



California Regional Water Quality Control Board Santa Ana Region



Linda S. Adams
Acting Secretary for
Environmental Protection

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Edmund G. Brown Jr.
Governor

May 10, 2011

Mr. Alan Kapanicas, City Manager
City of Beaumont
550 East 6th Street
Beaumont, CA 92223

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

EXPEDITED PAYMENT OPTION TO ADDRESS MANDATORY MINIMUM PENALTIES FOR VIOLATIONS OF ORDER NO. R8-2006-0003, NPDES NO. CA0105376

Dear Mr. Kapanicas:

This is to notify the City of Beaumont (hereinafter "City"), that the City is alleged to have violated California Water Code (CWC) Section 13385(i) for which the Regional Board shall assess mandatory minimum penalties. This letter outlines an expedited methodology for settling the outstanding violations and the mandatory minimum penalties associated with them.

VIOLATIONS AND STATUTORY AND DISCRETIONARY LIABILITIES:

Attachment 1 to this letter identifies the City's violations of its Waste Discharge Requirements that are subject to mandatory penalties. Pursuant to CWC Section 13385(i), a mandatory penalty of three thousand dollars (\$3,000) shall be assessed for each chronic violation that occurs four or more times in any period of six consecutive months, except that the requirement to assess the mandatory minimum penalty shall not be applicable to the first three violations that occur in any six-month period, provided that they are not serious violations.

As shown in Attachment 1, in accordance with Section 13385 (i), the City incurred a total of thirty reported violations between June 2006 and January 2011. For the fifty-five month period covered by Attachment 1, eight non-serious violations (two violations in December 2006, one violation in April 2007, one violation in May 2008, one violation in July 2008 and three violations in January and February 2010) are not subject to mandatory penalty assessments. Therefore, twenty-two violations out of the total of thirty violations are subject to mandatory penalties of \$3,000 for each violation. In accordance with Water Code Section 13385 (i), the total mandatory penalty for the twenty-two effluent limit violations cited in Attachment 1 is sixty-six thousand dollars (22 x \$3,000 = \$66,000).

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Alternatively, in accordance with Water Code Section 13385(c), the Regional Board may impose discretionary administrative civil liability for the thirty violations cited in Attachment 1. Although, thirty violations are cited in accordance with Section 13385 (i), these violations represent three hundred sixty-six days of violation (several violations are of weekly and monthly limits) in accordance with Section 13385 (c). Consequently, the maximum administrative civil liability in accordance with Section 13385 (c) that may be imposed for these violations is \$3,660,000 (\$10,000 per day of violation), plus an additional assessment of \$10 per gallon of effluent discharged during the duration of the violation episode, in excess of the first 1000 gallons of effluent.

EXPEDITED PAYMENT PROGRAM:

Generally, the Regional Board would issue a formal administrative civil liability complaint to assess these penalties and conduct a public hearing. To conserve City as well as Regional Board staff resources, the State Water Resources Control Board, through its Office of Enforcement, has developed a methodology for the City to settle these types of violations through an expedited payment program. If the City desires to have an expedited settlement as stipulated in Attachment 2, "Acceptance of Expedited Payment and Waiver of Right to a Hearing, City of Beaumont, Order No. R8-2011-0031", you must sign the Attachment and make a payment of sixty-six thousand dollars (\$66,000) to this office. If the City accepts this option by executing Attachment 2, you would also be waiving your right to a hearing. The Regional Board will then forgo issuance of a formal administrative complaint and will waive its right to seek additional discretionary civil liabilities for the violations identified in Attachment 1. Please note that the expedited payment option does not address any violation that is not specifically identified in Attachment 1.

CITY'S OPTIONS:

1. Accept this offer for expedited payment by signing and returning Attachment 2 by June 1, 2011. Federal regulations require the Regional Board to publish and seek public comments on any proposed settlement of actions related to NPDES permit violations (40 CFR 123.27(d)(2)(iii)). Upon receipt of the City's acceptance of the expedited payment option (signed Attachment 2), Regional Board staff will publish a notice of the proposed resolution of the violations cited in Attachment 1. If no significant public comments are received within 30 days, the Executive Officer will counter-sign Attachment 2 and it will be returned to you for payment of the mandatory minimum penalty of \$66,000 within 30 days of acceptance by the Executive Officer. If significant public comments are received during the public comment period, Board staff will try to address those comments. If the comments cannot be satisfactorily addressed by staff, the expedited payment option will be withdrawn and a formal administrative complaint may be issued and a public hearing may be scheduled at a regularly scheduled Regional Board meeting.



2. If the City chooses to contest any of the violations cited in Attachment 1, please identify the specific violation and the basis for the challenge (e.g., factual error, affirmative defense, analytical error, etc.) prior to June 1, 2011 and contact Najah Amin at 951-320-6362. Board staff will evaluate the contested violation and determine that either the violation is not supported and amend Attachment 1, or determine that the alleged violation is meritorious and inform the City of the staff decision. If the City is not satisfied with the staff decision, a formal administrative complaint and a public hearing may be considered.

