



EDMUND G. BROWN JR.  
GOVERNOR



MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

---

**Los Angeles Regional Water Quality Control Board**

July 25, 2014

Paul Zolezzi  
Powell Constructors  
8555 Banana Avenue  
Fontana, CA 92335

VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
CLAIM NO. 7010 3090 0000 2921 3481

**SETTLEMENT OFFER NO. R4-2014-0122: OFFER TO PARTICIPATE IN THE EXPEDITED PAYMENT PROGRAM RELATING TO VIOLATIONS OF THE STATE WATER RESOURCES CONTROL BOARD GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH CONSTRUCTION AND LAND DISTURBANCE ACTIVITIES FOR POWELL CONSTRUCTORS, ROUTE 405 AT AVALON BOULEVARD, CARSON, CA 90745 (ORDER NO. 2009-0009-DWQ AS AMENDED BY ORDER NO. 2010-0014-DWQ, NPDES NO. CAS000002, W DID NO. 4 19C359299)**

Dear Mr. Zolezzi:

This letter is to notify Powell Constructors (hereinafter "Permittee" or "you") of alleged violations of the California Water Code identified in the State Water Resources Control Board's water quality data system and to allow the Permittee to participate in the Los Angeles Regional Water Quality Control Board's (Regional Board) Expedited Payment Program to address liabilities that may be assessed pursuant to California Water Code section 13399.33.

**NOTICE OF VIOLATION:**

Based on information in the Storm Water Multiple Application & Report Tracking System (SMARTS) as of May 15, 2014, the Regional Board alleges that the Permittee is in violation of the statewide General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities Order No. 2009-0009-DWQ as amended by 2010-0014-DWQ (Order) for failure to submit the Fiscal Year 2012-2013 Annual Report for the construction project located at Route 405 at Avalon Boulevard in the City of Carson. The Annual Report was due to the Regional Board by September 1 of 2013 as required by Section I.4.c of the Order. As of May 15, 2014, the Permittee failed to submit the Annual Report requested in the Notice of Non-Compliance (NNC) and Notice of Violation (NOV) issued on November 1, 2013 and March 14, 2014 respectively. The Permittee will have the opportunity to address the alleged violation as discussed below.

**STATUTORY LIABILITY:**

Pursuant to California Water Code section 13399.33(c), the Permittee is subject to a minimum penalty of not less than one thousand dollars (\$1,000) plus staff costs for failing to submit the Annual Report within sixty (60) days after the NNC was sent. The Permittee is also subject to discretionary administrative civil liabilities of up to ten thousand dollars (\$10,000) for each day in which the violation occurs. These minimum and discretionary administrative civil liabilities may be assessed by

CHARLES STRINGER, CHAIR | SAMUEL UNGER, EXECUTIVE OFFICER

320 West 4th St., Suite 200, Los Angeles, CA 90013 | [www.waterboards.ca.gov/losangeles](http://www.waterboards.ca.gov/losangeles)

the Regional Board beginning with the date that the violations first occurred. The formal enforcement action that the Regional Board uses to assess such liability is an administrative civil liability complaint, although the Regional Board may instead refer such matters to the Attorney General's Office for prosecution. If referred to the Attorney General for prosecution, the Superior Court may assess up to twenty-five thousand dollars (\$25,000) per violation.

**PERMITTEE'S OPTIONS FOR RESPONSE TO OFFER:**

You have two options to respond as outlined below. However, the Expedited Payment Program does not address or resolve liability for any violation that is not specifically identified in the corresponding NNC and NOV regardless of the date that the violation occurred.

1. **Accept the Expedited Payment Program offer** by complying with the Order and agreeing to pay a settlement of \$1,500. The minimum administrative civil liability pursuant to California Water Code section 13399.33(c) is \$1,000 per report. Staff costs incurred in seeking compliance with California Water Code Chapter 5.9, the Storm Water Enforcement Act of 1998, is \$500. This is a Conditional Offer subject to certain terms and conditions set forth below. If you choose this option you must sign and submit the enclosed Acceptance and Waiver form by August 25, 2014. The form provides submittal instructions. Final closure on this action is only possible after ultimate submission of the settlement amount.

Please submit a hard copy of the Annual Report and the Acceptance and Wavier form to:

Luz Vargas, Enforcement Unit  
Los Angeles Regional Water Quality Control Board  
320 West 4<sup>th</sup> Street, Suite 200  
Los Angeles, California 90013

In response to the Conditional Offer and payment in settlement of this enforcement action, the Regional Board will forego issuance of a formal administrative complaint, will not refer the violation to the Attorney General, and will waive its right to seek additional discretionary civil liabilities for the violations identified in the NNC and NOV.

