

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION**

In the matter of:) **Complaint No. R4-2010-0115**
)
Coast United Property Management) **Violation of California Water Code § 13268**

 Also known as)
Coast-United Advertising Co., Inc.)
)

This Complaint is issued to COAST UNITED PROPERTY MANAGEMENT, also known as COAST-UNITED ADVERTISING CO., INC. (Discharger), under authority of California Water Code (CWC) section 13323 to assess administrative civil liability pursuant to CWC section 13268. This Complaint proposes administrative civil liability in the amount of \$39,900 based on a violation of a CWC section 13267 Investigative Order issued February 20, 2008.

The Interim Executive Officer of the Regional Water Quality Control Board, Los Angeles Region (Regional Board) hereby gives notice that:

1. The Discharger owns the property located at 8714 and 8716 Darby Avenue, Northridge, City and County of Los Angeles, California (the Site). Though there are two addresses, the property has one Assessor's Parcel Number (APN), 2769-024-030. Chlorinated volatile organic compounds known to be carcinogens to humans from the soil and groundwater have been detected at the Site in the past, and may have or threaten to detrimentally impact the quality of the waters of the state.
2. The Dischargers are alleged to have violated provisions of the law for which the Regional Board may impose civil liability pursuant to CWC section 13268 from the period from June 30, 2008 through July 29, 2010, the day this Complaint issues. This Complaint proposes to assess \$39,900 in penalties for the violation cited based on the considerations described herein. The deadline for public comments on this Complaint is 5:00 p.m. on **August 30, 2010**.
3. Unless waived, a hearing before a Regional Board Hearing Panel will be held on **October 27, 2010**, at 9:00 a.m. at 320 W. 4th Street, Los Angeles, CA 90013 on the 5th floor at the Public Utilities Commission Hearing Room. The Discharger or its representative(s) will have an opportunity to be heard and to contest the allegations in this Complaint and the imposition of

civil liability by the Regional Board. An agenda will be mailed to the Dischargers approximately ten days before the hearing date.

4. The Dischargers must submit any written evidence and/or information concerning this Complaint to the Regional Board no later than 5:00 p.m. on **September 28, 2010**, for the Hearing Panel's consideration. Any written evidence submitted to the Regional Board after this date and time may not be accepted or responded to in writing.
5. At the hearing, the Hearing Panel will consider whether to affirm, reject, or modify the proposed administrative civil liability, or to refer the matter to the Attorney General, or take other enforcement action.
6. This issuance of this Complaint is an enforcement action and is, therefore, exempt from the California Environmental Quality Act, pursuant to Title 14, California Code of Regulations, Section 15321.

ALLEGATIONS

7. **Site Location and Description:** The Site is 0.65 acres in a light industrial and residential area. The Site consists of various structures including a one level multi-unit building. There is an asphalt-paved driveway and parking lot area, and a mainly asphalt-paved open yard area. There are residences to the north and east, and light industrial properties across Darby Avenue to the south and west.
8. **Named Discharger:** The Discharger is the responsible party because it owns the Site property. COAST-UNITED ADVERTISING CO., INC owns the Site and, WILLIAM M. GIAMELA is the Agent for Service of Process. COAST-UNITED ADVERTISING CO., INC purchased the Site in 1997 for \$350,000. Though the business names are slightly different, it appears COAST-UNITED ADVERTISING CO., INC and COAST UNITED PROPERTY MANAGEMENT is the same corporation. WILLIAM M. GIAMELA has signed correspondence to the Regional Water Board regarding the Site on behalf of COAST UNITED PROPERTY MANAGEMENT, with the same business address in the letterhead as what is on file with the Secretary of State, 8020 Deering Avenue, Canoga Park, CA.
9. **Regulatory Status:** On February 20, 2008, the Regional Board issued a California Water Code (CWC) section 13267 investigative order (13267 Order) requiring the Discharger to submit two technical reports by March 24, 2008 (an extension was granted to June 30, 2008). The required reports were 1) a Phase I Environmental Site Assessment report containing a history of operations on the Site and identifying potential source areas and chemicals used/stored at the Site, and 2) a technical work plan to completely delineate soil, soil vapor and groundwater contamination. On March 17, 2009, Regional Water Board Executive Officer Tracy J. Egoscue issued a Notice of Violation (NOV) to the Discharger for failing to comply with the 13267 Order. The Discharger has never applied for coverage under any permit with the Regional Water Board.

10. **Site Background:** The Dischargers are suspected of allowing chlorinated volatile organic compounds including tetrachloroethylene (PCE), trichloroethylene (TCE), and 111-trichloroethane (TCA), in the Site's ground water to migrate off the Site and into the community. The 13267 Order sought to identify and delineate the chlorinated volatile organic compounds present on the Site.

