remaining balance shall be paid to the "State Water Pollution Cleanup and Abatement Account" no later than 30 calendar days after the date on which the Regional Water Board or its delegate approves the settlement. The Discharger understands that any proposed settlement, including a settlement requiring implementation of a SEP, must be noticed for a 30-day public review and comment period before consideration by the Regional Water Board or its delegate. If significant new information is received in opposition to the proposed settlement, the Regional Water Board's Assistant Executive Officer may withdraw the proposed settlement and decide not to present it to the Regional Water Board or its delegate.

The Discharger understands that any proposed settlement is subject to approval by the Regional Water Board or its delegate, and that the Regional Water Board may consider the proposed settlement in a public meeting or hearing. The Discharger also understands that approval of any settlement will result in the Discharger having waived the right to contest the allegations in Exhibit A and the imposition of civil liability.

By submitting this Agreement, the Discharger requests that the Assistant Executive Officer delay issuance of an Administrative Civil Liability Complaint for the violations alleged in Exhibit A. The Discharger understands that if the parties are unable to reach a timely settlement agreement to resolve the alleged violations, or the proposed settlement is withdrawn or is not approved by the Regional Water Board or its delegate, an Administrative Civil Liability Complaint may be issued, and the matter may be set for a

Conditional Settlement Offer No. R7-2024-0027

hearing before the Regional Water Board. For such a liability hearing, the Discharger understands that any settlement communications will not be used as evidence in that hearing.

Upon execution by the Discharger, the completed Agreement shall be returned to:  
California Regional Water Quality Control Board, Colorado River Basin  
Attention: Michael Perez  
73720 Fred Waring Drive, Suite 100  
Palm Desert, CA 92260

**Kent SeaTech, LLC**

By: \_\_\_\_\_  
Signed Name Date

\_\_\_\_\_  
Printed or Typed Name Title

**Note: Please return the signed Agreement with Exhibit A, together.**