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## Los Angeles Regional Water Quality Control Board

January 10, 2024

City of La Habra Heights  
1245 N. Hacienda Road  
La Habra Heights, California 90631

**Certified Mail Receipt**  
**Return Receipt Requested**  
**Claim No. 9589 0710 5270 0684 9265 49**

**SETTLEMENT OFFER NO. R4-2024-0022; OFFER TO PARTICIPATE IN THE EXPEDITED PAYMENT PROGRAM RELATING TO VIOLATIONS OF REPORTING REQUIREMENTS AND NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT FOR MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) DISCHARGES FOR CITY OF LA HABRA HEIGHTS, 1245 N. HACIENDA ROAD, LA HABRA HEIGHTS; NPDES PERMIT NO. CAS004004; WDID 4 19M1000124**

Dear City of La Habra Heights:

This letter is to notify the City of La Habra Heights (Permittee or you) of alleged violations of the California Water Code (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 (Los Angeles Water Board's) Expedited Payment Program for Reporting Violations (Expedited Payment Program) to address mandatory minimum penalties that must be assessed pursuant to Water Code section 13385.

### **NOTICE OF VIOLATION:**

Based on information the Permittee submitted to the Los Angeles Water Board, Los Angeles Water Board enforcement staff alleges that the Permittee has violated Regional Phase I MS4 NPDES Permit, Order No. R4-2021-0105 (MS4 Permit) reporting requirements for La Habra Heights as identified in Exhibit 1, which is attached and incorporated herein by reference. The Permittee has the opportunity to address the alleged violations as discussed below.

### **STATUTORY LIABILITY:**

Water Code sections 13385, subdivisions (h) and (i), and 13385.1 require the assessment of a mandatory minimum penalty of three thousand dollars (\$3,000) for specified serious and chronic violations. Per Water Code section 13385.1, a mandatory minimum penalty for a serious violation shall be assessed for the failure to timely submit a discharge monitoring report pursuant to Water Code section 13383 for each complete period of 30 days following the deadline for submitting the report, if the report is designed to ensure compliance with limitations contained in waste discharge requirements. The

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NORMA CAMACHO, CHAIR | SUSANA ARREDONDO, EXECUTIVE OFFICER

Permittee may also be subject to discretionary administrative civil liability of up to ten thousand dollars (\$10,000) for each day in which the violation occurs. The discretionary liability and mandatory minimum penalties may be assessed by the Los Angeles Water Board beginning with the date that the violations first occurred. The formal enforcement action that the Los Angeles Water Board uses to assess such liability is an administrative civil liability complaint, although the Los Angeles Water 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 day per violation.

**OFFER TO PARTICIPATE IN EXPEDITED PAYMENT PROGRAM:**

The Permittee can avoid the issuance of a formal enforcement action seeking discretionary liability and settle the alleged violations identified in the attached Exhibit 1 by participating in the Los Angeles Water Board's Expedited Payment Program and agreeing to pay the mandatory minimum penalty associated with the violations. Details of the proposed settlement are described below and addressed in the enclosed documents.

To promote the resolution of the alleged violations, the Los Angeles Water Board makes this conditional offer. The Permittee may accept this offer, waive the Permittee's right to a hearing, and pay the mandatory minimum penalty of \$84,000 for the violations described in Exhibit 1.

If the Permittee elects to do so, subject to the conditions below, the Los Angeles Water Board will accept that payment in settlement of any enforcement action that could be brought for the violations identified in Exhibit 1, will forego issuance of a formal administrative complaint for those violations, will not refer the violations to the Attorney General, and will waive its right to seek additional discretionary civil liability 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 the Permittee accepts this offer, complete and return the enclosed "Acceptance of Conditional Resolution and Waiver of Right to Hearing; (Proposed) Order" (Acceptance and Waiver) on or before February 9, 2024.

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 (e.g., factual error, affirmative defense, etc.) on or before February 9, 2024.

Responses contesting any of the violations alleged in Exhibit 1 shall be submitted as a pdf via email to Emma Averill (emma.averill@waterboards.ca.gov), with a follow up call to (213) 620-6369 to confirm receipt, and submitted by Permittee with a cover letter

stating that the information is submitted under penalty of perjury.

Los Angeles Water Board staff will evaluate the contested violation and take one of two actions:

- 1) Los Angeles Water Board staff may determine that the violation is not supported and 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 Los Angeles Water Board staff determination to complete and return the Acceptance and Waiver for the remainder of the violations; or
- 2) Los Angeles Water Board staff may determine that the alleged violation is meritorious and will notify the Permittee of that determination. The Permittee will be given thirty (30) days from the date of the receipt of the Los Angeles Water Board staff determination to complete and return the Acceptance and Waiver and submit the required data.

If the Permittee does not respond by taking one of the two actions above, the Permittee should expect to be contacted regarding a formal enforcement action that will be initiated regarding the violation(s) alleged in Exhibit 1. 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 LOS ANGELES WATER BOARD ACCEPTANCE OF RESOLUTION:**

Federal regulations require the Los Angeles Water 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 acceptance of this conditional offer and receipt of the Permittee's Acceptance and Waiver, Los Angeles Water Board staff will publish a notice of the proposed resolution of the violations.

If no comments are received within the 30-day comment period and there are no new material facts that become available to the Los Angeles Water Board, the Acceptance and Waiver will be presented to the Los Angeles Water Board Executive Officer for consideration and adoption as a stipulated order assessing the uncontested mandatory minimum penalty amount pursuant to Water Code section 13385.