- a. The site has been historically used as a circuit board manufacturing facility prior to the Discharger purchasing the property. It had been leased to Scrivner Electronics sometime through 1974, Darby Circuits from 1974 through 1982, and Lai Circuits from 1982 through 1985. The manufacturing operations at the former circuit board facility reportedly used a concrete clarifier and an adjacent pit to discharge various compounds and chemicals used or generated during the production processes. The clarifier was removed prior to 1986.
- b. In 1986, soil samples collected beneath the former clarifier to a depth of 40 feet below ground surface (bgs) detected PCE, TCA, and TCE. Maximum soil concentrations were 117 milligrams per kilogram (mg/kg), 1,270 mg/kg and 4,580 mg/kg, respectively. High concentrations of copper (20,200 mg/kg) and chromium (8,400 mg/kg) were also detected. The highest concentrations of the chemicals of concern were identified directly beneath and adjacent to a former copper sulfate pit and a former clarifier.
- c. Tetra Tech, Inc., described in their May, 1989 report titled *Results of Soil and Groundwater Sampling at the Henderson Property, Northridge, California* that they investigated soil and groundwater to determine the vertical extent of contamination beneath the location of the former clarifier. The results confirmed that contaminants had migrated vertically through the soil and impacted the first groundwater below the site. Monitoring well MW-1 was installed adjacent to the clarifier. Groundwater analysis from MW-1 verified that the groundwater beneath the site was contaminated at 1,700 micrograms per liter ($\mu\text{g/L}$) TCA and 6,500 $\mu\text{g/L}$ TCE.
- d. In January, 1991, the County of Los Angeles Department of Health Services informed the Regional Water Board that the former business Lai Circuits that was on the Site handles acids, bases, solvents and heavy metals. Poor methods of disposal, housekeeping and maintenance led to contaminating the soil with ammonia, solvents and heavy metals. The Department of Health Services closed the business. Initial groundwater samples indicated significant levels of chlorinated organic contamination. The Department of Health Services concluded there was a threat to the quality of the groundwater.
- e. In October, 1991, the Regional Water Board sought a work plan for a complete site assessment to determine the extent of soil and groundwater contamination from San Chen Lai, the owner of Lai Circuits and the Site at the time.
- f. According to a letter dated February 10, 1992 from the Office of the District Attorney of the County of Los Angeles to the Regional Board, San Cheng Lai of Lai Circuits in California Superior Court, Los Angeles County, pled no contest to nine felony violations of California Health and Safety Code section 25189.5(b) (improper disposal of hazardous waste), based on his actions that contaminated the Site (Case

number A815565). Mr. Lai was to make payment into a trust account totaling \$100,000 to fund Site cleanup.

- g. The Discharger purchased the Site in 1997.
- h. On February 20, 2008, the Executive Officer of the Regional Water Board issued the 13267 Order requiring the Discharger to submit 1) a Phase I Environmental Site Assessment report to include a complete operational history of the Site and the identification of all potential source areas and chemicals used or stored at the site; and 2) a technical work plan to completely delineate soil, soil vapor and groundwater contamination. The reports were due to the Regional Water Board by March 24, 2008. On March 27, 2008, Mr. William Giamela requested via e-mail a 45-day extension which was granted by letter dated May 12, 2008. The revised due date for the reports was June 30, 2008.
- i. On March 17, 2009, the Executive Officer of the Regional Water Board issued a Notice of Violation for the Discharger's failure to submit the reports required under the 13267 Order. After several communications with Mr. William Giamela, no reports were submitted to the Regional Water Board and staff is not aware of any cleanup activity.
- j. After several phone calls, e-mails, and at least one meeting with Regional Board staff over the past two years since the 13267 Order issued, the Discharger has yet to submit either report.

VIOLATION

- 11. Pursuant to CWC section 13268(a)(1) and (b)(1), any person failing or refusing to furnish technical reports required by a 13267 order may be civilly liable for an amount not to exceed \$1,000 for each day of violation.
- 12. The 13267 Order required the Discharger to submit the Phase I Environmental site assessment report and work plan by March 24, 2008. Three days after the due date, Mr. William Giamela requested a 45-day extension, which was granted, extending the due date to June 30, 2008.
- 13. If this matter proceeds to hearing, the Interim Executive Officer reserves the right to amend the proposed amount of civil liability to conform to the evidence presented, including but not limited to increasing the proposed amount to account for the costs of enforcement (including staff, legal and expert witness costs) incurred after the date of the issuance of this complaint through completion of the hearing.

