



EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Santa Ana Regional Water Quality Control Board

January 25, 2016

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Mr. Edward Chambers (edc@chamcal.com)
Cham-Cal Engineering Co.
12722 Western Avenue
Garden Grove, CA 92841

Mr. Edward Chambers (edc@chamcal.com)
Western Avenue Associates, L.P.
12722 Western Avenue
Garden Grove, CA 92841

TRANSMITTAL OF ADMINISTRATIVE CIVIL LIABILITY (ACL) COMPLAINT NO. R8-2016-0005

Dear Mr. Chambers:

Enclosed is Administrative Civil Liability Complaint No. R8-2016-0005 (Complaint), issued pursuant to California Water Code section 13323. The Complaint alleges that Cham-Cal Engineering Co. and Western Avenue Associates, L.P. (Dischargers) violated Water Code section 13268(a)(1) by failing to submit technical reports as required under Water Code section 13267. Pursuant to Water Code section 13268(b)(1), the Regional Board may impose administrative civil liability in the amount of \$1,000 for each day in which the violation occurs. The Complaint proposes that administrative civil liability in the amount of ninety seven thousand dollars (\$97,000) be imposed pursuant to Water Code section 13268(b)(1). The Complaint and the attachments to the Complaint provide details of the violations and the penalty assessment calculation.

Pursuant to Water Code section 13323, the Dischargers have the option to waive its right to a hearing on the allegations in the Complaint. The Dischargers can resolve this matter without a hearing if it agrees to pay the liability sought in the Complaint. If the Dischargers wish to pursue this avenue for resolution or advise us of any facts which would impact the proposed liability, please follow the waiver procedures described in the Complaint and attached Waiver. **A response must be submitted no later than February 24, 2016.** If the matter is resolved without a hearing, the resolution will be formally memorialized as an enforceable obligation to the Regional Water Quality Control Board, Santa Ana Region (Regional Board). Any such resolution will be publicly noticed for comments and the action will become final only upon execution by the Regional Board, or its delegate, after the close of the 30-day comment period. If significant comments are received during the comment period, the Regional Board may hold a public hearing on this matter.

In response to the Complaint, the Dischargers may:

- Pay the assessed civil liability and waive its right to a hearing before the Santa Ana Water Board by signing the enclosed waiver (checking off the box next to Option #1) and submitting it to this office by **February 24, 2016**, along with payment for the full amount;
- Waive its right to a hearing within 90 days, and agree to enter into settlement discussions with the Santa Ana Water Board by signing the enclosed waiver (checking off the box next to Option #2) and submitting it to this office by **February 24, 2016**;

If the Dischargers would like to rebut the presumption in the Complaint regarding an ability to pay the proposed liability, it must submit detailed financial information to the Santa Ana Water Board by **February 24, 2016**.

If the Santa Ana Water Board does not receive a signed waiver by **February 24, 2016**, then a hearing on this matter will be scheduled for the April 22, 2016 regular meeting of the Santa Ana Water Board to be held at the Orange County Sanitation District, located at 10844 Ellis Avenue in Fountain Valley, California. If a hearing on this matter is held, the Santa Ana Water Board will consider whether to issue, reject, or modify an Administrative Civil Liability Order based on the enclosed Complaint, or whether to refer the matter to the Attorney General for recovery of judicial civil liability. Modification of the proposed Administrative Civil Liability Order may include increasing the dollar amount of the assessed civil liability. Specific notice about this hearing and its procedures will be provided under separate cover.

Any comments or evidence concerning the enclosed Complaint must be submitted to this office, no later than 5 p.m. on the dates indicated in accordance with the attached Hearing Procedures. This includes material submitted by the Dischargers to be considered at a hearing and material submitted by interested parties, including members of the public, who wish to comment on the Complaint. Written materials received after 5 p.m. on the dates indicated in the attached Hearing Procedure will not be accepted and will not be incorporated into the administrative record if doing so would prejudice any party.

Payment of this assessed civil liability amount **ninety seven thousand dollars (\$97,000)** does not absolve the Dischargers from complying with the Investigative Order, the terms of which remain in effect. Additional civil liability may be assessed in the future if the Dischargers fail to comply with current or subsequent orders issued by the Santa Ana Regional Board.

If you have any questions about the Complaint or the enclosed documents, please contact Chuck Griffin at (951) 782-4996 (chuck.griffin@waterboards.ca.gov). All legal questions should be directed to Vanessa Young at (916) 341-5677 (vanessa.young@waterboards.ca.gov), Attorney, Office of Enforcement.

Sincerely,



Hope A. Smythe
Division Chief

Attachments: Administrative Civil Liability Complaint No. R8-2016-0005 and Attachments A & B
Waiver Form
Administrative Civil Liability Complaint Fact Sheet
Hearing Procedures

cc w/ attachments:

Kurt V. Berchtold (kurt.berchtold@waterboards.ca.gov), RWQCB, Executive Officer
(Regional Board Advisory Team)

David Rice (david.rice@waterboards.ca.gov), SWRCB, Office of Chief Counsel
(Regional Board Advisory Team Attorney)

Vanessa Young (vanesa.young@waterboards.ca.gov), SWRCB, Office of Enforcement

Steven Silverstein (silverstein@silversteinhouston.com), Silverstein & Huston

Chet Houston (chet.houston@bazzhouston.com), Bazz Houston

Tiffany Hedgepeth (thedgepeth@edgcomb-law.com), Edgcomb Law Group, LLP

Santa Ana Regional Water Quality Control Board

State of California
California Regional Water Quality Control Board
Santa Ana Region

IN THE MATTER OF:)

Cham-Cal Engineering Co. and)
Western Avenue Associates, L.P.)
12722 Western Avenue)
Garden Grove, CA 92841)
Attn: Edward Chambers)

Complaint No. R8-2016-0005
for
Administrative Civil Liability

**CHAM-CAL ENGINEERING CO. AND WESTERN AVENUE ASSOCIATES, L.P. ARE
HEREBY GIVEN NOTICE THAT:**

1. This Administrative Civil Liability Complaint (Complaint) is issued to Cham-Cal Engineering Co., and Western Avenue Associates, L.P. (Dischargers) for failing to furnish technical or monitoring program reports in violation of California Water Code § 13267 (b), for which the California Regional Water Quality Control Board, Santa Ana Region (Regional Board) may impose administrative civil liability under California Water Code § 13268(b)(1).
2. Water Code § 13323 authorizes the Executive Officer of the Regional Board (Executive Officer") to issue this Complaint, and the Executive Officer's letter to the Regional Board members, dated January 29, 2014, delegates these powers and duties to the Division Chief.
3. Western Avenue Associates, L.P owns the property, and Cham-Cal Engineering Co. operates Cham-Cal Engineering Co. located at 12722 Western Avenue, Garden Grove, California, County of Orange (Cham-Cal property or Site). Cham-Cal Engineering Co. has conducted operations at the Site since around 1978. Mr. Edward Chambers is the President of Cham-Cal Engineering Co. and the registered agent for both Western Avenue Associates, L.P. and Cham-Cal Engineering Co. Cham-Cal Engineering Co. is a manufacturer of heavy duty mirrors, brackets, and other accessories for commercial trucks. In general, the manufacturing operations have included stamping, grinding, polishing, electro-polishing, assembling, welding, and degreasing.
4. By letter dated September 15, 2015, the Regional Board's Chief of the Site Cleanup Section issued a letter notifying the Dischargers of the issuance of a Water Code § 13267 Order, via certified mail (mail return receipt requested). The return receipt showed that the notification letter was received on September 17, 2015. Receipt of the

notification letter was also acknowledged in e-mails that were sent to Regional Board staff by Mr. Chambers on September 18, 2015 and September 24, 2015.