If you have any questions about this letter or the attachments, please contact Najah Amin of my staff at 951-320-6362 (namin@waterboards.ca.gov)

Sincerely,



Robert L. Holub
Division Chief

Enclosures: Attachment 1- Effluent Limit Violations of Order
No. R8-2006-0003, NPDES No. CA0105376
Attachment 2- Acceptance of Expedited Payment and Waiver of Right
to a Hearing

cc w/enclosures (by electronic mail only):

Board Members
Executive Officer (Regional Board Advisory Team)
State Water Resources Control Board, Office of Chief Counsel – David Rice
(Regional Board Advisory Team Attorney)
State Water Resources Control Board, Office of Enforcement – Reed Sato
(Regional Board Prosecution Team Attorney)
U.S. Environmental Protection Agency, Region 9 (WTR-7) – Ken Greenberg





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Attachment 1

Effluent Limit Violations of
Order No. R8-2006-0003, NPDES No. CA0105376
City of Beaumont

Monitoring Period Covered: June 2006 To January 2011

Month Violation Occurred	Coliform Weekly Average 2.2 MPN/100 ml	Coliform >23 MPN/100 ml more than once per month	Coliform >240 MPN/100 ml	Turbidity >10 NTU	pH Instantaneous Minimum <6.5 pH units	TOTAL VIOLATIONS	VIOLATIONS SUBJECT TO MANDATORY PENALTIES
	No violations between June, 2006 and November, 2006 (6 months)						
December, 2006		[1]	[1]			2	0
	No violations between January, 2007 and March, 2007 (3 months)						
April, 2007		[1]	1			2	1
	No violations in May and June, 2007 (2 months)						
July, 2007		1				1	1
August, 2007	3	1	2			6	6
	No violations between September, 2007 and April, 2008 - (8 months)						
May, 2008		[1]				1	0
	No violation in June, 2008 (1 month)						
July, 2008		[1]				1	0
	No violations between August, 2008 and December, 2009 (17 months)						
January, 2010		[1]		[1]		2	0
February, 2010		[1]				1	0
	No violations in March, 2010 (1 month)						
April, 2010		1				1	1
May, 2010		1				1	1
	No violations in June and July, 2010 (2 months)						
August, 2010					4	4	4
September, 2010		1				1	1
October, 2010		1			1	2	2
	No violations in November, 2010 (1 month)						
December, 2010				2		2	2
January, 2011				1	2	3	3
Total Violations	3	12	4	4	7	30	22

Notes : [] = Non-serious violations waived under this complaint pursuant to water Code Section 13385(i)



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Attachment 2

ACCEPTANCE OF CONDITIONAL RESOLUTION AND WAIVER OF RIGHT TO HEARING

CITY OF BEAUMONT

Order No. R8-2011-0031

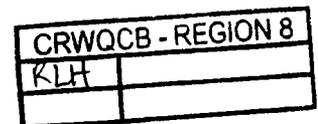
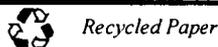
By signing and returning this Acceptance of Conditional Resolution and Waiver of Right to Hearing (Acceptance and Order), the City of Beaumont (City) hereby accepts the resolution of the mandatory minimum penalty assessments for the violations cited in Attachment 1, Effluent Limit Violations of Order No. R8-2006-0003, NPDES No. CA0105376, City of Beaumont, for which mandatory minimum penalties shall be assessed by the Regional Board. By signing the Acceptance and Order, the City also waives its right to a hearing before the Regional Board. Attachment 1 is incorporated into this Acceptance and Order by reference.

The City agrees that Attachments 1 and 2 together will serve as a Complaint pursuant to Article 2.5 of the California Water Code (CWC) and that no separate Complaint is required by the Regional Board to assert jurisdiction over the alleged violations. The City agrees to pay the mandatory minimum penalty of \$66,000 as shown in the expedited payment option letter dated May 10, 2011, which shall be deemed payment in full for the violations listed in Attachment 1, pursuant to CWC Section 13385.

The City understands that pursuant to 40 CFR Section 123.27(d)(2)(iii), the Regional Board is required to provide public notice for at least 30 days and seek comments of any settlement agreement with the dischargers related to NPDES permit violations, prior to the Executive Officer executing any settlement agreements such as this Acceptance and Order. The City understands that if significant comments are received, this Acceptance and Order may be not executed and the offer for expedited payment and settlement may be withdrawn and the Regional Board may choose to take formal enforcement action.

The City understands that once this Acceptance and Order is executed by the Executive Officer of the Regional Board, payment is due within 30 days. A check for \$66,000 made payable to the State Water Resources Control Board shall be submitted to the Regional Board office.

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JUN 06 2011