PROPOSED LIABILITY

14. The State Water Resources Control Board's Water Quality Enforcement Policy (amended November, 2009)¹ establishes a methodology for assessing administrative civil liability. Use of the methodology addresses the factors in CWC section 13327. The liability methodology spreadsheet, Attachment A, is incorporated herein and made a part of this ACL Complaint by this reference. It presents the administrative civil liability derived from the use of the penalty methodology in the Enforcement Policy.
15. **Initial Liability Determination:** The per day factor is 0.4. This factor is determined by a matrix analysis using the potential for harm and the deviation from applicable requirements. The potential for harm is determined to be minor because the requirements the Discharger failed to meet were to submit reports describing the history of operations and chemical use at the Site, and a work plan to delineate the extent of pollution. The failure to submit these reports did not increase the amount of the pollution. The deviation from the requirement to submit reports was major. The Discharger has failed for two years to delineate the pollution, disregarding the 13267 Order other than asking for an extension.
- a. There are 760 days of violation from June 30, 2008 through July 29, 2010. Regional Board staff has determined that the Enforcement Policy's alternative approach to penalty calculation is appropriate. A multiple-day approach is appropriate since the violations result in no economic benefit from the illegal conduct that can be measured on a daily basis. The economic benefit is the cost of having the required reports prepared.
 - b. Following the Enforcement Policy, for violations that last more than 30 days, the liability shall not be less than an amount that is calculated based on an assessment of the initial liability amount for the first day of violation, plus an assessment for each five day period of violations until the 30th day, plus an assessment for each 30 days of violation thereafter. Since the Discharger failed to submit the reports for 760 days, only 31 days worth of violations are accrued based on a per day assessment for day 1, 5, 10, 15, 20, 25, 30, 60, 90, etc.
 - c. Applying the per day factor to the number of days of violation yields an initial liability of \$12,400. This is the number of days of violation (31) multiplied by the per day factor (0.4), multiplied by the statutory maximum penalty per day (\$1,000).
16. **Adjustments to Initial Liability Determination:** Based on the following adjustments, the amount revised from the initial liability is \$27,900.
- a. The Discharger's culpability factor is 1.5 based on the Discharger's intentional failure to submit the reports to comply with the 13267 Order. The Discharger was given sufficient notice with the 13267 Order, its extension at the Discharger's request, the Notice of Violation, and multiple e-mail and phone reminders.

¹ The Enforcement Policy may be found at:

http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf

- b. The Discharger's cleanup and cooperation factor is 1.5. Cleanup is not a factor in this matter because the violation is failure to submit reports. The Discharger has not cooperated voluntarily or by complying with the 13267 Order. As of the date of this Complaint, the Discharger has yet to submit either required report despite the ample notification.
 - c. The discharger's history of violations factor is 1 because it is a neutral multiplier. Enforcement staff is not aware of any prior violations.
 - d. Based on these adjustments, the amount revised from the initial liability is \$27,900. This is the initial liability (\$12,400) multiplied by the culpability factor (1.5), multiplied by the cleanup and cooperation factor (1.5), multiplied by the history of violations factor (1).
17. **Total Base Liability Amount:** After considering the adjustment factors, the total base liability amount is calculated at \$27,900.
18. **Ability to Pay and to Continue in Business:** The discharger has the ability to pay the total base liability amount based on 1) the Discharger owns the property and thus has a significant asset, 2) the Discharger leases the property and thus has an income, and 3) a records search indicates that the Discharger is operating at least one, if not multiple, businesses out of its offices located at 8116 and 8020 Deering Park Avenue in Canoga Park, CA 91304 (Coast United Advertising Co., Inc.; Coast United Bench Advertising Company; and Coast United Property Management). Based on the information, the total base liability amount is not adjusted.
19. **Other Factors as Justice May Require:** As of the date of the issuance of this Complaint, enforcement staff has incurred costs of investigation and enforcement in the amount of \$12,000. This represents approximately 80 hours staff time devoted to investigating and drafting the Complaint at \$150 per hour. This amount is added to the total base liability amount, equaling \$39,900. There are no additional factors as justice may require.
20. **Economic Benefit:** The economic benefit estimated for the violation(s) at issue is approximately \$10,000 based on current consulting costs of producing a Phase I Environmental Site Assessment (\$3,000) and a work plan for soil, soil vapor and groundwater assessment (\$7,000). The adjusted total base liability amount of \$39,900 is more than at least 10% higher than the economic benefit amount as required in the Enforcement Policy. Therefore, the liability amount is not adjusted for this factor.
21. **Maximum and Minimum Liability:** The statutory minimum liability is zero and the maximum liability amount for 760 days of violation is \$760,000. The Enforcement Policy requires that the discretionary administrative civil liability must not exceed the maximum liability amount nor be less than the minimum liability amount. There is no need to adjust the proposed liability amount since it is less than the statutory maximum amount.

22. **Final Proposed Liability Amount:** Based on the foregoing analysis, and consistent with the Enforcement Policy, the proposed administrative civil liability is \$39,900. Attachment A is a spreadsheet that demonstrates the use of the penalty calculation methodology.