5. By letter dated September 24, 2015 the Executive Officer issued Water Code § 13267 Order – Directive for Site Investigation at Cham-Cal Engineering Co. (13267 Order) via certified mail (mail return receipt requested), for technical reports for investigation regarding underground contamination. The return receipt showed that the 13267 Order was received September 28, 2015. Receipt of the 13267 Order was acknowledged in an email from Mr. Chambers, dated October 16, 2015.
6. The 13267 Order required the Dischargers to submit technical reports to the Regional Board in order to delineate contamination believed to have originated from the facility, and perform preliminary sampling. The technical reports were due October 20, 2015, for which a reminder was extended immediately prior as well as after the deadline.

Background

7. Groundwater is typically encountered at 15 to 16 feet below ground surface (see “Phase II Investigation” by Avocet Environmental Inc., dated March 25, 2015). Several phases of soil and groundwater investigation at the Cham-Cal property detected volatile organic compounds (VOCs) in the groundwater beneath the Cham-Cal property at concentrations that exceed the State Water Resources Control Board Division of Drinking Water (DDW) maximum contaminant levels (MCLs) for drinking water.
8. The solvent stabilizer 1,4-dioxane has also been detected in the groundwater beneath the Site, at concentrations that exceed the DDW notification level.
9. In March 2006, the owner of the property immediately north of the Cham-Cal property, Bazz Houston, conducted an off-site investigation, which included four boreholes at the Cham-Cal property (see “Re: Bazz Houston Company, Inc., Summary of Soil and Groundwater Investigations” by JE Compliance Services, Inc., dated December 23, 2008). The purpose of that investigation was to delineate groundwater contamination that is migrating from the Bazz Houston property, and moving toward downgradient properties. VOC impacts to groundwater were confirmed beneath the Cham-Cal property, and in areas downgradient of Cham-Cal’s property, but further investigation was necessary to determine the extent of the contamination. From March 2006 to September 2010, persistent difficulties in obtaining access prevented Bazz Houston from continuing the off-site investigation on the Cham-Cal property.
10. In 2007, Bazz Houston provided Regional Board staff with records of inspections of the Cham-Cal property by staff from the Orange County Health Care Agency (County Health) during the period between March 20, 1986 and April 2, 1991. The County Health records documented the use, storage, and disposal of hazardous chemicals, including PCE, at the Cham-Cal Site. Records indicate that in 1986, County Health staff observed at least 15 drums of waste and, on at least one occasion, PCE was

observed leaking from a badly rusted drum at the Site. These inspection records also indicate that PCE, waste electropolish sludge, and waste oil were stored at the Site in open containers and in severely deteriorated drums.

11. Bazz Houston continued its efforts to gain access to the Cham-Cal Site for the purpose of conducting additional soil and groundwater investigation. Regional Board staff assisted with these efforts by contacting Mr. Chambers, on multiple occasions. On May 4, 2010, Mr. Chambers agreed to offer full access to Bazz Houston, for the purpose of collecting samples in accordance with the Bazz Houston's work plan (see "Re: Bazz Houston Company, Inc., Work Plan for Subsurface Investigation at Cham-Cal Engineering" by JE Compliance Services, Inc., dated February 10, 2010) and Regional Board staff comment letter (see Comments on the Work Plan for Subsurface Investigation at Cham-Cal Engineering, dated March 2, 2010). However, additional difficulties with the access agreement resulted in further postponement of the investigation.
12. On July 26, 2010, Regional Board staff notified Cham-Cal Engineering that operations at the Site have discharged or are suspected of discharging PCE, metals, and waste oil that could affect groundwater. The July 26, 2010 letter asked Cham-Cal Engineering to allow Bazz Houston access to conduct the investigation by August 9, 2010 or voluntarily conduct a soil and groundwater investigation on the Cham-Cal property, otherwise, Regional Board staff would issue an investigative order pursuant to Water Code section 13267 ordering Cham-Cal Engineering to conduct the investigation.
13. On July 30, 2010, the Executive Officer sent an oversight cost reimbursement letter to Mr. Chambers, requesting that he enter into a voluntary agreement to reimburse the Regional Board for the cost of Regional Board staff's oversight of the investigation of contamination that is present the Cham-Cal Site as a result of unauthorized discharge(s) of wastes by Cham-Cal. On August 3, 2010, Regional Board staff received a letter from Cham-Cal's attorney, Steven Silverstein, stating that Cham-Cal would agree to allow implementation of Bazz Houston's February 10, 2010 work plan for investigation of groundwater on the Cham-Cal Site. Neither Mr. Chambers nor Mr. Silverstein acknowledged the Regional Board's request in the oversight Cost Reimbursement letter.
14. On September 9, 2010, Bazz Houston was allowed access to collect samples from 11 boring locations at the Cham-Cal Site, in accordance with Bazz Houston's February 10, 2010 work plan. According to the subsequent reports (see "Re: Bazz Houston Company, Inc., Summary of Results for Subsurface Investigation at Cham-Cal Engineering", by JE Compliance Services, Inc., dated November 3, 2010 and "Re: Bazz Houston Company, Inc., Summary of Results for Subsurface Investigation at Cham-Cal Engineering" by JE Compliance Services, Inc., dated November 29, 2010), the highest concentrations of VOCs in soil gas samples collected from within the footprints of the Cham-Cal buildings was 14,500 micrograms per liter ($\mu\text{g/L}$) of PCE, while the highest

concentrations of PCE found in soil gas samples collected from the subsurface between the Bazz Houston and Cham-Cal Sites was 2,950 µg/L. PCE was found in all of the groundwater samples that were collected from soil borings at the Cham-Cal Site at concentrations between 6 µg/L to 5,490 µg/L. These concentrations exceed the MCL of 5 µg/L for PCE in drinking water.

15. Based on the depths of the multiple detections of PCE in soil and soil vapor samples at the Cham-Cal Site, and the distance of the Cham-Cal sampling locations relative to the known discharge locations on the Bazz Houston Site, Regional Board staff believed that it was likely that a separate source of VOCs was present on Cham-Cal's property. In conjunction with the County Health inspection records for Cham-Cal, the presence of PCE in the shallow soil and soil vapor at the Cham-Cal Site is a strong indication that unauthorized discharge(s) of PCE-containing waste by Cham-Cal occurred at the Cham-Cal Site. Based on the available information, Regional Board staff concluded that VOCs were discharged to soil and groundwater by the respective operators of both the Bazz Houston and Cham-Cal Sites.
16. On July 13, 2012, the Executive Officer sent a second oversight Cost Reimbursement letter to Mr. Chambers. Neither Mr. Silverstein nor Mr. Chambers acknowledged the Executive Officer's request.
17. On February 21, 2014, Regional Board staff issued a Draft Cleanup and Abatement Order (draft CAO) to Bazz Houston Company and Chester Houston Jr. Trust, the respective operator and property owner of the Bazz Houston site, and Cham-Cal Engineering Co. and Western Avenue Associates, L.P., the respective operator and property owner of the Cham-Cal Site. Both parties stated that they would voluntarily cooperate with the Regional Board. Shortly thereafter on March 21, 2014, Mr. Chambers finally signed an oversight cost reimbursement letter.
18. Prior to commencement of any preliminary investigation, Board staff informed Mr. Chambers (in a conference call on October 16, 2014 and a letter dated November 10, 2014) of the likelihood that several phases of investigation would be necessary, in order to adequately delineate the full extent of contamination, and to develop a strategy for remedial action. On December 1, 2014, the Dischargers conducted a preliminary investigation on their property to assess the extent of their contamination. This investigation confirmed that degreasing operations at Cham-Cal have significantly impacted soil, soil vapor, and groundwater beneath the Site. Avocet, the Dischargers' consultant, recommended that the Dischargers evaluate remediation technologies that could be implemented in the near term to mitigate the very high PCE concentrations in soil, soil vapor, and groundwater in the source area centered on the former Cham-Cal degreaser. Furthermore, Avocet recommended that the Dischargers should consider additional investigation in the former degreaser area to "define the PCE source area to be remediated".

