State of California
Regional Water Quality Control Board
Santa Ana Region

IN THE MATTER OF:	)	
	)	
Mr. Marco Velastegui	)	Complaint No. R8-2003-0075
9352 Winterwood Circle	)	for
Huntington Beach, CA 92646	)	Mandatory Penalties
	)	
	)	

YOU ARE HEREBY GIVEN NOTICE THAT:

1. You are alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (Board) must impose mandatory penalties pursuant to California Water Code (Water Code) Section 13385(h) and (i).

2. A hearing concerning this Complaint is scheduled for the Board's regular meeting on August 22, 2003. You or your representatives will have an opportunity to appear and be heard and to contest the allegations in this complaint and the imposition of mandatory penalties by the Board. An agenda for the meeting and the staff report related to the Complaint will be mailed to you not less than 10 days prior to the hearing date.

3. If a hearing is held, the Board will consider whether to affirm, reject or modify the proposed mandatory penalties or whether to refer this matter to the Attorney General for recovery of judicial civil liability.

4. This complaint is based on the following facts:

   a. On January 23, 2002, the Board adopted Waste Discharge Requirements, Order No. R8-2002-0007 (NPDES No. CAG918001), General Groundwater Cleanup Permit. On May 29, 2002, you were authorized to discharge treated water from your groundwater cleanup system at the former Mobil gasoline and service station at 19501 Beach Boulevard in Huntington Beach and were required to monitor the discharge in accordance with Monitoring and Reporting Program No. R8-2002-0007-011.

   b. Your consultant, Applied Environmental Technologies, submitted self-monitoring reports (July 2002 through March 2003) that show effluent limit violations of methyl tertiary butyl ether and total petroleum hydrocarbons. These violations are summarized in Attachment "A" that is Page 3 of this complaint.

5. Water Code Section 13385(h) and (i) requires the Board to assess a mandatory minimum penalty of three thousand dollars ($3,000) for each serious and/or other specific types of violations.

6. As shown in Attachment "A", you had a total of five violations between July 1, 2002 and January 31, 2003. All of these violations, except the total petroleum hydrocarbons (TPH)-gasoline violation, are considered serious violations.

7. The four serious violations are subject to a mandatory minimum penalty of $3,000 per violation. In accordance with Water Code Section 13385(h) and (i), the mandatory minimum penalties for the four effluent limit violations cited in Attachment "A" are $12,000.

8. In addition, the Board may also assess administrative civil liability of $10,000 per day for each day of violation and $10 per gallon for each gallon discharged in excess of 1,000 gallons in accordance with Water Code Section 13385(c). The maximum administrative civil liability that may be imposed for these violations is $146,320 ($20,000 for two days of violation and $126,320 based on 13,632-1,000=12,632 gallons @ $10 per gallon).

9. The Executive Officer proposes that the mandatory minimum penalties of $12,000 be imposed by the Board for the violations cited above.

10. You may waive your right to a hearing. If you wish to waive your right to a hearing, please sign the attached waiver form and return it together with a check for $12,000 payable to the State Water Resources Control Board and the bottom portion of the invoice to Sacramento in the enclosed envelope.

If you have any questions regarding this complaint, please contact Ken Williams at (909) 782-4496 or Michael Adackapara at (909) 782-3238, or the Board's staff counsel, Jorge Leon, at (916) 341-5180.

7/21/03

Date

Gerard J. Thibeault
Executive Officer

ATTACHMENT "A"

TABLE 1. EFFLUENT LIMIT VIOLATIONS

VIOLATION DATE	DISCHARGE FLOW Gallons Per Day	MTBE EFFLUENT LIMIT Daily Maximum in µg/l	MTBE DISCHARGE (µg/l)
09/09/2002	7,295	20.2	90.5
12/30/2002	6,337	20.2	45.7

VIOLATION MONTH	CONSTITUENT OF CONCERN	EFFLUENT LIMIT Monthly Average in µg/l	DISCHARGE Monthly Average (µg/l)
September 2002	TPH-gasoline	100	120
September 2002	MTBE	13	90.5
December 2002	MTBE	13	45.7

California Regional Water Quality Control Board
Santa Ana Region

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Huntington Beach, CA 92646	)	Mandatory Penalties
	)	
	)	

WAIVER OF HEARING

I agree to waive my right to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the violations alleged in Complaint No. R8-2003-0075. I have enclosed a check for $12,000 made payable to the State Water Resources Control Board. I understand that I am giving up my right to be heard and to argue against allegations made by the Executive Officer in Complaint No. R8-2003-0075, and against the imposition of, and amount of, the mandatory penalties.

