



Los Angeles Regional Water Quality Control Board

June 30, 2014

Stephen Milam
Lubricating Specialties Company
8015 Paramount Boulevard
Pico Rivera, CA 90660-4888

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
Claim No. 7012 3460 0001 6366 1394

SETTLEMENT OFFER NO. R4-2014-0131: OFFER TO PARTICIPATE IN EXPEDITED PAYMENT PROGRAM RELATING TO VIOLATIONS OF THE NPDES PERMIT FOR LUBRICATING SPECIALTIES COMPANY, PICO RIVERA FACILITY, 8015 PARAMOUNT BOULEVARD, PICO RIVERA, CA, 90660 (ORDER NOS. R4-2006-0065 AND R4-2011-0176, NPDES PERMIT NO. CA0059013, CI NO. 6521)

Dear Mr. Milam,

This letter is to notify the Lubricating Specialties Company (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 for Effluent and/or Reporting Violations (Expedited Payment Program) to address mandatory minimum penalties that must be assessed pursuant to California Water Code sections 13385 and 13385.1.

NOTICE OF VIOLATION:

Based on information in the California Integrated Water Quality System (CIWQS) as of June 30, 2014, and following staff review of the record, the Regional Board alleges that the Permittee has violated the effluent limitations, reporting violations, or California Water Code provisions identified in Exhibit "1." The Permittee will have the opportunity to address the alleged violations as discussed below.

STATUTORY LIABILITY:

Subdivisions (h) and (i) of California Water Code section 13385 require the assessment of a mandatory minimum penalty of three thousand dollars (\$3,000) for specified serious and chronic effluent limit and reporting violations. For the purposes of subdivision (h) of section 13385, failure to file a discharge monitoring report required pursuant to section 13383 for each complete period of thirty (30) days following the deadline for submitting the report constitutes a serious violation. 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, plus ten dollars (\$10) for each gallon discharged but not cleaned up in excess of 1,000 gallons. These mandatory minimum penalties and discretionary administrative civil liabilities may be assessed by the Regional Board beginning with the date that the violations

first occurred.¹ The formal enforcement action that the Regional Board uses to initiate assessment of 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. In addition, the Superior Court may assess up to twenty-five dollars (\$25) per gallon discharged but not cleaned up in excess of 1,000 gallons.

OFFER TO PARTICIPATE IN EXPEDITED PAYMENT PROGRAM:

The Permittee can settle the alleged violations identified in the Exhibit "1" by participating in the Regional Board's Expedited Payment Program. Details of the proposed settlement are described below and addressed in the enclosed documents.

To promote resolution of these violations, the Regional Board makes this Conditional Offer. The Permittee may accept this Offer to waive the Permittee's right to a hearing, and pay the mandatory minimum penalty of \$252,000 for the violations described in Exhibit "1." If the Permittee elects to do so, subject to the conditions below, the Regional Board will accept that payment in settlement of any enforcement action that would otherwise arise out of the violations identified in Exhibit "1." Accordingly, the Regional Board will forego issuance of a formal administrative complaint and will waive its right to seek additional discretionary civil liabilities for the violations identified in Exhibit "1."

The Expedited Payment Program does not address or resolve liability for any violation that is not specifically identified in Exhibit "1" regardless of the date that the violation occurred.

PERMITTEE'S OPTIONS FOR RESPONSE TO OFFER:

If you accept this Offer, please complete and return the enclosed "Acceptance of Conditional Resolution and Waiver of Right to Hearing; (proposed) Order" (Acceptance and Waiver) on or before **August 1, 2014**.

If the Permittee chooses to contest any of the violations alleged in Exhibit "1," please identify the specific violation and the basis for the challenge (factual error, affirmative defense, etc.) on or before the due date specified above.

Responses contesting any of the violations alleged in Exhibit "1" shall be submitted as a pdf via email or CD to Mr. Eric Maag, Eric.Maag@waterboards.ca.gov, (916) 445-9260, and submitted by you under penalty of perjury.