2. **Contest the non-filing violation** by submitting in writing, the basis of your challenge with supporting evidence. For example, you have evidence that you previously submitted your Annual Report on the due date or you are no longer in business. If you choose this option, you must submit your written documentation by August 25, 2014. We will review your submission, and if we agree with you, we will notify you in writing that you are no longer considered in violation of the permit and that our enforcement action has been terminated.

If you do not respond in a manner described in the above options, the Regional Board will prepare an administrative civil liability complaint for the violations cited above in the Notice of Violation section. The liability amount sought in the administrative civil liability complaint and/or imposed by the Regional Board may be higher than the liability amount set forth in this Conditional Offer. Moreover, staff costs associated with formal enforcement may be considered in the recommended liability amount.

**CONDITIONS FOR REGIONAL BOARD ACCEPTANCE OF RESOLUTION:**

This offer to participate in the Expedited Payment Program is conditional upon the Regional Board's receipt of confirmation that the Permittee submitted on the due date the Annual Report to the Regional Board on or before August 25, 2014. If you choose not to or fail to submit the Annual Report on or before that date, this offer will be deemed withdrawn and a formal enforcement action will be pursued. After the offer is deemed withdrawn, Regional Board staff will notify you of the impending enforcement action and any associated deadlines.

Should you participate in the Expedited Payment Program, the settlement will be published in the following manner: Federal regulations require the Regional Board to publish notice of, and to provide at least thirty (30) days for public 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 Permittee's Acceptance and Waiver, the Annual Report, and other requested technical reports on or before August 25, 2014, Regional Board staff will publish a notice of the proposed resolution of the failure to submit the report alleged in the NNC and NOV attached.

If no comments are received within the notice period, the Regional Board Executive Officer will execute the Acceptance and Waiver as a stipulated order assessing the uncontested penalty amount pursuant to Water Code section 13399.33 as described under the heading "Statutory Liability" herein. You will then be notified that payment is due within 30 days. Failure to pay the penalty within that time frame may result in further liability, referral of the matter to the Attorney General, and/or may void the offer to participate in this Expedited Payment Program.

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

Should you have any questions about this Conditional Offer or Notice of Violation, please contact Enforcement Unit staff Luz Vargas at (213) 620-6190 or at [lvargas@waterboards.ca.gov](mailto:lvargas@waterboards.ca.gov) regarding this matter.

Sincerely,

  
Paula Rasmussen  
Assistant Executive Officer

Enclosures:

Notice of Non-Compliance dated November 1, 2013

Notice of Violation dated March 14, 2014

Acceptance of Conditional Resolution and Waiver of Right to Hearing; (proposed) Order

cc: (via email)

Mayumi Okamoto, Office of Enforcement, State Water Resources Control Board

Settlement Offer No. R4-2014-0122

WDID No. 4 19C359299

**ACCEPTANCE OF CONDITIONAL RESOLUTION  
AND WAIVER OF RIGHT TO HEARING: (Proposed) ORDER**

Powell Constructors

Settlement Offer No. R4-2014-0122

WDID No. 4 19C359299

By signing below and returning this Acceptance of Conditional Resolution and Waiver of Right to Hearing (Acceptance and Waiver) to the Los Angeles Regional Water Quality Control Board (Regional Board), Powell Constructors (Permittee) hereby accepts the "Offer to Participate in Expedited Payment Program" and waives the right to a hearing before the Regional Board to dispute the allegations of violations described in the Notice of Non-Compliance (NNC) and Notice of Violation (NOV), which are attached and incorporated herein by reference.

The Permittee agrees that the Conditional Offer 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 Board to assert jurisdiction over the alleged violations through its Chief Prosecutor. The Permittee agrees to pay the administrative civil liability authorized by California Water Code section 13399.30, in the sum of \$1,500 (Expedited Payment Amount) which shall be deemed payment in full of any civil liability pursuant to California Water Code section 13399.30 that otherwise might be assessed for the violations described in the NNC and NOV for the missing annual report. The Permittee understands that this Acceptance and Waiver waives its right to contest the allegations in the NNC, NOV and the amount of civil liability for such violations.

The Permittee understands that this Acceptance and Waiver does not address or resolve liability for any violation that is not specifically identified in the NNC and NOV.

