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## Santa Ana Regional Water Quality Control Board

November 16, 2021

Sun Express  
13866 Slover Avenue  
Fontana, California 92337  
(Via Certified Mail)

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Brenda Cash  
brenda@shipsun.com  
(Via Email)

**SETTLEMENT OFFER NO. R8-2021-0071: OFFER TO PARTICIPATE IN EXPEDITED PAYMENT PROGRAM RELATING TO VIOLATIONS OF THE GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITIES, ORDER NO. 2014-0057-DWQ AS AMENDED BY ORDER NO. 2015-0122-DWQ AND ORDER NO. 2018-0028-DWQ, NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM NPDES NO. CAS000001, FOR SUN EXPRESS, 13866 SLOVER AVENUE, FONTANA, WQID NO. 8 36I017479**

Dear Ms. Cash:

This letter is to notify Sun Express (hereinafter “Discharger” 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 Discharger to participate in the Santa Ana Regional Water Quality Control Board’s (Santa Ana Water Board) Expedited Payment Program for Reporting Violations to address mandatory minimum penalties that must be assessed pursuant to Water Code section 13399.31.

### **NOTICE OF VIOLATION:**

Based on information in the Storm Water Multiple Application & Report Tracking System (SMARTS), the Santa Ana Water Board alleges that the Discharger is in violation of the General Permit Associated with Industrial Activities within the Santa Ana Region, Order No. 2014-0057-DWQ, as amended by Order No. 2015-0122-DWQ and Order No. 2018-0028-DWQ, National Pollutant Discharge Elimination System (NPDES) Permit No. CAS000001 (Industrial General Permit), for failure to submit the 2020-2021 Annual

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LANA ONG PETERSON, CHAIR | JAYNE JOY, EXECUTIVE OFFICER

Report for the facility located at 13866 Slover Avenue in the City of Fontana. The Annual Report was due to the Santa Ana Water Board by July 15, 2021, as required by Section XVI of the Industrial General Permit. The Discharger failed to submit the facility's Annual Report by October 18, 2021, as required based on the Notices of Non-Compliance (NNCs) issued on August 16, 2021 and September 21, 2021. The 2020-2021 Annual Report has not been submitted by November 15, 2021. The Discharger will have the opportunity to address the alleged violations as discussed below.

#### **STATUTORY LIABILITY:**

Pursuant to Water Code section 13399.33(c)-(d), the Discharger is subject to a minimum penalty of not less than one thousand dollars (\$1,000) plus staff costs for failing to submit the required Annual Report in accordance with Water Code section 13399.31 within sixty (60) days after the first NNC was sent. The Discharger is also subject to discretionary administrative civil liabilities of up to ten thousand dollars (\$10,000) for each day in which the violation occurs. These minimum and discretionary administrative civil liabilities may be assessed by the Santa Ana Water Board beginning with the date that the violations first occurred. The formal enforcement action that the Santa Ana Water Board uses to assess such liability is an administrative civil liability complaint, although the Santa Ana Water Board may instead refer such matters to the Office of the Attorney General for prosecution. If referred to the Attorney General for prosecution, the Superior Court may assess up to twenty-five thousand dollars (\$25,000) per violation.

#### **DISCHARGER'S OPTIONS FOR RESPONSE TO OFFER:**

You have two options to respond as outlined below.

1. **Accept the Expedited Payment Program offer** by complying with the Order and agreeing to pay a settlement of **one thousand nine hundred and thirty six dollars (\$1,936)**. The minimum administrative civil liability pursuant to California Water Code section 13399.33(c) is \$1,000 per year of noncompliance or fraction thereof. Staff costs in this matter are \$936. This is a Conditional Offer subject to certain terms and conditions set forth below. If you choose this option, **you must sign and submit the enclosed Acceptance and Waiver form by December 16, 2021**. The form provides submittal instructions. Final closure on this action is only possible after ultimate submission of the settlement amount.

Please submit an original (blue ink) signed Acceptance and Wavier form to:

Keith L. Elliott, Inland Storm Water Unit  
Santa Ana Regional Water Quality Control Board  
3737 Main Street, Suite 500  
Riverside, CA 92501-3348

In response to the Conditional Offer and payment in settlement of this enforcement action, the Santa Ana Water Board will forego issuance of a formal administrative complaint, will not refer the violation to the Attorney General, and will waive its right to seek additional discretionary civil liabilities for the violations identified in the NNCs.

2. **Contest the non-filing violation** by submitting, in writing, the basis of your challenge with supporting evidence. For example, you may have evidence that you previously submitted your Annual Report, or you are no longer in business. If you choose this option, you must **submit your written documentation by December 16, 2021**. We will review your submission, and if we agree with you, we will notify you in writing that you are no longer considered in violation of the permit and that our enforcement action has been terminated. All responses should be directed to Keith Elliott.