The Regional Board staff will evaluate the contested violation and take one of two actions:

¹ Please note that there are no statutes of limitation that apply to administrative proceedings to assess mandatory minimum penalties. See *City of Oakland v. Public Employees' Retirement System*, (2002) 95 Cal.App.4th 29, 48; 3 Witkin, Cal. Procedure (4th ed. 1996) Actions, §405(2), p. 510.). Additionally, the State Water Resources Control Board had determined that the equitable doctrine of laches does not apply to mandatory minimum penalties (State Water Board Order Nos. 2013-0053, 2013-0054, 2013-0055, 2013-0099).

- 1) The Regional Board staff will determine that the violation is not supported, dismiss the alleged violation from the CIWQS database, take no further action against the Permittee for the alleged violation, and notify the Permittee of that determination. The Permittee will be given thirty (30) days from the date of receipt of the Regional Board staff determination to complete and return the Acceptance and Waiver for the remainder of the violations; or
- 2) The Regional Board staff will determine that the violation is meritorious, and will notify the Permittee of that determination. The Permittee will be given thirty (30) days from the date of receipt of the Regional Board staff determination to complete and return the Acceptance and Waiver.

If the Permittee chooses not to make a payment in response to the Regional Board staff's determination, the Permittee should expect to be contacted regarding formal enforcement action that will be initiated with regard to the contested violations. In a formal enforcement action, the liability amount sought and/or imposed may exceed the liability amount set forth in this Conditional Offer. Moreover, the cost of enforcement is a factor that can be considered in assessing the liability amount.

CONDITIONS FOR REGIONAL BOARD ACCEPTANCE OF RESOLUTION:

Federal regulations require the Regional Board to publish and allow the public thirty (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 Permittee's Acceptance and Waiver, the Regional Board will publish a notice of the proposed resolution of the violations.

If no comments are received within the 30-day comment period, and unless there are new material facts that become available to the Regional Board, the Regional Board Executive Officer will execute the Acceptance and Waiver as a stipulated administrative civil liability order assessing the uncontested mandatory minimum penalty amount pursuant to Water Code sections 13385 and 13385.1.

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 and liability assessment for the violations will be addressed in a Regional Board proceeding. At the Regional Board hearing, the Permittee will be free to make arguments as to any of the 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 Regional Board proceeding.

In the event the Acceptance and Waiver is executed by the Regional Board Executive Officer, full payment of the assessed amount shall be due within thirty (30) calendar days after the Regional Board Executive Officer's execution. In accordance with California Water Code section 13385(n)(1), funds collected for violations of effluent limitations and reporting requirements pursuant to section 13385 shall be deposited in the State Water Pollution

Cleanup and Abatement Account. Accordingly, the \$252,000 liability shall be paid by cashiers or certified check made out to the "State Water Pollution Cleanup and Abatement Account" and submitted to the State Water Resources Control Board, Division of Administrative Services, Accounting Branch, at 1001 "I" Street, 18th Floor [95814], P.O. Box 1888, Sacramento, California 95812-1888. Failure to pay the full penalty within the required time period may subject the Permittee to further liability.

Should you have any questions regarding this Conditional Offer, please contact Mr. Maag at (916) 445-9260 or at Eric.Maag@waterboards.ca.gov regarding this matter.

Sincerely,



Paula Rasmussen
Assistant Executive Officer

Enclosures:

Exhibit "1"

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

cc: *(via United States Postal Service)*

Antoria Louie, Technology Manager, Lubricating Specialties Company

(via e-mail)

Vanessa Young, Office of Enforcement, State Water Resources Control Board
Melissa Hall, Office of Enforcement, State Water Resources Control Board
Eric Maag, Office of Information Management and Assessment, State Water
Resources Control Board

