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## Santa Ana Regional Water Quality Control Board

July 29, 2024

MK Enterprise LLC  
1860 Loma Vista Drive  
Beverly Hills, CA 90210  
(Via Certified Mail)

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Kam Khorshidi  
[kamkhorshidi@gmail.com](mailto:kamkhorshidi@gmail.com)  
(Via Email)

### **TRANSMITTAL OF MANDATORY MINIMUM PENALTY COMPLAINT NO. R8-2024-0028, MK ENTERPRISE LLC**

Dear Mr. Khorshidi:

Enclosed is Mandatory Minimum Penalty Complaint No. R8-2024-0028 (Complaint) issued to MK Enterprise LLC (hereafter referred to as MK Enterprise LLC or Discharger). The Complaint alleges that MK Enterprise LLC has violated California Water Code (Water Code) section 13399.31 by failing to submit the 2022-2023 Annual Report under the State's National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order No. 2009-0009-DWQ as amended by Order No. 2010-0014-DWQ and Order No. 2012-0006-DWQ, NPDES No. CAS000002 (General Permit) for the construction site located at 6909 Victoria Avenue, in the City of Highland.

This Complaint proposes that an administrative civil liability in the amount of two thousand seven hundred and seventy-nine dollars (\$2,779) be imposed. The penalty amount is the mandatory minimum penalty including staff costs as authorized by Water Code section 13399.33, subdivisions (c) and (d).

A public hearing on this matter is scheduled for the Santa Ana Water Board meeting on October 25, 2024. Pursuant to Water Code section 13323, the Discharger has the option to waive its right to a hearing. Should MK Enterprise LLC waive its right to a hearing and pay the recommended liability, the Santa Ana Water Board may not hold a public hearing on this matter.

If MK Enterprise LLC chooses to waive its right to a hearing, please sign and submit the enclosed Waiver Form. Please make the check payable to the Waste Discharge Permit Fund for two thousand seven hundred and seventy-nine dollars (\$2,779) and include the Complaint Number (No. R8-2024-0028) on the memo line. Please send the following information to the appropriate location:

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KRISTINE MURRAY, CHAIR | JAYNE JOY, EXECUTIVE OFFICER

3737 Main Street, Suite 500, Riverside, CA 92501-3348 | [www.waterboards.ca.gov/santaana](http://www.waterboards.ca.gov/santaana)

Mail Waiver Form to:  
RWQCB  
Attn: Steven Stephansen  
3737 Main Street, Suite 500  
Riverside, CA 92501

Mail Payment to:  
SWRCB – Accounting Office  
Attn: Sarah Fong  
P.O. Box 1888  
Sacramento, CA 95812-1888

The Discharger should submit the attached Waiver to the Advisory Team by contacting Lori Okun via phone at (916) 323-1667 or via e-mail at [Lori.Okun@waterboards.ca.gov](mailto:Lori.Okun@waterboards.ca.gov). The Prosecution Team reserves the right to object to the Discharger's request to pursue Options 2 as it is described in the attached Waiver.


If MK Enterprise LLC does not wish to waive its rights to a hearing, a pre-hearing meeting with the Prosecution Team is recommended. Should you wish to schedule a pre-hearing meeting, please submit your request to Steven Stephansen via phone at (951) 320-2027 or via email to [Steven.Stephansen@waterboards.ca.gov](mailto:Steven.Stephansen@waterboards.ca.gov) prior to **August 27, 2024**.

If this matter proceeds to hearing, the Advisory Team will issue a Hearing Procedure which will provide deadlines and establish a process for submitting evidence and argument in this matter.

Procedural questions should be directed to the Advisory Team by contacting Lori Okun at the information listed above.

If you have any questions regarding the Complaint or the enclosed documents, please contact Steven Stephansen via phone at (951) 320-2027 or via email at [Steven.Stephansen@waterboards.ca.gov](mailto:Steven.Stephansen@waterboards.ca.gov). All legal questions should be directed to Carson Capps, attorney for the Prosecution Team, Office of Enforcement, via phone at (916) 341-5273 or via email at [Carson.Capps@waterboards.ca.gov](mailto:Carson.Capps@waterboards.ca.gov).

