



California Regional Water Quality Control Board

Los Angeles Region



Recipient of the 2001 *Environmental Leadership Award* from Keep California Beautiful

Linda S. Adams
Agency Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Arnold Schwarzenegger
Governor

April 22, 2009

Lawrence M. McMahon
Vice-President, Fuel Consortiums
LAXFUEL Corporation
9900 Laxfuel Road
Los Angeles, CA 90045

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
CLAIM NO. 7008 1830 0004 3359 1862

**RESPONSE TO REQUEST FOR ALLEGED VIOLATION REVIEW – LAXFUEL CORPORATION, BULK FUEL STORAGE FACILITY, 9900 LAXFUEL ROAD, LOS ANGELES, CA.
(ORDER NO. R4-2007-0022, NPDES PERMIT NO. CAG914001, CI NO. 7658)**

Dear Mr. McMahon:

Thank you for your letter dated December 15, 2008, responding to Offer to Participate in Expedited Payment Program No. R4-2008-0139-M, which assessed mandatory minimum penalties (MMPs) for violations of effluent limitations. This letter addresses your comments in this regard.

First, Regional Board staff concurs with the Permittee's comments regarding the classification of total petroleum hydrocarbons (TPH) and 1,4-Dioxane as Group II pollutants as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations. Therefore, the two (2) TPH daily maximum effluent limit violations for June 12, 2006 and July 28, 2006 and the one (1) 1,4-Dioxane daily maximum effluent limit violation for July 28, 2006 noted in the Exhibit A – Notice of Violation have been updated.

Second, in response to the 1,4-Dioxane effluent limit violations for July 26, 2006, 1,4-Dioxane was reported as being present in the effluent on July 26, 2006 at a concentration of 3.3 µg/L, which is above the effluent limit of 3 µg/L contained in Board Order No. R4-2002-0107. The Permittee asserted that the one (1) exceedance for 1,4-Dioxane (a Group II pollutant) should not be considered a violation subject to mandatory penalties pursuant to California Water Code (CWC) section 13385(i)(1) as there "was only one exceedance of 1,4-Dioxane within" a six-month consecutive period. However, the Permittee did violate effluent limits on more than three (3) occasions in six (6) consecutive months preceding the July 26, 2006 daily maximum effluent limit violation for 1,4-Dioxane (see attachment Exhibit "A"), thereby causing the violation to be classified as a chronic violation and as such it is subject to mandatory minimum penalties of three thousand dollars (\$3,000) pursuant to CWC section 13385(i)(1). Therefore, Regional Board staff cannot agree with the Permittee's assertion that the July 26, 2006 exceedance event should be removed and disallowed.

California Environmental Protection Agency



Recycled Paper

Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

Mr. Lawrence M. McMahon
LAXFUEL Corporation

- 2 -

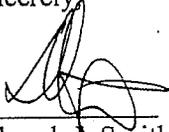
April 22, 2009

Since the Permittee requested a review of this violation, the Regional Board has established new deadlines. If you intend to participate in the Expedited Payment Program, you must sign and return the previously sent Acceptance of Conditional Resolution and Waiver of Right to Hearing form by **May 22, 2009**. By signing the Acceptance and Waiver, LAXFUEL Corporation agrees to pay the penalty of \$9,000 as indicated on the amended Exhibit A – Notice of Violation and waives the right to a hearing.

If you do not elect to sign the Acceptance and Waiver, you will be contacted regarding formal enforcement action that will be initiated with regard to the contested violation.

If you have questions regarding this matter, please contact Mr. Hugh Marley at (213) 620-6375 or Ms. Mercedes Merino at (213) 620-6369.

Sincerely,



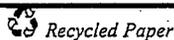
Deborah J. Smith
Chief Deputy Executive Officer

Enclosures:

Revised Exhibit "A" - Notice of Violation
Acceptance of Conditional Resolution and Waiver of Right to Hearing; (proposed) Order

cc: Reed Sato, Office of Enforcement, State Water Resources Control Board

California Environmental Protection Agency



Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

Revised Settlement Offer No. R4-2008-0139-M
CI No. 7568, NPDES Permit No. CAG914001

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

LAXFUEL Corporation
Revised Settlement Offer No. R4-2008-0139-M
NPDES Permit No. CAG914001

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), LAXFUEL Corporation (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 Violation (NOV), which is attached hereto as Exhibit "A" and incorporated herein by reference.

The Permittee agrees that the NOV 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 Executive Officer. The Permittee agrees to pay the penalties required by California Water Code section 13385, in the sum of \$9,000 (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 the NOV. The Permittee understands that this Acceptance and Waiver waives the Permittee's right to contest the allegations in the 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 NOV.

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

Mercedes Merino, 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 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, the Regional Board Executive Officer will execute the Acceptance and Waiver.

Revised Settlement Offer No. R4-2008-0139-M
CI No. 7568, NPDES Permit No. CAG914001

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 NOV 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 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 the 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 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. Furthermore, in accordance with California Water Code section 13385.1(b)(1), funds collected pursuant to section 13385.1 for failure to timely file a report shall be deposited in the State Water Pollution Cleanup and Abatement Account. Accordingly, the \$9,000 liability shall be paid by a cashiers or certified check for \$9,000 made out to the "State Water Pollution Cleanup and Abatement Account". The payment must be submitted to the Regional Board no later than ten (10) calendar days after the date the Permittee receives written notice that the Regional Board Executive Officer has executed this Acceptance and Waiver.

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.

LAXFUEL Corporation

By: Lawrence M. McMahon
(Signed Name)

May 6, 2009
(Date)

LAWRENCE M. McMAHON
(Printed or typed name)

VICE-PRESIDENT - GENERAL MANAGER
(Title)

IT IS SO ORDERED PURSUANT TO WATER CODE SECTION 13385

Date: _____

By: _____
Tracy J. Egoscue
Executive Officer

RECEIVED
2009 MAY 7 AM 10 51
CALIFORNIA REGIONAL WATER
QUALITY CONTROL BOARD
LOS ANGELES REGION

EXHIBIT "A" - NOTICE OF VIOLATION
Effluent Limit Violations

Date	Monitoring Period	Violation Type	Parameter	Reported Value	Permit Limit	Units	Pollutant Category	% Exceeded	Serious/Chronic	Water Code Section 13385	Penalty
06/12/2006	2 nd Quarter 2006	Instantaneous Minimum	pH	5.89	6.5 - 8.5	pH units	OEV	NA	Chronic	(i)(1)	\$0
06/12/2006	2 nd Quarter 2006	Daily Maximum	TPH	230	100	µg/L	2	130%	Serious	(h)(1)	\$3,000
06/29/2006	2 nd Quarter 2006	Instantaneous Minimum	pH	6.38	6.5 - 8.5	pH units	OEV	NA	Chronic	(i)(1)	\$0
07/28/2006	3 rd Quarter 2006	Daily Maximum	1,4-Dioxane	3.3	3	µg/L	2	10%	Chronic	(i)(1)	\$3,000
07/28/2006	3 rd Quarter 2006	Daily Maximum	TPH	810	100	µg/L	2	710%	Serious	(h)(1)	\$3,000
										Total	\$9,000