Upon execution by the Permittee, the completed Acceptance and Waiver and Annual Report(s) shall be returned to:

Luz Vargas, Enforcement Unit  
Expedited Payment Program  
Los Angeles Regional Water Quality Control Board  
320 West 4th Street, Suite 200  
Los Angeles, California 90013

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

If no comments are received within the notice period that causes the Regional Board Executive Officer to question the Expedited Payment Amount, the Regional Board Executive Officer will execute the Acceptance and Waiver.

The Permittee understands that if significant comments are received in opposition to the Expedited Payment Amount, the offer on behalf of the Regional Board to resolve the violations set forth in the

Settlement Offer No. R4-2014-0122  
WDID No. 4 19C359299

NNC and NOV may be withdrawn. In that circumstance, the Permittee will be advised of that withdrawal, and an administrative civil liability complaint may be issued and the matter may be set for a hearing before the Regional Board. For such a liability hearing, the Permittee understands that this Acceptance and Waiver executed by the Permittee will be treated as a settlement communication and will not be used as evidence in that hearing.

The Permittee further understands that once this Acceptance and Waiver is executed by the Regional Board Executive Officer, the full payment required by the deadline set forth below is a condition of this Acceptance and Waiver. In accordance with California Water Code section 13399.37(a), funds collected for violations pursuant to sections 13399.33(c) and 13399.33(d) shall be deposited in the Waste Discharge Permit Fund. Accordingly, the \$1,500 liability including staff costs shall be paid by a cashiers or certified check made out to the "State Water Resources Control Board" referencing this Order number for deposit into the Waste Discharge Permit Fund. The payment must be submitted to the State Water Resources Control Board no later than thirty (30) calendar days after the date the Acceptance and Waiver is executed by the Regional Board Executive Officer.

Please mail check to:

State Water Resources Control Board  
Re: Order No. R4-2014-0139  
Division of Administrative Services, Accounting Branch  
1001 I Street, 18<sup>th</sup> Floor, [95814]  
P.O. Box 1888  
Sacramento, California 95812-1888

I hereby affirm that I am duly authorized to act on behalf of and to bind the Permittee in the making and giving of this Acceptance and Waiver.

Powell Constructors

By: \_\_\_\_\_  
(Signed Name) (Date)

\_\_\_\_\_

(Printed or Typed name) (Title)

IT IS SO ORDERED PURSUANT TO CALIFORNIA WATER CODE SECTION 13399.30

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Samuel Unger, P.E.  
Executive Officer



EMMUND G. BROWN JR.  
GOVERNOR

MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

**Los Angeles Regional Water Quality Control Board**

March 14, 2014

Paul Zolezzi  
Powell Constructors  
8555 Banana Ave.  
Fontana, CA 92335

Certified Mail  
Return Receipt Requested  
Claim No. 7012 3460 0000 2190 3062

**NOTICE OF VIOLATION: FAILURE TO SUBMIT 2011-2012 AND 2012-2013 ANNUAL REPORTS AS REQUIRED BY THE 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, NPDES NO. CAS000002 (GENERAL PERMIT) WDIID NO. 4 19C359299**

Dear Paul Zolezzi:

Your construction site located at Route 405 at Avalon Blvd. in the city of Carson is subject to the requirements of the NPDES General Permit for Storm Water Discharges associated with Construction and Land Disturbance Activities (General Permit) (Order No. 2009-0009-DWQ as amended by Order No. 2010-0014-DWQ, NPDES No. CAS000002) and is identified by WDIID No. 4 19C359299. Section XVI.A of the General Permit requires that you prepare and submit an annual report electronically by September 1 of each year. On November 1, 2013, the Los Angeles Regional Water Board (Regional Board) issued you (Permittee) a Notice of Non-Compliance (attached) for failing to submit the 2011-2012 and the 2012-2013 annual reports. To date, the Regional Board has not received your 2010-2011 and 2012-2013 annual reports.