If you do not respond in a manner described in the above options, the Santa Ana Water Board will prepare an administrative civil liability complaint for the violations cited in the NNCs. The liability amount sought in the administrative civil liability complaint and/or imposed by the Santa Ana Water Board may be higher than the liability amount set forth in this Conditional Offer. Moreover, additional staff costs associated with formal enforcement may be considered in the recommended liability amount in an administrative civil liability complaint.

#### **CONDITIONS FOR SANTA ANA WATER BOARD ACCEPTANCE OF RESOLUTION:**

If you accept the Expedited Payment Program offer, the settlement will be published in the following manner: Federal regulations require the Santa Ana Water Board to publish notice of, and to provide at least thirty (30) days for public comment on, any settlement of an enforcement action addressing NPDES permit violations (40 C.F.R. section 123.27(d)(2)(iii)). Upon receipt of the Discharger's Acceptance and Waiver and other requested technical reports on or before **December 16, 2021**, Santa Ana Water Board staff will publish a notice of the proposed resolution of the alleged violations.

If no comments are received within the notice period, the Santa Ana Water Board Executive Officer will execute the Acceptance and Waiver as a stipulated order assessing the uncontested penalty amount pursuant to Water Code section 13399.33. You will then be notified that payment is due within 30 days. Failure to pay the penalty within that time frame may result in further liability, referral of the matter to the Attorney General, and/or may void the offer to participate in this Expedited Payment Program.

If, however, significant comments are received in opposition to the settlement, this offer may be withdrawn. In that case, the Discharger's waiver pursuant to the Acceptance and Waiver will also be treated as withdrawn, and the violations will be addressed through a formal enforcement action.

This Expedited Payment Program offer does not address or resolve liability for any violation that is not specifically identified in the attached NNCs. The Santa Ana Water

Board reserves the right to pursue formal enforcement of any violations not specifically cited in the attached NNCs.

Should you have any questions about this Expedited Payment Program, please contact Keith Elliott via email at [Keith.Elliott@waterboards.ca.gov](mailto:Keith.Elliott@waterboards.ca.gov) regarding this matter.

Sincerely,

Ann Sturdivant, PG, CEG, CHG  
Supervising Engineering Geologist  
Chief, Groundwater Protection Division

enclosures:

Notice of Non-Compliance, dated August 16, 2021  
Notice of Non-Compliance, dated September 21, 2021  
Acceptance of Conditional Resolution and Waiver of Right to Hearing; (proposed)  
Order

# First Notice of Noncompliance

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## Santa Ana Regional Water Quality Control Board

August 16, 2021

Brenda Cash  
Sun Express  
13866 Slover Avenue  
Fontana, California 92335

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

**Notice of Noncompliance: Failure to Comply with the General Permit for Storm Water Discharges Associated with Industrial Activities, Order No. 2014-0057-DWQ, NPDES NO. CAS000001 (General Permit), Waste Discharge Identification 836I017479**

Dear Ms. Cash:

Regional Board records indicate that Sun Express is in violation of the General Permit. This facility is located at 13866 Slover Avenue in the City of Fontana and is identified by WDID:836I017479. Section XVI of the General Permit requires that an Annual Report be submitted by July 15 of each year via the online SMARTS database. Over 90% of regulated facilities comply with this requirement. Our records show that your annual report for the July 1, 2020 to June 30, 2021 reporting period is one of the few that have not been submitted.

We request that you submit a complete 2020-2021 Annual Report via the online SMARTS database no later than **September 16, 2021**.

The online SMARTS database is available at: <https://smarts.waterboards.ca.gov>

The following links are to assist you with the online SMARTS database system:

Main page for the SMARTS guides:

[https://www.waterboards.ca.gov/water\\_issues/programs/stormwater/smarts/industrial/industrial\\_help\\_guides.html](https://www.waterboards.ca.gov/water_issues/programs/stormwater/smarts/industrial/industrial_help_guides.html)

How to submit an Annual Report guide:

[https://www.waterboards.ca.gov/water\\_issues/programs/stormwater/docs/industrial/annual\\_report1920\\_smarts\\_helpguide.pdf](https://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/industrial/annual_report1920_smarts_helpguide.pdf)

How to submit an Ad Hoc (storm water sample) Report guide:

[https://www.waterboards.ca.gov/water\\_issues/programs/stormwater/docs/dischargers\\_guide\\_adhocreport.pdf](https://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/dischargers_guide_adhocreport.pdf)

You must also provide a statement along with the Annual Report as an Attachment. The statement must explain why the Annual Report was not submitted by the July 15 deadline and the measures you have taken to ensure timely submittals in the future.