AMENDED EXHIBIT "1"
Effluent Limit Violations

Effluent Limitation Violations Requiring Mandatory Minimum Penalties

Violation Number	Violation Date	Reporting Period	Constituent	Pollutant Group	Limitation Period	Limit	Result/Average	Units	Exempted from MMP?	% Over Limit	Date 180 Days Prior	Serious or Chronic Violation?	No. of Violations within 180 days	Mandatory Fine?	Water Code	Penalty
58	943287	12/18/2012	4th Quarter 2012	Oil and Grease	Daily Maximum	15	19	mg/L	N	27%	06/21/2012	C	23	Y	13385(i)	\$ 3,000
59	943285	12/18/2012	4th Quarter 2012	Copper, Total Recoverable	Daily Maximum	17	70	ug/L	N	312%	06/21/2012	S	N/A	Y	13385(h)	\$ 3,000
60	943275	12/18/2012	4th Quarter 2012	Biochemical Oxygen Demand	Daily Maximum	30	45	mg/L	N	50%	06/21/2012	S	N/A	Y	13385(h)	\$ 3,000
61	943278	12/18/2012	4th Quarter 2012	Hydrocarbons, Petroleum	Daily Maximum	100	23400	ug/L	N	23300%	06/21/2012	S	N/A	Y	13385(h)	\$ 3,000
62	943288	12/18/2012	4th Quarter 2012	Zinc, Total Recoverable	Daily Maximum	160	645	ug/L	N	303%	06/21/2012	S	N/A	Y	13385(h)	\$ 3,000
63	964389	12/18/2012	4th Quarter 2012	Hydrocarbons, Petroleum	Daily Maximum	0.22	3.6	lb/day	N	1536%	06/21/2012	S	N/A	Y	13385(h)	\$ 3,000
64	946177	01/25/2013	1st Quarter 2013	Hydrocarbons, Petroleum	Daily Maximum	0.22	3.31524	lb/day	N	1407%	07/29/2012	S	N/A	Y	13385(h)	\$ 3,000
65	946175	01/25/2013	1st Quarter 2013	Zinc, Total Recoverable	Daily Maximum	160	297	ug/L	N	86%	07/29/2012	S	N/A	Y	13385(h)	\$ 3,000
66	946174	01/25/2013	1st Quarter 2013	Hydrocarbons, Petroleum	Daily Maximum	100	6100	ug/L	N	6000%	07/29/2012	S	N/A	Y	13385(h)	\$ 3,000
67	946183	02/08/2013	1st Quarter 2013	Hydrocarbons, Petroleum	Daily Maximum	0.22	0.46	lb/day	N	109%	08/12/2012	S	N/A	Y	13385(h)	\$ 3,000
68	946176	02/08/2013	1st Quarter 2013	Hydrocarbons, Petroleum	Daily Maximum	100	5110	ug/L	N	5010%	08/12/2012	S	N/A	Y	13385(h)	\$ 3,000
69	946179	02/08/2013	1st Quarter 2013	Zinc, Total Recoverable	Daily Maximum	130	260	ug/L	N	100%	08/12/2012	S	N/A	Y	13385(h)	\$ 3,000
70	964627	02/19/2013	1st Quarter 2013	pH	Instantaneous	6.5	6.02	SU	N	N/A	08/23/2012	C	35	Y	13385(i)	\$ 3,000
71	946184	03/08/2013	1st Quarter 2013	Copper, Total Recoverable	Daily Maximum	17	37	ug/L	N	118%	09/09/2012	S	N/A	Y	13385(h)	\$ 3,000
72	946185	03/08/2013	1st Quarter 2013	Hydrocarbons, Petroleum	Daily Maximum	100	8310	ug/L	N	8210%	09/09/2012	S	N/A	Y	13385(h)	\$ 3,000
73	946186	03/08/2013	1st Quarter 2013	Hydrocarbons, Petroleum	Daily Maximum	0.22	3.7	lb/day	N	1582%	09/09/2012	S	N/A	Y	13385(h)	\$ 3,000
74	946182	03/08/2013	1st Quarter 2013	Oil and Grease	Daily Maximum	15	24	mg/L	N	60%	09/09/2012	S	N/A	Y	13385(h)	\$ 3,000
75	946181	03/08/2013	1st Quarter 2013	Biochemical Oxygen Demand	Daily Maximum	30	98	mg/L	N	227%	09/09/2012	S	N/A	Y	13385(h)	\$ 3,000
76	946180	03/08/2013	1st Quarter 2013	Selenium, Total Recoverable	Daily Maximum	8.2	10	ug/L	N	22%	09/09/2012	S	N/A	Y	13385(h)	\$ 3,000
77	946178	03/08/2013	1st Quarter 2013	Zinc, Total Recoverable	Daily Maximum	160	261	ug/L	N	63%	09/09/2012	S	N/A	Y	13385(h)	\$ 3,000
78	964786	05/06/2013	2nd Quarter 2013	pH	Instantaneous	6.5	6.15	SU	N	N/A	11/07/2012	C	38	Y	13385(i)	\$ 3,000
79	964785	05/06/2013	2nd Quarter 2013	Selenium, Total Recoverable	Daily Maximum	8.2	10	ug/L	N	22%	11/07/2012	S	N/A	Y	13385(h)	\$ 3,000
80	970128	02/27/2014	1st Quarter 2014	Zinc, Total Recoverable	Daily Maximum	0.34	0.59	lb/day	N	74%	08/31/2013	S	N/A	Y	13385(h)	\$ 3,000
81	968150	02/27/2014	1st Quarter 2014	Copper, Total Recoverable	Daily Maximum	17	25	ug/L	N	47%	08/31/2013	S	N/A	Y	13385(h)	\$ 3,000
82	968149	02/27/2014	1st Quarter 2014	Zinc, Total Recoverable	Daily Maximum	160	813	ug/L	N	408%	08/31/2013	S	N/A	Y	13385(h)	\$ 3,000
85	968152	02/27/2014	1st Quarter 2014	Hydrocarbons, Petroleum	Daily Maximum	100	4630	ug/L	N	4530%	08/31/2013	S	N/A	Y	13385(h)	\$ 3,000
86	970124	02/27/2014	1st Quarter 2014	Hydrocarbons, Petroleum	Daily Maximum	0.22	3.4	lb/day	N	1445%	08/31/2013	S	N/A	Y	13385(h)	\$ 3,000

