



Santa Ana Regional Water Quality Control Board

March 11, 2024

Extra Space Storage, Inc.
2795 E Cottonwood Pkwy, Suite 300
Salt Lake City, UT 84121
(Via Certified Mail)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James Golden
jgolden@extraspace.com
(Via Email)

1505 Corporation
CT Corporation System Agent for Service of Process for Extra Space Storage, Inc.
330 North Brand Boulevard
Glendale, CA 91203
(Via Certified Mail)

CONDITIONAL SETTLEMENT OFFER NO. R8-2024-0033 TO PARTICIPATE IN EXPEDITED PAYMENT PROGRAM RELATING TO VIOLATIONS OF THE GENERAL PERMIT FOR STORMWATER DISCHARGES ASSOCIATED WITH CONSTRUCTION AND LAND DISTURBANCE ACTIVITIES (ORDER NO. 2022-0057-DWQ, NPDES NO. CAS000002) (GENERAL PERMIT)

Dear Mr. Golden:

This letter is to notify Extra Space Storage, Inc. (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 the opportunity 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 13399.33.

NOTICE OF VIOLATION:

Based on information in the Stormwater Multiple Application & Report Tracking System (SMARTS), the Santa Ana Water Board Prosecution Team (Prosecution Team) alleges that the Discharger is in violation of the General Permit Associated with Construction and Land Disturbance Activities, Order No. 2022-0057-DWQ, National Pollutant Discharge Elimination System (NPDES) Permit No. CAS000002 (General Permit), for failure to obtain permit coverage for construction activities located at 3190 Pullman Street, in the

KRISTINE MURRAY, CHAIR | JAYNE JOY, EXECUTIVE OFFICER

3737 Main Street, Suite 500, Riverside, CA 92501-3348 | www.waterboards.ca.gov/santaana

City of Costa Mesa. You failed to obtain permit coverage as required by the Water Code and as indicated in the Notices of Non-Compliance (NNCs) issued on November 27, 2023 and December 27, 2023. Per the United States Postal Service website, the certified mail was delivered on November 30, 2023 and December 30, 2023, respectively. The Discharger submitted their Notice of Intent (NOI) to obtain coverage under the General Permit on January 29, 2024, four (4) days after the final deadline of January 25, 2024. The Discharger will have the opportunity to address the alleged violations as discussed below.

STATUTORY LIABILITY:

Pursuant to Water Code section 13399.33(a)(1), the Discharger is subject to a mandatory minimum penalty of not less than five thousand dollars (\$5,000) plus staff costs for failing to submit the required NOI in accordance with Water Code section 13399.30 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 Prosecution Team beginning with the date that the violations first occurred. The formal enforcement action that the Prosecution Team uses to assess such liability is an administrative civil liability complaint (ACLC), although the Prosecution Team may instead refer such matters to the Attorney General's Office for prosecution. If referred to the Attorney General for prosecution, the Superior Court may assess up to twenty-five thousand dollars (\$25,000) per violation.

DISCHARGER'S OPTIONS FOR RESPONSE TO OFFER:

You have two options to respond as outlined below.

1. **Accept the Conditional Settlement Offer**, waive your right to a board hearing, and pay a settlement amount of **six thousand one hundred and seventy dollars (\$6,170)**. The minimum administrative civil liability pursuant to California Water Code section 13399.33(a)(1) is \$5,000 per year of noncompliance or fraction thereof. Staff costs in this matter are \$1,170. This is a Conditional Settlement Offer subject to certain terms and conditions set forth below. If you chose this option, **you must sign and submit the enclosed Acceptance and Waiver form by April 9, 2024**. 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:

Steven Stephansen, General Stormwater Unit
Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501-3348

In response to the Conditional Settlement Offer and payment in settlement of this enforcement action, the Prosecution Team 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 permit coverage, or you are no longer in business. If you choose this option, you must submit your written documentation by April 9, 2024. The Prosecution Team 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 Steven Stephansen.