Failure to submit the 2020-2021 Annual Report via the online SMARTS database may result in enforcement action, including civil monetary penalties of up to \$10,000 for each day of violation. Please note that Section 13399.33 of the California Water Code stipulates a minimum penalty of \$1,000 to those permittees that do not submit their annual reports after notification.

Should you need assistance in completing the Annual Report or have any questions relating to SMARTS, please contact the SMARTS Helpdesk at [stormwater@waterboards.ca.gov](mailto:stormwater@waterboards.ca.gov); or Keith Elliott at [keith.elliott@waterboards.ca.gov](mailto:keith.elliott@waterboards.ca.gov) or 951-782-4925.

Sincerely,



Adam Fischer, Chief  
Inland Stormwater Unit



**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

**Ms. Brenda Cash**

**Sun Express**

**13866 Slover Avenue**

**Fontana, California 92335**

**WDID: 836I017479**

**AppID: 213670**

**8/16/2021**



**9590 9402 1986 6123 8745 17**

2. Article Number (Transfer from service label)

**7016 2070 0000 6806 3996**

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X *[Handwritten Signature]*

Agent

Addressee

B. Received by (Printed Name)

*[Handwritten Name]*

C. Date of Delivery

*[Handwritten Date]*

D. Is delivery address different from item 1? If YES, enter delivery address below:

Yes

No



3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail

- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

all Restricted Delivery



# Second Notice of Noncompliance



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## Santa Ana Regional Water Quality Control Board

September 21, 2021

Ms. Brenda Cash  
Sun Express  
13866 Slover Avenue  
Fontana, California 92337

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

**Final Notice of Noncompliance: Failure to Comply with the General Permit for Storm Water Discharges Associated with Industrial Activities, Order No. 2014-0057-DWQ, NPDES NO. CAS000001 (General Permit), Waste Discharge Identification 8 36I017479**

Dear Ms. Cash:

**This is your second and final notice to submit the Annual Report** for the Sun Express facility located at 13866 Slover Avenue in the City of Fontana. This facility is identified in our records by WDID:8 36I017479. The first notice was dated and sent to you on August 16, 2021.

Section XVI of the General Permit requires that an Annual Report be submitted by July 15 of each year via the online SMARTS database. Our records show that your annual report for the July 1, 2020 to June 30, 2021 reporting period has not been submitted.

Sun Express is consequently in violation of provisions of Section XVI of the General Permit for failure to submit a complete 2020-2021 Annual Report.

We request that you submit a complete 2020-2021 Annual Report via the online SMARTS database no later than **October 18, 2021**.

**The online SMARTS database is available at: <https://smarts.waterboards.ca.gov>**

The following links are to assist you with the online SMARTS database system:

Main page for the SMARTS guides:

[https://www.waterboards.ca.gov/water\\_issues/programs/stormwater/smarts/industrial/in\\_dst\\_help\\_guides.html](https://www.waterboards.ca.gov/water_issues/programs/stormwater/smarts/industrial/in_dst_help_guides.html)

How to submit an Annual Report guide:

[https://www.waterboards.ca.gov/water\\_issues/programs/stormwater/docs/industrial/annual\\_report1920\\_smarts\\_helpguide.pdf](https://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/industrial/annual_report1920_smarts_helpguide.pdf)

How to submit an Ad Hoc (storm water sample) Report guide:

[https://www.waterboards.ca.gov/water\\_issues/programs/stormwater/docs/dischargers\\_guide\\_adhocreport.pdf](https://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/dischargers_guide_adhocreport.pdf)

You must also provide a statement along with the Annual Report as an Attachment. The statement must explain why the Annual Report was not submitted by the July 15 deadline and the measures you have taken to ensure timely submittals in the future.

Failure to submit the 2020-2021 Annual Report via the online SMARTS database may result in an enforcement action, including civil monetary penalties of up to \$10,000 for each day of violation. Please note that Section 13399.33 of the California Water Code stipulates a minimum penalty of \$1,000 to those permittees that do not submit their annual reports after notification.

Should you need assistance in completing the Annual Report or have any questions relating to SMARTS, please contact the SMARTS Helpdesk at [stormwater@waterboards.ca.gov](mailto:stormwater@waterboards.ca.gov); or Keith Elliott at [keith.elliott@waterboards.ca.gov](mailto:keith.elliott@waterboards.ca.gov) or 951-782-4925.