Sincerely,



Eric Lindberg, P.G., C.H.G.  
Assistant Executive Officer  
Santa Ana Water Board Prosecution Team

enclosures: MMP Complaint No. R8-2024-0028  
Waiver Form

cc (w/encl): Jayne Joy, Santa Ana Water Board Advisory Team  
Lori Okun, Santa Ana Water Board Advisory Team Attorney  
Carson Capps, Santa Ana Water Board Prosecution Team Attorney  
Arlene Chun, San Bernardino County FCD, NPDES Coordinator  
Melissa Morgan, City of Highland, NPDES Coordinator

**State of California  
California Regional Water Quality Control Board  
Santa Ana Region**

IN THE MATTER OF:

MK Enterprise LLC	)	Complaint No. R8-2024-0028
1860 Loma Vista Drive	)	For
Beverly Hills, CA 90210	)	Mandatory Minimum Penalty

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This Complaint is issued to MK Enterprise LLC (hereafter referred to as MK Enterprise LLC or Discharger) pursuant to California Water Code (Water Code) section 13399.33, which authorizes the imposition of civil liability administratively, and Water Code section 13323, which authorizes the issuance of this Complaint. This Complaint is based on allegations that the Discharger failed to submit the 2022-2023 Annual Report in accordance with Water Code section 13399.31, for which the California Regional Water Quality Control Board, Santa Ana Region (Santa Ana Water Board), must impose a penalty pursuant to Water Code section 13399.33.

The Assistant Executive Officer of the Santa Ana Water Board alleges the following:

**BACKGROUND:**

1. Construction sites that discharge stormwater associated with construction activities are required to obtain coverage under the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities Order No. 2009-0009-DWQ as amended by Order No. 2010-0014-DWQ and Order No. 2012-0006-DWQ, NPDES No. CAS000002 (General Permit). General Permit coverage is required for construction sites that result in disturbance greater than one acre of total land area. Dischargers enrolled under the General Permit are required to comply with reporting requirements, including the requirement to submit an Annual Report by September 1 of each year.
2. On October 31, 2022, MK Enterprise LLC obtained General Permit coverage, under Waste Discharge Identification Number 8 36C399033, for the Victoria Square construction site located at 6909 Victoria Ave, in the City of Highland. General Permit coverage authorizes discharges of stormwater associated with construction activity so long as the dischargers comply with all requirements, provisions, limitations, and prohibitions in the permit.
3. On August 13, 2023, the State Water Board sent a courtesy email reminder to dischargers reiterating the September 1<sup>st</sup> deadline for the submittal of the Annual Report.