19. The Dischargers did not voluntarily proceed in a timely fashion with the additional investigation to fully delineate the extent of VOCs that are present in the soil and groundwater as a result of the discharges of waste at the Site.
20. On September 15, 2015 Regional Board staff issued a letter to the Dischargers notifying them of a forthcoming investigative order from the Regional Board requiring the submission of an investigation work plan and related results.
21. On September 24, 2015 the Regional Board Executive Officer issued Water Code § 13267 Order – Directive for Site Investigation at Cham-Cal Engineering Co.. (Investigative Order).
22. The Dischargers were provided until October 20, 2015 to submit a work plan for a complete characterization of contamination, and were required to submit related schedules for further investigative sampling and remediation.

Alleged Violations Subject to Enforcement:

23. The Dischargers have failed to submit technical and monitoring reports in accordance with the requirements in the 13267 Order.
24. By letter dated October 27, 2015, the Regional Board's Chief of the Site Cleanup Section sent the Dischargers a "Notice of Violation of California Water Code § 13267 Order – Directive for Site Investigation at Cham-Cal Engineering" (NOV) via certified mail (mail return receipt requested). The return receipt showed that the NOV was received on October 29, 2015. Receipt of the NOV was acknowledged in an e-mail from Mr. Chambers, dated October 27, 2015.
25. The Dischargers have been in violation of the 13267 Order since October 21, 2015. To date, the Regional Board has not received the required technical reports. As of January 25, 2016, the Dischargers have been in violation for a total of 97 days. These 97 days are subject to a maximum administrative liability of \$1,000 per day pursuant to Water Code § 13268(b)(1).

Legal Authority

26. The Regional Board's authority to protect groundwater is prescribed in the Water Code Division 7 Article 2 "General Provisions Relating to Powers and Duties of the Regional Boards."
27. Water Code § 13243 states that the Regional Board may specify certain conditions or areas where the discharge of pollutants, or certain types of wastes, will not be permitted. The Regional Board implements this section of the Water Code by adopting and implementing the Water Quality Control Plan for the Santa Ana River Basin (Basin Plan). The Basin Plan establishes the beneficial uses and water quality objectives for ground and surface waters within the Santa Ana Watershed. These water quality objectives must be met and maintained to protect those beneficial uses.

28. The Cham-Cal property overlies the Orange County Groundwater Management Zone. The designated Beneficial Uses of the Orange County Groundwater Management Zone are as follows: (1) Municipal and Domestic Supply (MUN); (2) Agricultural Supply (AGR); (3) Industrial Service Supply (IND); and (4) Industrial Process Supply (PROC).
29. In connection with any action relating to any plan or waste discharge or planned waste discharge, California Water Code § 13267 provides the Regional Board with the authority to request the submittal of technical reports or monitoring reports.
30. California Water Code § 13268 (a)(1) provides that any person failing or refusing to furnish technical or monitoring reports as required by California Water Code § 13267 (b) may be civilly liable in accordance with California Water Code § 13268 (b).
31. Pursuant to California Water Code § 13268 (b) (1), the Regional Board may impose civil liability in an amount, which shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs.

Administrative Civil Liability Calculation

32. Pursuant to Water Code § 13327, in determining the amount of any civil liability, the Regional Board is required to take into account the nature, circumstances, extent, and gravity of the violations, whether the discharges are susceptible to cleanup or abatement, the degree of toxicity of the discharges, and, with respect to the violator, the ability to pay, the effect on its ability to continue its business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violations, and other matters that justice may require.
33. On November 17, 2009, the State Water Board adopted Resolution No. 2009-0083 amending the Water Quality Enforcement Policy (Enforcement Policy). The Enforcement Policy was approved by the Office of Administrative Law and became effective on May 20, 2010. The Enforcement Policy establishes a methodology for assessing administrative civil liability. The use of this methodology addresses the factors that are required to be considered when imposing a civil liability as outlined in Water Code § 13385, subdivision (e), and § 13327.

The entire Enforcement Policy can be found at:

http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf

34. The required facts, including the Findings above, have been considered for the violations alleged herein using the discretionary penalty assessment methodology in the Enforcement Policy, as explained in detail in Attachments A and B (Penalty Calculation), which are incorporated herein and made a part of this Complaint.

Maximum Administrative Civil Liability

35. Pursuant to Water Code § 13268, the total maximum administrative civil liability that may be imposed for the violations alleged in this Complaint is \$97,000. This is based on assessment of the maximum per day violation amount of \$1,000 for 97 days.

Minimum Administrative Civil Liability the Regional Board Must Assess

36. The Enforcement Policy requires that the minimum liability imposed must be at least 10% higher than the economic benefit so that liabilities are not construed as the cost of doing business.
37. The economic benefit considered in this Complaint were the costs that were deferred and avoided as a result of not submitting the required technical and monitoring reports, and conducting the necessary investigations and remediation to protect the beneficial uses of groundwater, protect human health, and prevent further migration of groundwater contamination off-Site. The delayed costs include preparation of technical and monitoring reports, drilling, sampling and analysis, and remediation costs. The avoided costs include quarterly sampling and analysis that was missed due to delaying the investigation work. The economic benefit is estimated to be \$5,318 and the minimum liability is calculated to be \$5,850.

Proposed Administrative Civil Liability

38. After consideration of the factors in accordance with the Water Code § 13327, and the Enforcement Policy, the Regional Board Prosecution Team proposes that civil liability be imposed on the Dischargers in the amount of \$97,000. The specific factors considered in this penalty are detailed in Attachments A and B, incorporated herein, and made part of this Complaint by reference.
39. Notwithstanding the issuance of this Complaint, the Regional Water Quality Control Board, Santa Ana Region, retains the authority to assess additional penalties or an amount greater than the proposed amount set forth above.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

40. Issuance of this Complaint is an enforcement action and is, therefore, exempt from the California Environmental Quality Act (Pub. Res. Code § 21000 et seq.), pursuant to title 13, California Code of Regulations, § 15321, subsection (a)(2).

THE DISCHARGERS ARE HEREBY GIVEN NOTICE THAT:

1. The Division Chief of the Regional Board proposes that the Dischargers be assessed an administrative civil liability in the amount of **ninety seven thousand dollars** (\$97,000). The amount of the proposed liability is based on a review of the factors for violations of Water Code § 13327 as well as the Enforcement Policy as set forth in Attachment A.

2. Water Code § 13323(b) provides that a hearing concerning this Complaint will be held before the Regional Board within ninety (90) days of the date of issuance of this Complaint. Such a hearing shall be held unless the Dischargers choose either of the following two options as further explained in the enclosed Waiver:
 - a. Waive the Right to a Hearing before the Regional Board and pay the proposed penalty of \$97,000 in full; or
 - b. Waive the right to a Hearing before the Regional Board within 90 days after service of this Complaint to engage the Regional Board Prosecution Team in settlement discussions. Waiver of the right to a Hearing before the Regional Board within 90 days does not preclude the Regional Board Prosecution Team from proceeding to a Hearing within 90 days.
3. If the Dischargers choose the option in paragraph 2.a, above, an authorized representative must sign the enclosed waiver and return it along with a check for the full amount of the proposed liability in accordance with the enclosed Waiver and Hearing Procedures. Payment will be deemed settlement of this Complaint, but the settlement shall not become final until thirty (30) days from the date of Public Notice to allow the public and other interested persons to comment on this action.
4. If the Dischargers choose the option in paragraph 2.b, above, an authorized representative must sign the enclosed waiver and submit in accordance with the enclosed Waiver and Hearing Procedures. The Dischargers must also submit a settlement proposal to the Regional Board within thirty (30) days of this Complaint. The waiver and settlement proposal must be mailed to the Regional Board at 3737 Main Street, Suite 500, Riverside, CA 92502-3348.
5. If a hearing is held on this matter, the Regional Board will consider whether to affirm, reject, or modify the proposed administrative civil liability or whether to refer the matter to the Attorney General for recovery of judicial civil liability. If this matter proceeds to hearing, the Prosecution Team reserves the right to amend the proposed amount of civil liability to conform to the evidence presented, including but not limited to, increasing the proposed amount to account for the costs of enforcement (including staff, legal, and expert witness costs) incurred after the date of issuance of this Complaint through completion of the hearing.
6. Payment of the assessed liability amount does not absolve the Discharger from complying with the 13267 Order issued to the Dischargers on September 24, 2015, the terms of which remain in effect. Additionally civil liability may be assessed in the future if the Discharger fails to comply with the 13267 Order, and/or future orders issued by the Regional Board.