Samuel Unger, P.E.
Interim Executive Officer
Los Angeles Regional Water Quality Control Board

July 29, 2010

Attachment A: Liability Methodology Spreadsheet

WAIVER FORM

FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R4-2010-0115

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

I am duly authorized to represent COAST UNITED PROPERTY MANAGEMENT, also known as COAST-UNITED ADVERTISING CO., INC. (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint No. R4-2010-0115 (hereinafter the "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 [with the complaint]. The person who has been issued a complaint may waive the right to a hearing."

- (OPTION 1: Check here if the Discharger waives the hearing requirement and will pay the recommended liability.)*
- a. I hereby waive any right the Discharger may have to a hearing before the Regional Water Board.
 - b. I certify that the Discharger will remit payment for the civil liability imposed in the amount of **\$39,900** by check that references "ACL Complaint No. R4-2010-0115" made payable to the "*Cleanup and Abatement Account*". Payment must be received by the Regional Water Board by **August 30, 2010** or this matter will be placed on the Regional Board's agenda for a hearing as initially proposed in the Complaint.
 - 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 expires. Should the Regional Water Board receive significant new information or comments from any source (excluding the Water Board's Prosecution Team) during this comment period, the Regional Water Board's Interim 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 Regional Water Board, and that the Regional Water Board may consider this proposed settlement in a public meeting or hearing. I also understand that approval of the settlement will result in the Discharger 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 the Discharger to further enforcement, including additional civil liability.

- ***(OPTION 2: Check here if the Discharger waives the 90-day hearing requirement in order to engage in settlement discussions.)*** I hereby waive any right the Discharger may have to a hearing before the Regional Water Board within 90 days after service of the complaint, but I reserve the ability to request a hearing in the future. I certify that the Discharger will promptly engage the Regional Water Board Prosecution Team in settlement discussions to attempt to resolve the outstanding violation(s). By checking this box, the Discharger requests that the Regional Water Board delay the hearing so that the Discharger and the Prosecution Team can discuss settlement. It remains within the discretion of the Regional Water Board to agree to delay the hearing. Any proposed settlement is subject to the conditions described above under "Option 1."

(Print Name and Title)

(Signature)

(Date)

Attachment A: Liability Methodology Spreadsheet

Penalty Calculation Methodology Worksheet - Version Date: 6/24/2010
 Password for Workbook Protection: enforcement

Instructions

1. Select Potential Harm for Discharge Violations
2. Select Characteristics of the Discharge
3. Select Susceptibility to Cleanup or Abatement
4. Select Deviation from Standard
5. Click "Determine Harm & per Gallon/Day"
6. Enter Values into the Yellow highlighted fields.

Select Item	Potential Harm for Discharge Violations
Select Item	Characteristics of the Discharge
Select Item	Susceptibility of Cleanup or Abatement
Select Item	Deviation from Requirement

Select Item	Potential Harm for Discharge Violations
Select Item	Characteristics of the Discharge
Select Item	Susceptibility of Cleanup or Abatement
Select Item	Deviation from Requirement

Discharger Name/ID:

		Violation 1		Violation 2			
Discharge Violations	Step 1	Potential Harm Factor (Generated from Button)					
	Step 2	Per Gallon Factor (Generated from Button)					
		Gallons					
		Statutory / Adjusted Max per Gallon (\$)					
		Total	\$ -	\$ -			
	Per Day Factor (Generated from Button)	Days	10	10			
		Statutory Max per Day					
		Total	\$ -	\$ -			
		Non-Discharge Violations	Step 3	Per Day Factor	0.4		
			Days	31			
Statutory Max per Day	\$ 1,000						
	Total	\$ 12,400.00	\$ -				
Initial Amount of the ACL		\$ 12,400.00	\$ -				
Add'l Factors	Step 4	Culpability	1.5	\$ 18,600.00	\$ -		
		Cleanup and Cooperation	1.5	\$ 27,900.00	\$ -		
		History of Violations	1	\$ 27,900.00	\$ -		
		Step 5 Total Base Liability Amount		\$ 27,900.00			
Step 6	Ability to Pay & to Continue in Business	1	\$ 27,900.00				
Step 7	Other Factors as Justice May Require	Staff Costs	\$ 12,000	\$ 39,900.00			
		Step 8 Economic Benefit	\$ 10,000	\$ 39,900.00			
Step 9	Minimum Liability Amount	10000					
	Maximum Liability Amount	\$ 760,000					
Step 10	Final Liability Amount	\$ 39,900.00					

Penalty Day Range Generator	
Start Date of Violation=	<input type="text" value="6/30/08"/>
End Date of Violation=	<input type="text" value="7/29/10"/>
Maximum Days Fined (Steps 2 & 3) =	<input type="text" value="760"/> Days
Minimum Days Fined (Steps 2 & 3) =	<input type="text" value="31"/> Days