4. On August 23, 2023, the Santa Ana Water Board sent another courtesy email reminder to dischargers reiterating the September 1<sup>st</sup> deadline of the submittal of Annual Report
5. On September 1, 2023, the Discharger's Annual Report for the 2022-2023 reporting year was due per General Permit Section.
6. On September 18, 2023, the Santa Ana Water Board issued a Notice of Non-Compliance (NNC) MK Enterprise LLC for the failure to submit the 2022-2023 Annual Report. The NNC required the Discharger to submit the 2022-2023 Annual Report via the Stormwater Multiple Application and Report Tracking System (SMARTS) no later than October 17, 2023.
7. On October 4, 2023, Santa Ana Water Board staff received the United States Postal Service certified mail return receipt for the first NNC.
8. On October 18, 2022, a second NNC was issued to MK Enterprise LLC for the failure to submit the 2022-2023 Annual Report by the deadline specified in the first NNC. The second NNC required the Discharger to submit the 2022-2023 Annual Report via SMARTS by November 16, 2022.
9. On October 23, 2023, Santa Ana Water Board staff received the United States Postal Service certified mail return receipt for the second NNC.
10. On October 26, 2023, Kam Khorshidi emailed Santa Ana Water Board staff requesting help navigating SMARTS to comply with the NNCs. Santa Ana Water Board staff provided instructions and a help guide to submit the Annual Report and reiterated the final deadline of November 16, 2023.
11. On November 7<sup>th</sup>, 13<sup>th</sup>, 15<sup>th</sup>, and 16<sup>th</sup>, 2023, Santa Ana Water Board staff sent reminder emails stating that the 2022-2023 Annual Report had still not been submitted, the final deadline was approaching, and mandatory minimum penalties would be assessed if the Annual Report was not submitted.
12. On December 29, 2023, Kam Khorshidi submitted the 2022-2023 Annual Report, forty-two (42) days after the final deadline of November 16, 2023.
13. On March 21, 2024, the Santa Ana Water Board issued Conditional Settlement Offer (Settlement Offer) No. R8-2024-0028 to MK Enterprise LLC inviting the Discharger to participate in an Expedited Payment Program relating to violations of the General Permit, which would have provided the opportunity for the Discharger to resolve the alleged violations by paying a MMP of \$1,735, including staff costs. The Discharger was given a deadline of April 19, 2024, to respond to the Conditional Settlement Offer.
14. On April 2, 2024, Santa Ana Water Board staff received the United States Postal Service certified mail return receipt for the Conditional Settlement Offer.

15. To date, the Discharger has not responded to the Conditional Settlement Offer and continues to ignore outreach efforts made by Santa Ana Water Board staff.

## **LEGAL AUTHORITY**

16. Section 13399.31 of the Water Code requires the regional boards to conduct a review of the Annual Reports in accordance with the requirements of the General Permit, and identify, on an annual basis, dischargers that have failed to submit that Annual Report.
17. Pursuant to Water Code section 13399.31 subdivision (b), the Santa Ana Water Board provides an NNC to any person that is identified to have failed to submit an Annual Report by the deadline specified in the General Permit. The first NNC directs the discharger to submit the Annual Report within 30 days from the date on which the Santa Ana Water Board provided notice.
18. If a discharger does not come into compliance in response to the first NNC, Water Code section 13399.31 subdivision (c) directs the regional boards to send a second NNC to a discharger. Failure to submit the appropriate Annual Report within 60 days of the first NNC, after the second NNC is issued, subjects the discharger to a mandatory minimum penalty (MMP).
19. Pursuant to Water Code section 13399.33, subdivisions (c) and (d), a discharger is subject to a minimum penalty of not less than one thousand dollars (\$1,000) plus staff costs for its failure to submit the required Annual Report as required by the General Permit within 60 days from the date of issuance of the first NNC, when a second NNC was also issued.

## **PROPOSED MANDATORY MINIMUM PENALTIES AND ASSESSMENT OF COSTS**

20. Pursuant to Water Code section 13399.33 subdivision (c), the Santa Ana Water Board shall administratively impose a penalty in an amount that is not less than one thousand dollars (\$1,000) against a discharger who fails to submit the required Annual Report.
21. Water Code section 13399.33 subdivision (d) further requires the recovery of costs incurred by the Santa Ana Water Board for enforcement actions against dischargers who fail to submit the required Annual Report in accordance with Water Code section 13399.31. Staff spent sixteen (16) hours for this enforcement action resulting in total staff costs of one thousand seven hundred and seventy-nine dollars (\$1,779).
22. Therefore, the mandatory minimum liability for the violation alleged herein, including staff costs, is two thousand seven hundred and seventy-nine dollars (\$2,779).