Total Penalty: \$ 246,000

- 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 more than 40%
- For Group II pollutants, a violation is serious when the limit is exceeded by more than 20%
- 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 ended the last day of March 2014

Group I Violations Assessed MMP: 10
Group II Violations Assessed MMP: 66
Other Effluent Violations Assessed MMP: 4
Violations Exempt from MMP: 0
Total Violations Assessed MMP: 82
Mandatory Minimum Penalty = (71 Serious Violations + 11 Non-Serious Violations) x \$3,000 = \$246,000

Settlement Offer No. R4-2014-0131
CI No. 6521, NPDES Permit No. CA0059013

**ACCEPTANCE OF CONDITIONAL RESOLUTION
AND WAIVER OF RIGHT TO HEARING; (proposed) ORDER**

Lubricating Specialties Company
Settlement Offer No. R4-2014-0131
NPDES Permit No. CA0059013

RECEIVED
2014 SEP 24 PM 1 37
CALIFORNIA REGIONAL WATER
QUALITY CONTROL BOARD
LOS ANGELES REGION

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), Lubricating Specialties Company (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 Amended Exhibit "1," which is attached hereto and incorporated herein by reference.

The Permittee agrees that Amended Exhibit "1" 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 penalties required by California Water Code section 13385, in the sum of \$246,000 (Expedited Payment Amount), which shall be deemed payment in full of any civil liability pursuant to Water Code sections 13385 and 13385.1 that otherwise might be assessed for the violations described in Exhibit "1." The Permittee understands that this Acceptance and Waiver waives the Permittee's right to contest the allegations in Amended Exhibit "1" 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 Amended Exhibit "1."

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

Kristie Kao, Enforcement Unit
Expedited Payment Program
Regional Water Quality Control Board, Los Angeles Region
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 cause the Regional Board Executive Officer to question the Expedited Payment Amount, this Acceptance and Waiver will be presented to the Regional Board Executive Officer for execution.

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 Amended Exhibit "1" may be withdrawn. In that circumstance, the Permittee 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 Board. For such a liability hearing, the