**The Permittee is currently in violation of the General Permit, the California Water Code (Water Code), and the Federal Clean Water Act for failing to submit the 2011-2012 and 2012-2013 annual reports.**

**The Permittee is required to immediately submit complete 2011-2012 and 2012-2013 annual reports to the Regional Board. The annual reports shall be submitted electronically via SMARTS (Stormwater Multiple Application and Report Tracking System) (Section I.D) and shall include a statement explaining why the annual reports were not submitted by the September 1 deadline, and shall describe the measures you have taken to insure timely submittals in the future. This statement shall be uploaded to SMARTS as an attachment under the Annual Report Attachments tab. Upon completion, notify Ms. Harumi Goya via email at Harumi.Goya@waterboards.ca.gov.**

CHARLES STRINGER, CHAIR | SAMUEL UNGER, EXECUTIVE OFFICER

320 West 41st St., Suite 200, Los Angeles, CA 90013 | [www.waterboards.ca.gov/losangeles](http://www.waterboards.ca.gov/losangeles)

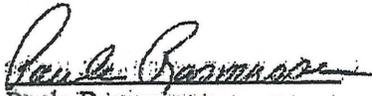
RECEIVED

These violations of the General Permit subject the Permittee to a mandatory minimum administrative civil liability in an amount that is not less than \$1,000 pursuant to CWC § 13399.33 and a potential maximum administrative civil liability of up to \$10,000 for each day in which the violation occurs pursuant to Water Code § 13385. These civil liabilities may be assessed by the Regional Board for failure to comply, beginning with the date that the violations first occurred. The Regional Board may also refer this matter to the Attorney General's Office for further enforcement. Please note that this Notice of Violation shall not be deemed to relieve you of liability for any penalties that may have already accrued. The Regional Board reserves its right to take any further enforcement action authorized by law.

If you need assistance in completing the annual report, please contact the SMARTS Help Desk at (866)563-3107. SMARTS is accessible from the following website address:  
<https://smarts.waterboards.ca.gov/smarts/faces/SwSmartsLogin.jsp>.

If you have any questions specific to your site, please contact Harumi Goya by e-mail at [Harumi.Goya@waterboards.ca.gov](mailto:Harumi.Goya@waterboards.ca.gov) or by phone at (213) 620-2283.

Sincerely,



Paula Rasmussen  
Assistant Executive Officer

Enclosure: Notice of Non-Compliance dated on November 1, 2013

Cc: Patricia Elkins, City of Carson (via e-mail)



EDMUND G. BROWN JR.  
GOVERNOR

MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

**Los Angeles Regional Water Quality Control Board**

November 1, 2013

Paul Zolezzi  
Powell Constructors  
8555 Banana Avenue  
Fontana California, CA 92335

Certified Mail-Return Receipt  
7012 3460 0001 6366 4876

**NOTICE OF NON-COMPLIANCE: Failure to Submit 2011-2012 and 2012-2013 Annual Reports as Required by the 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, NPDES No. CAS000002 (General Permit) WDID No. 4 19C359299**

Dear Paul Zolezzi:

Your construction site located at Route 405 at Avalon Blvd in the city of Carson is regulated under the General Permit and is identified by WDID No. 4 19C359299. Section XVI.A of the General Permit requires that you prepare and electronically submit an annual report by September 1 of each year. According to our records, we have not received your 2011-2012 and 2012-2013 annual reports.

Currently you are in violation of the General Permit, the California Water Code and the federal Clean Water Act for failure to submit complete 2011-2012 and 2012-2013 annual reports. We request that you submit complete 2011-2012 and 2012-2013 annual reports to our office no later than 30 days from the date of this letter. You must submit your annual reports electronically via SMARTS (Storm water Multiple Application and Report Tracking System) (Section I.D).

You must also provide a statement explaining why the annual reports were not submitted by the September 1 deadline, and the measures you have taken to insure timely submittals in the future. This statement must be uploaded to SMARTS as an attachment under the Annual Report Attachments tab.

Notify Ms. Harumi Goya of my staff via email at [Harumi.Goya@waterboards.ca.gov](mailto:Harumi.Goya@waterboards.ca.gov) once reports and explanations are submitted through SMARTS.

Failure to submit the requested information will result in further enforcement action, which may include civil monetary penalties of up to \$10,000 for each day of violation. Please note that Section 13399.33 of the California Water Code stipulates a mandatory minimum penalty of \$1,000 to those permittees that do not submit their annual reports after notification.

MARIA MEHRANIAN, CHAIR | SAMUEL UNGER, EXECUTIVE OFFICER

320 West 4th St., Suite 200, Los Angeles, CA 90013 | [www.waterboards.ca.gov/losangeles](http://www.waterboards.ca.gov/losangeles)

Paul Zolezzi  
Powell Constructors

- 2 -

November 1, 2013

If you need assistance in completing the annual report, please contact the SMARTS Help Desk at (866)563-3107. SMARTS is accessible from the following website address: <https://smarts.waterboards.ca.gov/smarts/faces/SwSmartsLogin.jsp>. If you have any questions specific to your site, please contact Harumi Goya by e-mail at [Harumi.Goya@waterboards.ca.gov](mailto:Harumi.Goya@waterboards.ca.gov) or by phone at (213) 620-2283.