If you have any questions, please contact Chuck Griffin at (951) 782-4996 or by email at Chuck.Griffin@waterboards.ca.gov. For legal questions, contact Vanessa Young, Office of Enforcement by phone at (916) 341-5677 or by email at Vanessa.Young@waterboards.ca.gov.

January 25, 2016

Date



Hope A. Smythe

Division Chief

Regional Board Prosecution Team

Attachment A: Penalty Calculation Methodology

Attachment B: Spreadsheet of Penalty Calculation

Attachment A
Specific Factors Considered for Administrative Civil Liability
Cham-Cal Engineering Co. and Western Avenue Associates, L.P.

The Santa Ana Water Board alleges that the Dischargers failed to submit the work plan and time schedule by October 20, 2015 that was required in the September 24, 2015 Investigative Order that was issued by the Santa Ana Regional Board's Executive Officer pursuant to California Water Code section 13267. The Investigative Order directed Western Avenue Associates, L.P. (property owner) and Cham-Cal Engineering Co. (operator) to submit the work plan and time schedule to conduct a complete characterization of soil and groundwater to assess the full lateral and vertical extent of volatile organic compounds (VOCs) and 1,4-dioxane impacts at the Cham-Cal Site. For the purpose of applying the Enforcement Policy's administrative civil liability methodology, the alleged violation is a non-discharge violation. Each factor of the Enforcement Policy and its corresponding score for each violation are presented below:

Violation No. 1: Failure to submit required work plan and time schedule: In accordance with the requirement set forth in the September 24, 2015 Investigative Order pursuant to Water Code section 13267, the Dischargers failed to submit a work plan and time schedule by October 20, 2015.

Penalty Calculation

Step 1. Potential for Harm for Discharge Violations

This step is not applicable because the violation is a not a discharge violation.

Step 2. Assessment for Discharge Violations

This step is not applicable because the violation is a not a discharge violation.

Step 3. Per Day Assessment for Non-Discharge Violations

The initial liability factor must take into consideration the Potential for Harm and the extent of deviation from applicable requirements.

The per day factor is 0.55.

This factor is determined using the potential for harm of the violation and the extent of the Dischargers' deviation from requirements. The potential for harm was determined to be "Major" due to the following: The beneficial uses for the Orange Groundwater Management Zone are municipal and domestic supply, agricultural supply, industrial service supply and industrial process supply. The existing analytical data from one-time grab groundwater sampling at the Site indicate that the concentrations of VOCs in shallow groundwater exceed drinking water standards, and therefore may be impacting, or threaten to impact, the deeper drinking water aquifer. Our understanding of groundwater is limited to the

ATTACHMENT A
Cham-Cal Engineering Co.
Western Avenue Associates, L.P.

existing dataset. This highlights the need for additional investigation and groundwater data. The submittal of the work plan and time schedule is critical for the protection of groundwater quality. Until the site is remediated, VOCs in groundwater remain every day at concentrations that exceed the State Water Resources Control Board Division of Drinking Water (DDW) maximum contaminant levels (MCLs) for drinking water. In particular, the solvent stabilizer 1,4-dioxane has also been detected in the groundwater beneath the site (Water Board split sample - analytical data received on December 15, 2014), at concentrations that exceed the DDW notification level for drinking water. Since the violation thwarts the Regional Board's ability to identify water quality risks, the violation has the potential to exacerbate the presence and accumulation of, and the related risks associated with, pollutants of concern. This in turn, presents a particularly egregious threat to beneficial uses. In addition, the presence of VOCs has the potential to pose a significant risk to human health of the indoor occupants. Therefore, the violation presents a major potential for harm.

The deviation from requirements was determined to be major, as the requirement to submit the work plan and time schedule has been rendered ineffective. Therefore, because the Dischargers failed to submit the work plan and time schedule, the Dischargers were assessed a major deviation from the requirement.

Initial Liability

A failure to submit a report is subject to civil liability under Water Code section 13268(b)(1) in an amount which shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs. The Dischargers failed to submit the work plan and time schedule by October 20, 2015, and are ninety-seven (97) days late in submitting an adequate work plan from the issuance of this Complaint on January 25, 2016. Therefore, the Per Day Assessment is calculated as (0.55 factor from Table 3) X (97 days) X (\$1,000 per day). The Initial Liability Value is \$53,350.

Step 4. Adjustment Factors

The Enforcement Policy allows for multi-day violations to be consolidated, provided specific criteria are satisfied. The Enforcement Policy also describes three factors related to the Dischargers' conduct that should be considered for modification of the initial liability amount: the Dischargers' culpability, the Dischargers' efforts to clean up or cooperate with regulatory authorities after the violation, and the Dischargers' history of violations. After each of these factors is considered for the violation alleged, the applicable factor should be multiplied by the proposed liability amount for the violation.

ATTACHMENT A
Cham-Cal Engineering Co.
Western Avenue Associates, L.P.

a) *Multiple Day Violations*

The Enforcement Policy provides that for violations lasting more than 30 days, the Santa Ana Water Board may adjust the per-day basis for civil liability if certain findings are made and provided that the adjusted per-day basis is no less than the per-day economic benefit, if any, resulting from the violation. The Prosecution Team chose not to reduce the number of days of violation alleged in this Complaint.

b) *Culpability: 1.45*

Discussion: The Dischargers were assessed a score of 1.45, which increases the liability amount. Cham-Cal Engineering Co. has historically stored, used, and disposed of hazardous chemicals, including PCE, at its facility. As a facility responsible for or contributing to the pollution of a groundwater source beneficial use, it is imperative that steps be taken toward remediation of the pollutants of concern. A reasonably prudent person in similar circumstances would not have delayed remediation activities.

The Santa Ana Water Board issued a 13267 Order requiring a work plan and time schedule to conduct a complete characterization of soil and groundwater to assess the full lateral and vertical extent of the impacts. The Dischargers had previously voluntarily agreed to take the necessary steps to delineate the extent of VOCs in soil and groundwater beneath their property. In turn, the Regional Board chose not to issue a 13267 Order back in 2010. Prior to issuing the 13267 Order, the Regional Board gave the Dischargers another opportunity to voluntarily commence additional investigation when the Santa Ana Water Board staff sent the Dischargers a letter on September 15, 2015 of the intent to issue a Water Code section 13267 investigative order. After issuance of the 13267 Order, Santa Ana Water Board staff attempted to reach out and persuade the Dischargers to submit the required work plan and time schedule by October 20, 2015. On October 16, 2015, Santa Ana Water Board staff sent Mr. Chambers an email reminder of the October 20, 2015 due date for submittal of the work plan. On October 27, 2015, Santa Ana Water Board staff sent a Notice of Violation (NOV) to the Dischargers, explaining the potential liability for the failure to submit the work plan and time schedule, and gave the Dischargers an additional 5 days from the date of the NOV to submit the work plan and time schedule.