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

CONDITIONS FOR REGIONAL BOARD ACCEPTANCE OF RESOLUTION

If you accept the Conditional Settlement 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 April 9, 2024, the Prosecution Team will publish a notice of the proposed resolution of the alleged violations.

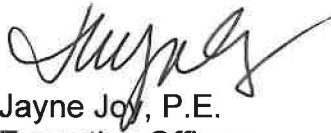
If no comments are received within the notice period, the Santa Ana Water Board Assistant Executive Officer will execute the Acceptance and Waiver as a stipulated order assessing the uncontested penalty amount pursuant to Water Code section 13399.33. You will then be notified that payment is due within thirty (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 Conditional Settlement 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 Conditional Settlement Offer, please contact Steven Stephansen via phone at (951) 320-2027 or via email at Steven.Stephansen@waterboards.ca.gov.

Sincerely,



Jayne Joy, P.E.
Executive Officer
Santa Ana Water Board Prosecution Team

enclosures: Notice of Non-Compliance, dated November 27, 2023
Notice of Non-Compliance, dated December 27, 2023

cc: Orange County, NPDES Coordinator – James Fortuna
City of Costa Mesa, NPDES Coordinator – Seung Yang
Venable LLP – Jeffrey Harlan



Santa Ana Regional Water Quality Control Board

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

Extra Space Storage, Inc.
Settlement Offer No. R8-2024-0033

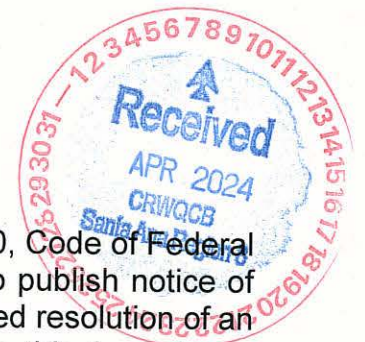
By signing below and returning this Acceptance of Conditional Resolution and Waiver of Right to a Board Hearing (Acceptance and Waiver) to the Santa Ana Regional Water Quality Control Board (Santa Ana Water Board) Prosecution Team, Extra Space Storage, Inc. (Discharger) hereby accepts the "Offer to Participate in Expedited Payment Program" and waives the right to a hearing before the Santa Ana Water Board to dispute the violations pursuant to California Water Code section 13385.

The Discharger agrees that the Conditional Settlement 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 section 13385, in the sum of \$6,170 (Expedited Payment Amount) which shall be deemed payment in full of any civil liability pursuant to California Water Code section 13385 that otherwise might be assessed for the violations described.

The Discharger understands that this Acceptance and Waiver waives its right to contest the violations 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.

Upon Execution by the Discharger, submit the completed Acceptance and Waiver to:

Steven Stephansen, General Stormwater Unit
Conditional Settlement Offer
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 Prosecution Team to publish notice of and provide at least thirty (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 Assistant Executive Officer, will be published as required by law for public comment.

KRISTINE MURRAY, CHAIR | JAYNE JOY, EXECUTIVE OFFICER

If no comments are received within the notice period, the Prosecution Team will present this Order to the Santa Ana Water Board Assistant Executive Officer to execute the Acceptance and Waiver.


The Discharger understands that if significant comments are received in opposition to the Conditional Settlement Offer, the offer on behalf of the Santa Ana Water Board to resolve the violations 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 Assistant Executive Officer, the full payment required by the deadline set forth below is a condition of this Acceptance and Waiver. In accordance with California Water Code section 13385, subdivision (n) funds collected for violations pursuant to section 13385 shall be deposited in the Waste Discharge Permit Fund, the \$6,170 liability 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 Assistant Executive Officer.

Please mail check to:

State Water Resources Control Board
Re: Order No. R8-2024-0033
Division of Administrative Services, Accounting Branch
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.

~~Extra Space Storage, Inc.~~ Life Storage LP
By:  4/5/24
(Signed Name) (Date)
Erin G McNeal Manager
(Printed or Typed Name) (Title)

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

By: _____
Eric Lindberg, P.G., C.H.G.
Assistant Executive Officer