Sincerely,



**Ejigu Solomon, Chief**  
**Stormwater Compliance and Enforcement Unit**

cc: Patricia Elkins, City of Carson (via email)

Settlement Offer No. R4-2014-0122  
WDID No. 4 19C359299

**ACCEPTANCE OF CONDITIONAL RESOLUTION  
AND WAIVER OF RIGHT TO HEARING: (Proposed) ORDER**

Powell Constructors  
Settlement Offer No. R4-2014-0122  
WDID No. 4 19C359299

2014 AUG 18 PM 1 04  
CALIFORNIA REGIONAL WATER  
QUALITY CONTROL BOARD

By signing below and returning this Acceptance of Conditional Resolution and Waiver of Right to Hearing (Acceptance and Waiver) to the Los Angeles Regional Water Quality Control Board (Regional Board), Powell Constructors (Permittee) hereby accepts the "Offer to Participate in Expedited Payment Program" and waives the right to a hearing before the Regional Board to dispute the allegations of violations described in the Notice of Non-Compliance (NNC) and Notice of Violation (NOV), which are attached and incorporated herein by reference.

The Permittee agrees that the Conditional Offer 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 Board to assert jurisdiction over the alleged violations through its Chief Prosecutor. The Permittee agrees to pay the administrative civil liability authorized by California Water Code section 13399.30, in the sum of \$1,500 (Expedited Payment Amount) which shall be deemed payment in full of any civil liability pursuant to California Water Code section 13399.30 that otherwise might be assessed for the violations described in the NNC and NOV for the missing annual report. The Permittee understands that this Acceptance and Waiver waives its right to contest the allegations in the NNC, NOV and the amount of civil liability for such violations.

The Permittee understands that this Acceptance and Waiver does not address or resolve liability for any violation that is not specifically identified in the NNC and NOV.

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Luz Vargas, Enforcement Unit  
Expedited Payment Program  
Los Angeles Regional Water Quality Control Board  
320 West 4th Street, Suite 200  
Los Angeles, California 90013

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

If no comments are received within the notice period that causes the Regional Board Executive Officer to question the Expedited Payment Amount, the Regional Board Executive Officer will execute the Acceptance and Waiver.

The Permittee understands that if significant comments are received in opposition to the Expedited Payment Amount, the offer on behalf of the Regional Board to resolve the violations set forth in the

Settlement Offer No. R4-2014-0122  
WDID No. 4 19C359299

NNC and NOV may be withdrawn. In that circumstance, the Permittee will be advised of that withdrawal, and an administrative civil liability complaint may be issued and the matter may be set for a hearing before the Regional Board. For such a liability hearing, the Permittee understands that this Acceptance and Waiver executed by the Permittee will be treated as a settlement communication and will not be used as evidence in that hearing.

The Permittee further understands that once this Acceptance and Waiver is executed by the Regional Board Executive Officer, the full payment required by the deadline set forth below is a condition of this Acceptance and Waiver. In accordance with California Water Code section 13399.37(a), funds collected for violations pursuant to sections 13399.33(c) and 13399.33(d) shall be deposited in the Waste Discharge Permit Fund. Accordingly, the \$1,500 liability including staff costs shall be paid by a cashiers or certified check made out to the "State Water Resources Control Board" referencing this Order number for deposit into the Waste Discharge Permit Fund. The payment must be submitted to the State Water Resources Control Board no later than thirty (30) calendar days after the date the Acceptance and Waiver is executed by the Regional Board Executive Officer.

Please mail check to:

State Water Resources Control Board  
Re: Order No. R4-2014-0139  
Division of Administrative Services, Accounting Branch  
1001 I Street, 18<sup>th</sup> Floor, [95814]  
P.O. Box 1888  
Sacramento, California 95812-1888

I hereby affirm that I am duly authorized to act on behalf of and to bind the Permittee in the making and giving of this Acceptance and Waiver.

Powell Constructors

By: Paul Zolerzi (Signed Name)      8-13-14 (Date)  
Paul Zolerzi (Printed or Typed name)      CONTRACT MANAGER (Title)

IT IS SO ORDERED PURSUANT TO CALIFORNIA WATER CODE SECTION 13399.30

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Samuel Unger, P.E.  
Executive Officer