Despite these efforts, as of the date of the issuance of this Complaint, the Dischargers have not yet submitted the work plan and time schedule to Santa Ana Water Board staff. Mr. Chambers explained that he is working toward financing the cost with a loan and that he is waiting for the bank to provide the money to begin work. The requirements contained in the 13267 Order have been known to the Dischargers since at least 2014, when they received the

ATTACHMENT A
Cham-Cal Engineering Co.
Western Avenue Associates, L.P.

proposed cleanup and abatement order. This provided the Dischargers ample time to prepare for and obtain any necessary financing to conduct additional investigation activities. The Dischargers' failure to timely comply with the 13267 Order given that they have known about the severity of water quality impacts to soil and groundwater indicates negligent behavior. A factor of 1.45 is appropriate where the Dischargers' conduct amounted to negligent behavior, falling well below what a reasonable and prudent person would have done in similar circumstances.

c) *Cleanup and Cooperation: 1.3*

Discussion: The Dischargers were assessed a score of 1.3, which increases the penalty. Regional Board staff has invested a great amount of time and resources to communicate with Mr. Chambers and notify the Dischargers of the requirement to conduct additional remediation activities before the issuance of the 13267 Order from the Board. Despite these attempts, the Dischargers have chosen to not take the necessary steps in a timely manner, given the serious water quality impacts, and the likely human health impacts from the pollution to building occupants. In response to the September 15, 2015 letter from the Regional Board of the intent to issue a 13267 order, Mr. Chambers stated that remediation can begin once the funds are available. Since the issuance of the 13267 Order, Mr. Chambers has been communicative and has claimed that he is waiting for approval of a loan before proceeding. Therefore, a lower multiplier than a 1.5 is appropriate. To date, the Dischargers have not demonstrated compliance with the requirements of the 13267 Order, including the submission of a work plan and time schedule. A multiplier of 1.3 has been assessed.

d) *History of Violations: 1.0*

Discussion: The Dischargers were assessed the score of 1.0. Santa Ana Water Board staff has sought voluntary compliance from the Dischargers for a number of years. No formal enforcement actions have been taken until now. Therefore, the Dischargers have no history of violations.

Step 5. Determination of Total Base Liability Amount

The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Initial Liability Amount determined in Step 3.

- a) *Total Base Liability Amount: \$100,565* [Initial Liability (\$53,350) x Adjustments (1.45)(1.3)(1.0) = \$100,565].

The following penalty methodology steps apply to all prior violations.

ATTACHMENT A
Cham-Cal Engineering Co.
Western Avenue Associates, L.P.

Step 6. Ability to Pay and Continue in Business

The Enforcement Policy requires the consideration of the Dischargers' ability to pay and continue in business. The Regional Board has the initial burden of producing information in the public record demonstrating the Dischargers' ability to pay and continue in business. During the period provided to submit evidence and at hearing, the Dischargers may submit information that it believes supports its position.

The Prosecution Team sets forward the following information in satisfaction of its initial burden. Cham-Cal Engineering Co. is a manufacturer of heavy duty mirrors, brackets, and other accessories for commercial trucks. Cham-Cal Engineering Co. operates a business with between 50 to 99 employees and has been in business for over 30 years. Cham-Cal Engineering Co. receives income from its business.

Western Avenue Associates, L.P. owns the parcel, assessor's parcel number 215-033-03, where Cham-Cal Engineering Co. has conducted its operations. The property is approximately 2.2 acres of land designated for single family residence use. According to the Orange County tax assessor's office, the assessed total value of the land as of 2014 is \$1,801,733. This information in the public record is indicative of the Dischargers' available assets to pay the total proposed penalty and continue in business.

a) Total Base Liability Amount: **\$100,565.**

Step 7. Other Factors as Justice May Require

a) *Discussion:* No adjustment to the Combined Total Base Liability Amount has been made based on "other factors as justice may require."

Step 8. Economic Benefit

a) *Estimated Economic Benefit:* **\$5,318**

Discussion: The 13267 Order required commencement of the investigation following approval of the work plan and submission of the final report following completion of the field work. Regional Board staff estimated avoided and delayed costs associated with these actions to be approximately \$61,985. The Discharger avoided compliance actions estimated at approximately \$61,985. The actual economic benefit realized is derived by adjusting the delayed and avoided costs for inflation and tax deductibility, assuming the Discharger operates as a tax-paying entity. The BEN financial model provided by the United States Environmental Protection Agency was used to compute the total economic benefit of noncompliance. The total

ATTACHMENT A
Cham-Cal Engineering Co.
Western Avenue Associates, L.P.

economic benefit of noncompliance was estimated to be \$5,318. The Dischargers have received an economic benefit from the costs saved by (1) not developing a work plan and time schedule; (2) delaying and avoiding the collection of samples and analysis of the samples; (3) failing to pay the Regional Water Board staff's oversight costs that would have been necessary for review of groundwater monitoring data (\$2,250); and (4) failing to evaluate the extent of pollution below the surface and extending into the groundwater. Note the costs considered for calculating the economic benefit are conservative and do not include potentially substantial costs associated with scenarios/conditions that cannot be reasonably calculated based on the information currently available.

The adjusted combined total base liability amount of \$100,565 is more than the economic benefit plus 10% or \$5,850 (\$5,318 + \$532), as required by the Enforcement Policy.

Step 9. Maximum and Minimum Liability Amounts

a) *Minimum Liability Amount: \$5,850*

Discussion: The Enforcement Policy requires that the minimum liability amount imposed not fall below the economic benefit plus ten percent. As discussed above, the Santa Ana Water Board Prosecution Team's estimate of the Dischargers' economic benefit obtained from the alleged violation plus ten percent is \$5,850.

b) *Maximum Liability Amount: \$97,000*

Discussion: The maximum administrative liability amount is the maximum amount allowed by Water Code section 13268(b)(1): one thousand dollars (\$1,000) for each day in which the violation occurs. The violation alleged in this Complaint occurred for 97 days. The maximum liability amount is \$97,000. Because the Total Base Liability Amount of \$100,565 exceeds the statutory maximum amount, the proposed liability is reduced to \$97,000.

Step 10. Final Liability Amount

Based on the foregoing analysis, and consistent with the Enforcement Policy, the final liability amount proposed is **\$97,000**.

Penalty Calculation Methodology Worksheet - Version Date: 2/4/2014

Instructions

1. Select Potential Harm for Discharge Violations
2. Select Characteristics of the Discharge
3. Select Susceptibility to Cleanup or Abatement
4. Select Deviation from Standard
5. Click "Determine Harm & per Gallon/Day..."
6. Enter Values into the Yellow highlighted fields

Select Item **5 = Major**
 Select Item **4 = Discharged material poses significant risk**
 Select Item **< 50% of Discharge Susceptible to Cleanup or Abatement**
 Select Item **Major**

Discharger Name/ID:

		Failure to Submit Work Plan	
Discharge Violations	Step 1	Potential Harm Factor (Generated from Button)	
	Step 2	Per Gallon Factor (Generated from Button)	
		Gallons	
		Statutory Maximum	
		High Volume	
	Total		\$ -
Non-Discharge Violations	Step 3	Per Day Factor	0.55
		Total Days	97
		Multiple Day Violation Reduction	
		Statutory Max per Day	\$ 1,000
	Total		\$ 53,350.00
	Initial Amount of the ACL		
Add'l Factors	Step 4	Culpability	1.45
		Cleanup and Cooperation	1.3
		History of Violations	1
		Maximum for this Violation	\$ 97,000.00
		Amount for this Violation	\$ 97,000.00
Step 5	Total Base Liability Amount		\$ 97,000.00
Step 6	Ability to Pay & to Continue in Business	1	\$ 97,000.00
Step 7	Other Factors as Justice May Require	1	\$ 97,000.00
	Staff Costs	-	\$ 97,000.00
Step 8	Economic Benefit	\$ 5,318	
Step 9	Minimum Liability Amount	\$ 5,850.00	
	Maximum Liability Amount	\$ 97,000.00	
Step 10	Final Liability Amount		\$ 97,000.00

Penalty Day Range Generator

Start Date of Violation=
 End Date of Violation=

Maximum Days Fined (Steps 2 & 3) = Days
 Minimum Days Fined (Steps 2 & 3) = Days

WAIVER OF 90-DAY HEARING REQUIREMENT FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT

By signing this waiver, I affirm and acknowledge the following:

I am duly authorized to represent Cham-Cal Engineering Co., and Western Avenue Associates, L.P. (Dischargers) in connection with Administrative Civil Liability Complaint R8-2016-0005 (Complaint);

I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served" with the Complaint. The person who has been issued a complaint may waive the right to a hearing;

(OPTION 1: Check here if the Dischargers will waive its right to a hearing and pay in full.