Sincerely,



Adam Fischer, Chief  
Inland Stormwater Unit



**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:  
 Ms. Brenda Cash  
 Sun Express  
 13866 Slover Avenue  
 Fontana, California 92337

WDID: 8361017479 9/21/21



9590 9402 1986 6123 8731 76

2. Article Number (Transfer from service label)

7012 0470 0002 5060 0929

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  
 X *C19 R+14*  Agent  Addressee

B. Received by (Printed Name)  
 C. Date of Delivery  
 9/23

D. Is delivery address different from item 1?  Yes  No  
 If YES, enter delivery address below:



3. Service Type
- Priority Mail Express®
  - Adult Signature
  - Adult Signature Restricted Delivery
  - Certified Mail®
  - Certified Mail Restricted Delivery
  - Collect on Delivery
  - Collect on Delivery Restricted Delivery
  - Registered Mail™
  - Registered Mail Restricted Delivery
  - Return Receipt for Merchandise
  - Signature Confirmation™
  - Signature Confirmation Restricted Delivery
- CR19QCB*  
*Santa Ana Post Office*

# Acceptance of Conditional Resolution and Waiver of Right to Hearing



**ACCEPTANCE OF CONDITIONAL RESOLUTION AND WAIVER OF RIGHT TO  
HEARING: (Proposed) ORDER**

Sun Express  
Settlement Offer No. R8-2021-0071  
WDID No. 8 36I017479

By signing below and returning this Acceptance of Conditional Resolution and Waiver of Right to Hearing (Acceptance and Waiver) to the Santa Ana Regional Water Quality Control Board (Santa Ana Water Board), Sun Express (Discharger) hereby accepts the "Offer to Participate in Expedited Payment Program" and waives the right to a hearing before the Santa Ana Water Board to dispute the violations described in the Notices of Non-Compliance (NNCs) which are attached and incorporated herein by reference.

The Discharger agrees that the Expedited Payment Program Offer shall serve as a complaint pursuant to Article 2.5 of the California Water Code and that no separate complaint is required for the Santa Ana Water Board to assert jurisdiction over the alleged violations through its Chief Prosecutor. The Discharger agrees to pay the administrative civil liability authorized by California Water Code sections 13399.31 and 13399.33, in the sum of \$1,936 (Expedited Payment Amount) which shall be deemed payment in full of any civil liability pursuant to California Water Code section 13399.33 that otherwise might be assessed for the violations described in the NNCs.

The Discharger understands that this Acceptance and Waiver waives its right to contest the allegations in the NNCs and the amount of civil liability for such violations. The Discharger understands that this Acceptance and Waiver does not address or resolve liability for any violation that is not specifically identified in the NNCs.

Upon Execution by the Discharger, the completed Acceptance and Waiver should be mailed to the following:

Keith Elliott, Inland Storm Water Unit  
Expedited Payment Letter  
Santa Ana Regional Water Quality Control Board  
3737 Main Street, Suite 500  
Riverside, CA 92501

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



If no comments are received within the notice period that causes the Santa Ana Water Board Executive Officer to question the Expedited Payment Amount, the Santa Ana Water Board Executive Officer will execute the Acceptance and Waiver.

The Discharger understands that if significant comments are received in opposition to the Expedited Payment Amount, the offer on behalf of the Santa Ana Water Board to resolve the violations set forth in the NNCs may be withdrawn. In that circumstance, the Discharger will be advised of that withdrawal, and an administrative civil liability complaint may be issued, and the matter may be set for a hearing before the Santa Ana Water Board. In the event that this matter proceeds to hearing, the Discharger understands that this Acceptance and Waiver executed by the Discharger will be treated as a settlement communication and will not be used as evidence in that hearing.

The Discharger further understands that once this Acceptance and Waiver is executed by the Santa Ana Water Board Executive Officer, the full payment required by the deadline set forth below is a condition of this Acceptance and Waiver. In accordance with California Water Code section 13399.37(a), funds collected for violations pursuant to sections 13399.33(c) and 13399.33(d) shall be deposited in the Waste Discharge Permit Fund. Accordingly, the \$1,936 liability including staff costs shall be paid by a cashiers or certified check made out to the "State Water Resources Control Board" referencing this Order number for deposit into the Waste Discharge Permit Fund. The payment must be submitted to the State Water Resources Control Board no later than thirty (30) calendar days after the date the Acceptance and Waiver is executed by the Santa Ana Water Board Executive Officer.

Please mail check to:

State Water Resources Control Board  
Re: Order No. R8-2021-0071  
Division of Administrative Services, Accounting Branch  
1001 I Street, 18<sup>th</sup> Floor, 95814  
P.O. Box 1888  
Sacramento, CA 95812-1888

I hereby affirm that I am duly authorized to act on behalf of and to bind the Discharger in the making and giving of this Acceptance and Waiver.

Sun Express

By: \_\_\_\_\_  
(Signed Name) (Date)

\_\_\_\_\_  
(Printed or Typed Name) (Title)

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

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Jayne E. Joy, PE  
Executive Officer