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. The violations will be addressed in a liability assessment proceeding. At the liability assessment hearing, the Permittee will have an opportunity to present evidence and make legal arguments as to any of the alleged violations, and the Permittee's agreement to accept this conditional offer will not be used

as evidence against the Permittee. In such circumstances, the Permittee will be provided with further information on the liability assessment proceeding.

In the event the Acceptance and Waiver is executed by the Los Angeles Water Board Executive Officer, full payment of the assessed amount shall be due within thirty (30) calendar days after the date the Acceptance and Waiver is executed by the Executive Officer. In accordance with Water Code section 13385, subdivision (n)(1), funds collected for violations of effluent limitations pursuant to Water Code section 13385 shall be deposited in the State Water Pollution Cleanup and Abatement Account. Accordingly, the \$84,000 liability shall be paid by cashier's or certified check made out to the "State Water Pollution Cleanup and Abatement Account." Failure to pay the full penalty within the required time period may subject the Permittee to further liability.

**Should you have questions about this offer to participate in the Expedited Payment Program, please contact Enforcement Unit staff Emma Averill at (213) 620-6369/[emma.averill@waterboards.ca.gov](mailto:emma.averill@waterboards.ca.gov) or Pavlova Vitale at (213) 576-6751/[pavlova.vitale@waterboards.ca.gov](mailto:pavlova.vitale@waterboards.ca.gov) regarding this matter.**

Sincerely,

Original signed by Hugh Marley on January 10, 2024

Hugh Marley

Assistant Executive Officer

Enclosures:

Acceptance of Conditional Resolution and Waiver to Right of Hearing; (Proposed) Order Exhibit 1– MS4 Reporting Violations

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

City of La Habra Heights  
Settlement Offer No. R4-2024-0022  
WDID No. 4 19M1000124

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 (Los Angeles Water Board), the City of La Habra Heights (Permittee) hereby accepts the "Offer to Participate in the Expedited Payment Program" and waives the right to a hearing before the Los Angeles Water Board to dispute the alleged violations described in Exhibit 1, which is incorporated herein by reference.

The Permittee agrees that Exhibit 1 shall serve as a complaint pursuant to Article 2.5 of the California Water Code (Water Code) and that no separate complaint is required for the Los Angeles Water Board to assert jurisdiction over the alleged violations through its Chief Prosecutor. The Permittee agrees to pay the penalties required by Water Code section 13385 in the sum of \$84,000 (Expedited Payment Amount) which shall be deemed a payment in full of any civil liability pursuant to Water Code section 13385 that otherwise might be assessed for the violations described in Exhibit 1. The Permittee understands that this Acceptance and Waiver waives its right to contest the allegations in Exhibit 1 and the assessment 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 Exhibit 1.

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

Emma Averill, Enforcement II Unit  
Expedited Payment Program  
Los Angeles Regional Water Quality Control Board  
320 West 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013

The Permittee understands that federal regulations set forth by title 40, Code of Federal Regulations, section 123.27(d)(2)(iii) require the Los Angeles Water Board to publish notice of and provide at least thirty (30) days for public comment on any proposed resolution of this enforcement action. Accordingly, the Acceptance and Waiver, prior to execution by the Los Angeles Water Board Executive Officer, will be published as required by law for public comment.

If no significant comments are received within the notice period, the Acceptance and Waiver will be presented to the Los Angeles Water Board Executive Officer for approval.

The Permittee understands that if significant comments are received, the Los Angeles Water Board Prosecution Team may withdraw the offer. 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 Los Angeles Water Board. For such a liability hearing, the Permittee understands that this Acceptance and Waiver executed by the Permittee will not be used as evidence in that hearing.

The Permittee further understands that once the Acceptance and Waiver is executed by the Los Angeles Water Board Executive Officer, the Permittee is then legally bound to tender the full payment required by the deadline set forth below. In accordance with Water Code section 13385, subdivision (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 \$84,000 liability shall be paid by a cashier's or certified check made out to the "State Water Pollution Cleanup and Abatement Account" and reference [R4-2024-0022]. The payment must be submitted to the State Water Resources Control Board at the address set forth below no later than thirty (30) calendar days after the date the Acceptance and Waiver is executed by the Los Angeles Water Board Executive Officer.

**Please mail the check to:**

State Water Resources Control Board  
ATTN: ACL PAYMENT  
Division of Administrative Services, Accounting Branch  
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.

City of La Habra Heights

By: \_\_\_\_\_  
(Signed Name) (Date)  
  
\_\_\_\_\_  
(Printed or Typed Name) (Title)

IT IS SO ORDERED PURSUANT TO WATER CODE SECTION 13323 AND GOVERNMENT CODE SECTION 11415.60

By: \_\_\_\_\_  
Susanna Arredondo Date  
Executive Officer

# MS4 Reporting Violations

Permittee	La Habra Heights City	WDID	4 19M1000124	ADDRESS	1245 N Hacienda Road
CITY	La Habra Heights	STATE	California	ZIP	90631

Total Repoting Penalty

## MS4 Reporting Violations

Reporting Period	Type of Report	Due Date	Submittal Date	Days Late - 30	30 Day Factor	Penalty Amount
2020-2021 FY	Annual Report Watershed Form	12/15/2021	10/11/2023	635	21	\$63,000.00
July - December 2021	Monitoring Data	6/15/2022	12/26/2022	164	5	\$15,000.00
July - December 2022	Monitoring Data	6/15/2023	10/11/2023	88	2	\$6,000.00