- a. I hereby waive any right the Dischargers may have to a hearing before the Santa Ana Regional Water Quality Control Board (Santa Ana Water Board); and
- b. I certify that the Dischargers will remit payment for the full amount of **ninety-seven thousand dollars (\$97,000)** by check that references "ACL Complaint R8-2016-0005" made payable to the *State Water Pollution Cleanup and Abatement Account*. Payment must be received **by February 24, 2016** at the following address: State Water Resources Control Board, Accounting Office, Attn: ACL Payment, P.O. Box 1888, Sacramento, CA 95812-1888. A copy of the check must also be received by the Santa Ana Water Board.
- c. I understand that payment of the above amount constitutes a proposed settlement of the Complaint and that any settlement will not become final until after a 30-day public notice and comment period. Should the Santa Ana Water Board receive significant new information or comments during this comment period, the Santa Ana Water Board's Executive Officer may withdraw the complaint, return payment, and issue a new complaint. I also understand that approval of the settlement will result in the Dischargers having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
- d. I understand that payment of the **\$97,000** in full is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Dischargers to further enforcement, including additional civil liability.

-or-

(OPTION 2: Check here if the Dischargers waive the 90-day hearing requirement in order to engage in settlement negotiations. The Santa Ana Water Board must receive information from the Dischargers indicating a controversy regarding the assessed penalty at the time this waiver is submitted but no later than February 24, 2016, or the waiver may not be accepted.) I hereby waive any right the Dischargers may have to a hearing before the Santa Ana Water Board within 90 days after service of the Complaint but reserve the ability to request a hearing in the future. By checking this box, the Dischargers are *not* waiving its right to a hearing on this matter. The Dischargers agree that this hearing may be held after the 90-day period referenced in California Water Code section 13323 has elapsed.

By checking this box, the Dischargers request that the Santa Ana Water Board delay the hearing so that the Dischargers and the Santa Ana Water Board Prosecution Team can discuss settlement. I certify that the Dischargers will promptly engage the Santa Ana Water Board Prosecution Team in discussions to resolve the outstanding violation(s). Any proposed settlement is subject to conditions described above under "Option 1." It remains within the discretion of the Santa Ana Water Board to agree to delay the hearing. A hearing on the matter may be held before the Santa Ana Water Board if these discussions do not result in a proposed settlement.

-or-

(**OPTION 3: Check here if the Dischargers waive the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines. The Santa Ana Water Board must receive information from the Dischargers indicating a controversy regarding the assessed penalty at the time this waiver is submitted but no later than February 24, 2016, or the waiver may not be accepted. Attach a separate sheet with the amount of additional time requested and the rationale.**) I hereby waive any right the Dischargers may have to a hearing before the Santa Ana Water Board within 90 days after service of the Complaint but reserve the ability to request a hearing in the future. By checking this box, the Dischargers request that the Santa Ana Water Board delay the hearing and/or hearing deadlines so that the Dischargers may have additional time to prepare for a hearing. It remains within the discretion of the Santa Ana Water Board to approve the extension.

CHAM-CAL ENGINEERING CO.

(Print Name and Title)

(Signature)

(Date)

WESTERN AVENUE ASSOCIATES, L.P.

(Print Name and Title)

(Signature)

(Date)

Administrative Civil Liability

Fact Sheet

The California Regional Water Quality Control Boards (Regional Water Boards) have the authority to impose administrative civil liabilities for a variety of violations under California Water Code section 13323. This document generally describes the process that the Regional Water Boards follow in imposing administrative civil liabilities.

The first step is the issuance of an administrative civil liability complaint (complaint) by the authorized Regional Water Board's Executive Officer or Assistant Executive Officer. The complaint describes the violations that alleged to have been committed, the Water Code provisions authorizing the imposition of liability, and the evidence that supports the allegations. **Any person who receives a complaint must respond timely as directed, or risk the Regional Water Board imposing the administrative civil liability by default.** The complaint is accompanied by a letter of transmittal, a Waiver Form and a Hearing Procedure. Each document contains important information and deadlines. You should read each document carefully. A person issued a complaint is allowed to represent him or herself. However, legal advice may be desirable to assist in responding to the complaint.

Parties

The parties to a complaint proceeding are the Regional Water Board Prosecution Team and the person/s named in the complaint, referred to as the "Discharger." The Prosecution Team is comprised of Regional Water Board staff and management. Other interested persons may become involved and may become "designated parties." Only designated parties are allowed to submit evidence and participate fully in the proceeding. Other interested persons may play a more limited role in the proceeding and are allowed to submit non-evidentiary policy statements. If the matter proceeds to hearing, the hearing will be held before the full membership of the Regional Water Board (composed of up to nine board members appointed by the Governor) or before a panel of three board members. The board members who will hear the evidence and rule on the matter act as judges. They are assisted by an Advisory Team, which provides advice on technical and legal issues. Both the Prosecution Team and the Advisory Team have their own attorney. Neither the Prosecution Team nor the Discharger or his/her representatives are permitted to communicate with the board members or the Advisory Team about the complaint without the presence or knowledge of the other. This is explained in more detail in the Hearing Procedure.

Complaint Resolution options

Once issued, a complaint can lead to (1) withdrawal of the complaint; (2) withdrawal and reissuance; (3) payment and waiver; (4) settlement; (5) hearing. Each of these options is described below.

Withdrawal: may result if the Discharger provides information to the Prosecution Team that clearly demonstrates that a fundamental error exists in the information set forth in the complaint.

Withdrawal and reissuance: may result if the Prosecution Team becomes aware of information contained in the complaint that can be corrected.

Payment and waiver: may result when the Discharger elects to pay the amount of the complaint rather than to contest it. The Discharger makes a payment for the full amount and the matter is ended, subject to public comment.

Settlement: results when the parties negotiate a resolution of the complaint. A settlement can include such things as a payment schedule, or a partial payment and suspension of the remainder pending implementation by the Discharger of identified activities, such as making improvements beyond those already required that will reduce the likelihood of a further violation or the implementation or funding of a Supplemental Environmental Project (SEP) or a Compliance Project. Qualifying criteria for Compliance Projects and SEPs are contained in the State Water Resources Control Board's (State Water Board) Enforcement Policy, which is available at the State Water Board's website at: http://www.waterboards.ca.gov/plans_policies/. Settlements are generally subject to public notice and comment, and are conditioned upon approval by the Regional Water Board or its authorized staff management. Settlements are typically memorialized by the adoption of an uncontested Administrative Civil Liability Order.