_____ _____

Date Mr. Marco Velastegui

State Water Resources Control Board

Winston H. Hickox
Secretary for Environmental Protection

The energy challenge facing California is real.
Every Californian needs to take immediate action to reduce energy consumption.
For a list of simple ways you can reduce demand and cut your energy costs, see our website at http://www.swrcb.ca.gov

Gray Davis
Governor

To:
VELASTEGUI, MARCO
PO BOX 5293
HUNTINGTON BEACH, CA 92615
ATTN: MARCO VELASTEGUI

Invoice No: 35359
Invoice Date: 07/21/2003
Enforcement Action ID: 72341
Enforcement Order No: R8-2003-0075

INVOICE

Milestone ID	Description	Amount	Due Date
47978	LIABILITY AMOUNT	$12,000.00	08/21/2003
	TOTAL AMOUNT DUE	**$12,000.00**	

California Environmental Protection Agency

Recycled Paper

Retain above portion for your records

Please return bottom portion with your payment

VELASTEGUI, MARCO
PO BOX 5293
HUNTINGTON BEACH, CA 92615
ATTN: MARCO VELASTEGUI

Milestone ID	Description	Amount	Due Date
47978	LIABDUE	$12,000.00	08/21/2003
	TOTAL AMOUNT DUE	**$12,000.00**	

Make your check payable to:
State Water Resources Control Board

Mail payment to:
SWRCB ACCOUNTING
ATTN: ENFORCEMENT
P. O. Box 100
SACRAMENTO, CA 95812-0100

Amount Enclosed: $_____

PLEASE PRINT THE FOLLOWING INVOICE NUMBER ON YOUR CHECK: **35359**

Invoice Date: 07/21/2003
Enforcement Action ID: 72341
Enforcement Order No.: R8-2003-0075

California Regional Water Quality Control Board

Santa Ana Region

Winston H. Hickox
Secretary for Environmental Protection

Internet Address: http://www.swrcb.ca.gov/rwqcb8
3737 Main Street, Suite 500, Riverside, California 92501-3339
Phone (909) 782-4130 ∃ FAX (909) 781-6288

Gray Davis
Governor

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website at www.swrcb.ca.gov/rwqcb8.

July 21, 2003

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Marco Velastegui
9352 Winterwood Circle
Huntington Beach, CA 92646

MANDATORY PENALTIES COMPLAINT NO. R8-2003-0075 – FOR VIOLATIONS OF WASTE DISCHARGE REQUIREMENTS ORDER NO. R8-2002-0007 (NPDES NO. CAG918001) FOR MR. MARCO VELASTEGUI'S GROUNDWATER CLEANUP SYSTEM AT THE FORMER MOBIL STATION AT 19501 BEACH BOULEVARD, HUNTINGTON BEACH

Dear Mr. Velastegui:

Enclosed is a certified copy of Mandatory Penalties Complaint (MPC) No. R8-2003-0075. The complaint is in response to violations of effluent limitations specified in waste discharge requirements, Order No. R8-2002-007. The complaint is issued pursuant to California Water Code Section 13385 (h) and (i) and proposes the assessment of a penalty of $12,000 for the four serious violations that occurred between July 2002 and January 2003.

Consideration of this Complaint is scheduled for the Board's August 22, 2003 regular meeting at the Orange County Water District office at 10500 Ellis Avenue in Fountain Valley, CA. The staff report regarding this complaint and a meeting agenda will be mailed to you no less than 10 days prior to the hearing.

You have the option to waive your right to a hearing. Should you decide to waive your right to a hearing and pay the proposed assessment, please sign the enclosed waiver form and submit it to Sacramento with the bottom portion of the invoice, and a check for $12,000 made out to the State Water Resources Control Board in the enclosed preprinted envelope. Should you decide to waive your right and pay the proposed assessment, the Regional Board will not hold a public hearing on this matter.

If you do not wish to waive your right to a hearing, a pre-hearing meeting with Board staff is recommended. Should you wish to schedule a pre-hearing meeting, please contact us prior to August 1, 2003. At that time, you may submit information that may not have been previously available to staff regarding this violation. This information should address the accuracy of the findings in the complaint.

If you have any questions, please call Ken Williams or Rose Scott of my staff, at (909) 782–4496 and (909) 320-6375, respectively. All legal questions should be referred to our legal counsel, Jorge Leon, at (916) 341-5180.

Sincerely,

Gerard J. Thibeault
Executive Officer

Enclosure: Complaint No. R8-2003-0075, Waiver form, Invoice, Pre-printed envelope

cc: w/enclosure

Regional Board
U.S. EPA - CWA Compliance Office (WTR-7), Kathi Moore
State Water Resources Control Board – Office of the Chief Counsel, Jorge Leon
State Water Resources Control Board – Division of Water Quality, UST Chief