## REGULATORY CONSIDERATIONS

23. Notwithstanding issuance of this Complaint, the Santa Ana Water Board retains the authority to assess additional penalties for any violations that have not yet been assessed or for violations that may subsequently occur.
24. An administrative civil liability may be imposed pursuant to the procedures described in Water Code section 13323. An administrative civil liability complaint alleges the act or failure to act that constitutes a violation of law, identifies the provision of law authorizing administrative civil liability to be imposed, and declares the proposed administrative civil liability.
25. Issuance of this Complaint is an enforcement action and is therefore exempt from the provisions of the California Environmental Quality Act (Pub. Res. Code section 21000 et seq.) pursuant to title 14, California Code of Regulations sections 15308 and 15321, subdivision (a), paragraph (2).

## MK ENTERPRISE LLC IS HEREBY GIVEN NOTICE THAT:

26. The Assistant Executive Officer of the Santa Ana Water Board proposes an administrative civil liability in the amount of two thousand seven hundred and seventy-nine dollars (\$2,779). The amount of the proposed liability is based on the mandatory minimum penalties authorized to be imposed under Water Code section 13399.33, subdivisions (c) and (d).
27. A hearing on this matter will be conducted at the Santa Ana Water Board meeting scheduled on October 25, 2024, unless one of the following options occurs:
  - a. The Discharger waives the hearing by completing the Waiver Form (checking off the box next to Option 1), attached herein, and returns it to the Santa Ana Water Board, along with payment for the proposed liability of two thousand seven hundred and seventy-nine dollars (\$2,779).
  - b. The Discharger waives the 90-day hearing requirement in order to extend the hearing date (checking off the box next to Option 2) and returns it to the Santa Ana Water Board, along with rationale for the extension.



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Eric Lindberg, P.G., C.H.G.  
Assistant Executive Officer  
Santa Ana Water Board Prosecution Team

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## Santa Ana Regional Water Quality Control Board

### WAIVER FORM FOR MANDATORY MINIMUM PENALTY COMPLAINT NO. R8-2024-0028

By signing this waiver, I affirm and acknowledge the following:

I am duly authorized to represent MK Enterprise LLC in connection with Mandatory Minimum Penalty Complaint No. R8-2024-0028 (Complaint). I am informed that California Water Code section 13323, subdivision (b), states that, *“a hearing before the regional board shall be conducted within 90 days after the party has been served. The person who has been issued a complaint may waive the right to a hearing.”*

**(OPTION 1: Check here if MK Enterprise LLC waives the hearing requirement and will pay the liability in full.)**

- a. I hereby waive any right MK Enterprise LLC may have to a hearing before the Santa Ana Water Board.
- b. I certify that MK Enterprise LLC will remit payment for the proposed penalty in the full amount of **two thousand seven hundred and seventy-nine dollars (\$2,779)** by submitting a check made payable to the *“Waste Discharge Permit Fund,”* that references *“Complaint No. R8-2024-0028.”*
- c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after the 30-day public notice and comment period. Should the Santa Ana Water Board receive significant new information or comments from any source (excluding the Santa Ana Water Board’s Prosecution Team) during this comment period, the Santa Ana Water Board’s Assistant Executive Officer may withdraw the Complaint, return payment, and issue a new complaint. I understand that this proposed settlement is subject to approval by the Santa Ana Water Board (or the Santa Ana Water Board’s delegee), and that the Santa Ana Water Board may consider this proposed settlement in a public meeting or hearing. I also understand that approval of the settlement will result in MK Enterprise LLC having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
- d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject MK Enterprise LLC to further enforcement, including additional civil liability.

***(OPTION 2: Check here if MK Enterprise LLC waives the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines. Attach a separate sheet with the amount of additional time requested and the rationale.)***

I hereby waive any right MK Enterprise LLC may have to a hearing before the Santa Ana Water Board within 90 days after service of the Complaint. By checking this box, MK Enterprise LLC requests that the Santa Ana Water Board delay the hearing and/or hearing deadlines so that MK Enterprise LLC may have additional time to prepare for the hearing. Please provide a written explanation of why additional time is needed. It remains within the discretion of the Santa Ana Water Board to approve the extension and the Prosecution Team reserves the right to object to this delay.

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(Print Name and Title)

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(Signature)

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(Date)