Hearing: if the matter proceeds to hearing, the parties will be allowed time to present evidence and testimony in support of their respective positions. The hearing must be held within 90 days of the issuance of the complaint, unless the Discharger waives that requirement by signing and submitting the Waiver Form included in this package. The hearing will be conducted under rules set forth in the Hearing Procedure. The Prosecution Team has the burden of proving the allegations and must present competent evidence to the Regional Water Board regarding the allegations. Following the Prosecution Team's presentation, the Discharger and other parties are given an opportunity to present evidence, testimony and argument challenging the allegations. The parties may cross-examine each others' witnesses. Interested persons may provide non-evidentiary policy statements, but may generally not submit evidence or testimony. At the end of the presentations by the parties, the board members will deliberate to decide the outcome. The Regional Water Board may issue an order

requiring payment of the full amount recommended in the complaint, it may issue an order requiring payment of a reduced amount, it may order the payment of a higher amount, decide not to impose an assessment or it may refer the matter to the Attorney General's Office.

Factors that must be considered by the Regional Water Board

Except for Mandatory Minimum Penalties under Water Code section 13385 (h) and (i), the Regional Water Board is required to consider several factors specified in the Water Code, including nature, circumstance, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any resulting from the violations, and other matters as justice may require (Cal. Water Code §§ 13327, 13385(e) & 13399). During the period provided to submit evidence (set forth in the Hearing Procedure) and at the hearing, the Discharger may submit information that it believes supports its position regarding the complaint. If the Discharger intends to present arguments about its ability to pay it must provide reliable documentation to establish that ability or inability. The kinds of information that may be used for this purpose include:

For an individual:

1. Last three years of signed federal income tax returns (IRS Form 1040) including schedules;
2. Members of household, including relationship, age, employment and income;
3. Current living expenses;
4. Bank account statements;
5. Investment statements;
6. Retirement account statements;
7. Life insurance policies;
8. Vehicle ownership documentation;
9. Real property ownership documentation;
10. Credit card and line of credit statements;
11. Mortgage loan statements;
12. Other debt documentation.

For a business:

1. Copies of last three years of company IRS tax returns, signed and dated,
2. Copies of last three years of company financial audits

3. Copies of last three years of IRS tax returns of business principals, signed and dated.
4. Any documentation that explains special circumstances regarding past, current, or future financial conditions.

For larger firms:

1. Federal income tax returns for the last three years, specifically:
 - IRS Form 1120 for C Corporations
 - IRS Form 1120 S for S Corporations
 - IRS Form 1065 for partnerships
2. A completed and signed IRS Form 8821. This allows IRS to provide the Regional Water Board with a summary of the firm's tax returns that will be compared to the submitted income tax returns. This prevents the submission of fraudulent tax returns;
3. The following information can be substituted if income tax returns cannot be made available:
 - Audited Financial Statements for last three years;
 - A list of major accounts receivable with names and amounts;
 - A list of major accounts payable with names and amounts;
 - A list of equipment acquisition cost and year purchased;
 - Ownership in other companies and percent of ownership for the last three years;
 - Income from other companies and amounts for the last three years.

For a municipality, county, or district:

1. Type of entity:
 - City/Town/Village;
 - County;
 - Municipality with enterprise fund;
 - Independent or publicly owned utility;
2. The following 1990 and 2000 US Census data:
 - Population;
 - Number of persons age 18 and above;
 - Number of persons age 65 and above;
 - Number of Individual below 125% of poverty level;
 - Median home value;
 - Median household income.
3. Current or most recent estimates of:
 - Population;
 - Median home value;
 - Median household income;
 - Market value of taxable property;

- Property tax collection rate.
- 4. Unreserved general fund ending balance;
- 5. Total principal and interest payments for all governmental funds;
- 6. Total revenues for all governmental funds;
- 7. Direct net debt;
- 8. Overall net debt;
- 9. General obligation debt rating;
- 10. General obligation debt level.
- 11. Next year's budgeted/anticipated general fund expenditures plus net transfers out.

This list is provided for information only. The Discharger remains responsible for providing all relevant and reliable information regarding its financial situation, which may include items in the above lists, but could include other documents not listed. Please note that all evidence regarding this case, including financial information, will be made public.

Petitions

If the Regional Water Board issues an order requiring payment, the Discharger may challenge that order by filing a petition for review with the State Water Board pursuant to Water Code section 13320. More information on the petition process is available at:

http://www.waterboards.ca.gov/public_notices/petitions/water_quality/index.shtml

An order of the State Water Board resolving the petition for review of the Regional Water Board's Administrative Civil Liability Order can be challenged by filing a petition for writ of mandate in the superior court pursuant to Water Code section 13330.

Once an Administrative Civil Liability Order becomes final, the Regional Water Board or State Water Board may seek a judgment of the superior court under Water Code section 13328, if necessary, in order to collect payment of the administrative civil liability amount.

Proposed

NOTICE OF PUBLIC HEARING
TO CONSIDER ADMINISTRATIVE CIVIL LIABILITY COMPLAINT

NO. R8-2016-0005
ISSUED TO

**Cham-Cal Engineering Co. and Western Avenue
Associates, L.P.**

NOTICE IS HEREBY GIVEN THAT A HEARING WILL BE HELD
BEFORE THE REGIONAL WATER QUALITY CONTROL BOARD,
SANTA ANA REGION, ON APRIL 22, 2016

Background

On January 25, 2016, the Division Chief of the Regional Water Quality Control Board, Santa Ana Region (Santa Ana Water Board) issued an Administrative Civil Liability (ACL) Complaint pursuant to California Water Code Section 13268 (Water Code) against Cham-Cal Engineering Co. and Western Avenue Associates, LP (Dischargers) alleging that it has violated Water Code section 13267, as described in the administrative civil liability complaint (Complaint or ACLC) filed herewith. The Complaint proposes that administrative civil liability in the amount of \$97,000 be imposed as authorized by Water Code section 13268. Unless the Dischargers pays the proposed liability, a hearing will be held before the Santa Ana Water Board during its meeting on **April 22, 2016**.

Purpose of Hearing

The purpose of the hearing is to receive relevant evidence and testimony regarding the proposed ACL Complaint. At the hearing, the Santa Ana Water Board will consider whether to adopt, modify, or reject the proposed assessment, or whether to refer the matter to the Attorney General's Office to seek recovery of judicial civil liability. If it adopts an assessment, the Santa Ana Water Board will issue an Administrative Civil Liability Order.

The public hearing on **April 22, 2016**, will commence no earlier than 9 a.m. or as soon thereafter as practical, or as announced in the Santa Ana Water Board meeting agenda. The meeting will be held at the Orange County Sanitation District located at 10844 Ellis Avenue, Fountain Valley, CA 92708. An agenda for the meeting will be issued at least ten days before the meeting and will be posted on the Santa Ana Water Board's web page at:

www.waterboards.ca.gov/santaana.

Hearing Procedures

A copy of the procedures governing an adjudicatory hearing before the Santa Ana Water Board may be found at Title 23 of the California Code of Regulations, § 648 et seq., and

is available at <http://www.waterboards.ca.gov> or upon request. Except as provided in Title 23 of the California Code of Regulations (CCR), § 648(b), Chapter 5 of the Administrative Procedures Act (commencing with § 11500 of the Government Code) does not apply to adjudicatory hearings before the Santa Ana Water Board. This Notice provides additional requirements and deadlines related to the proceeding. THIS NOTICE MAY BE AMENDED BY THE ADVISORY STAFF AS NECESSARY. FAILURE TO COMPLY WITH THE DEADLINES AND REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF DOCUMENTS AND/OR TESTIMONY. Any objections to the procedure set forth in this Notice must be submitted to David Rice at the address indicated below by **February 4, 2016**.

Hearing Participation

Participants in this proceeding are designated as either "parties" or "interested persons." Designated parties to the hearing may present evidence and cross-examine witnesses and are subject to cross-examination. Interested persons may present non-evidentiary policy statements, but may not cross-examine witnesses and are not subject to cross-examination. Both designated parties and interested persons may be asked to respond to clarifying questions from the Santa Ana Water Board, staff or others, at the discretion of the Water Board.

The following participants are hereby designated as parties in this proceeding:

- (1) Santa Ana Water Board Prosecution Staff
- (2) Cham-Cal Engineering Co. and Western Avenue Associates, L.P.

Contacts

Advisory Staff:

David Rice, Esq.
State Water Resources Control Board
Office of Chief Counsel
P.O. Box 100
Sacramento, CA 95812
(916) 341-5182
david.rice@waterboards.ca.gov

Kurt Berchtold
Executive Officer
Regional Water Quality Control Board, Santa Ana Region
3737 Main Street, Suite 500
Riverside, CA 92501
kurt.berchtold@waterboards.ca.gov

Prosecution Staff:

Vanessa Young, Esq.
State Water Resources Control Board
Office of Enforcement
P.O. Box 100
Sacramento, CA 95812
(916) 327-8622
vanessa.young@waterboards.ca.gov

Ann Sturdivant
RWQCB, Santa Ana
3737 Main Street, Suite 500
Riverside, CA 92501
(951) 782-4904
ann.sturdivant@waterboards.ca.gov

Hope Smythe
RWQCB, Santa Ana
3737 Main Street, Suite 500
Riverside, CA 92501
(951) 782-4493
hope.smythe@waterboards.ca.gov

Chuck Griffin
RWQCB, Santa Ana
3737 Main Street, Suite 500
Riverside, CA 92501
(916) 341-5548
chuck.griffin@waterboards.ca.gov

Alan Kuoch
RWQCB, Santa Ana
3737 Main Street, Suite 500
Riverside, CA 92501
(951) 782-4962
alan.kuoch@waterboards.ca.gov

Discharger:

Edward A. Chambers
Western Avenue Associates L.P.
12722 Western Avenue
Garden Grove, CA 92841
edc@chamcal.com

Edward A. Chambers
Cham-Cal Engineering Co.
12722 Western Avenue
Garden Grove, CA 92841
edc@chamcal.com

Separation of Functions

To help ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the Santa Ana Water Board (Prosecution Staff) have been separated from those who will provide advice to the Water Board (Advisory Staff). Members of the Advisory Staff are: David Rice, Senior Staff Counsel, and Kurt Berchtold, Executive Officer. Members of the Prosecution Staff are: Ann Sturdivant, Hope Smythe, Alan Kuoch, Vanessa Young and Chuck Griffin.

Ex Parte Communications

The designated parties and interested persons are forbidden from engaging in *ex parte* communications regarding this matter with members of the Advisory Staff or members of the Santa Ana Water Board. An *ex parte* contact is any written or verbal communication pertaining to the investigation, preparation or prosecution of the ACL Complaint between a member of a designated party or interested party on the one hand, and a Santa Ana Water Board member or an Advisory Staff member on the other hand, unless the communication is copied to all other designated and interested parties or made at a proceeding open to all other parties and interested persons (if verbal). Communications regarding non-controversial procedural matters are not *ex parte* contacts and are not restricted. Communications among the designated and interested parties themselves are not *ex parte* contacts.

Requesting Designated Party Status

Persons who wish to participate in the hearing as a designated party, and not already listed above, shall request party status by submitting a request in writing (with copies to the designated parties) no later than 5 p.m. on **February 4, 2016**, to David Rice, State Water Resources Control Board, P.O. Box 100, Sacramento, CA, 95812. The request shall include an explanation of the basis for status as a designated party (e.g., how the issues to be addressed in the hearing and the potential actions by the Santa Ana Water Board affect the person) and a statement explaining why the party or parties designated above do not adequately represent the person's interest. The parties will be notified by 5 p.m. on **February 16, 2016**, as to whether the request has been granted or denied.

Hearing Time limits

To ensure that all participants have an opportunity to participate in the hearing, the following time limits shall apply: each designated party shall have 45 minutes to testify, present evidence, and cross-examine witnesses, and 5 minutes for closing statements, and each interested person shall have 3 minutes to present a non-evidentiary policy statement. Participants with similar interests or comments are requested to make joint presentations, and participants are requested to avoid redundant comments. Additional time may be provided at the discretion of the hearing officer upon a showing that additional time is necessary.

Written Evidence, Exhibits and Policy Statements

Designated parties shall submit in writing one paper copy and an electronic file (e.g., pdf via email or CD) of the following information to David Rice, at the above listed address and 9 paper copies and an electronic file to Ann Sturdivant, at the above listed addresses, no later than 5 p.m. as described herein:

1. All documentary evidence and exhibits proposed to be offered at the hearing.
2. All legal and technical arguments or analysis.

For the Prosecution Team's Initial Production: no later than 5 p.m. on **March 14, 2016**.
For the Dischargers and each Designated Party's Evidentiary Submission, no later than

5 p.m. on **March 23, 2016**. For the Prosecution's Rebuttal Submission, no later than 5 p.m. on **April 4, 2016**. For every evidentiary deadline, each designated party shall send one electronic copy of the above materials to each of the other designated parties at the address or addresses provided above by 5 p.m. on the deadline described above.

Interested persons may submit one (1) copy of non-evidentiary policy statements by the start of the hearing.

Evidentiary Objections

A designated party objecting to evidence proposed by another party must submit a written objection by 5 p.m. on **April 4, 2016**, to David Rice, State Water Resources Control Board, P.O. Box 100, Sacramento, CA, 95812, and in electronic format to david.rice@waterboards.ca.gov and a copy to all other designated parties. The Advisory Staff will notify the parties about further action to be taken on such objections.

Questions

Questions concerning this proceeding may be addressed to David Rice, State Water Resources Control Board, P.O. Box 100, Sacramento, CA, 95812; tel. (916) 341-5182, or by electronic mail, as indicated above.

IMPORTANT DEADLINES

January 25, 2016	ACLC and Proposed Hearing Procedures Issued by Prosecution Team
February 4, 2016	Objections due on draft Hearing Procedures; deadline for submission of request for designated party status
February 16, 2016	Advisory Team issues Final Hearing Procedures and Decision on request for designated party status
February 24, 2016	Dischargers' Deadline to submit waiver to right for hearing.
March 14, 2016	Prosecution Team's Deadline for submission of evidence and legal argument.
March 23, 2016	Dischargers' Deadline for submission of evidence and legal argument; Interested parties' deadline for submission of non-evidentiary policy statements.
April 4, 2016	Prosecution Team's deadline for submission of rebuttal evidence and legal argument.
April 4, 2016	Deadline for submission of evidentiary objections
April 8, 2016	Rulings on evidentiary objections, if any
April 22, 2016	Hearing Date

(PROPOSED)

Kurt Berchtold,
Executive Officer

DATE

7015 1520 0002 2646 5192
2675 9492 2000 025T 5T02

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee	\$ _____
Extra Services & Fees <i>(check box, add fee as appropriate)</i>	
<input type="checkbox"/> Return Receipt (hardcopy)	\$ _____
<input type="checkbox"/> Return Receipt (electronic)	\$ _____
<input type="checkbox"/> Certified Mail Restricted Delivery	\$ _____
<input type="checkbox"/> Adult Signature Required	\$ _____
<input type="checkbox"/> Adult Signature Restricted Delivery	\$ _____
Postage	\$ _____
Total Postage and Fees	\$ _____

Postmark
Here

AK

<i>Sent To</i> Edward Chambers Chem-Cal Engineering Co
<i>Street and Apt. No., or PO Box No.</i> 12722 Western Avenue
<i>City, State, ZIP+4®</i> Garden Grove, CA 92841

7015 1520 0002 2646 5185

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Postmark
Here

AK

Sent To	Edwards Chambers/Western Ave Associates LP.
Street and Apt. No., or PO Box No.	12722 Western Ave
City, State, ZIP+4®	Garden Grove, CA 92841