



Santa Ana Regional Water Quality Control Board

March 21, 2024

Beyond Food Mart, Inc.
4300 Edison Avenue
Chino, CA 91710
(Via Certified Mail)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mark Sater
Mark@BeyondFoodMart.com
(Via Email)

Mark Sater
Agent for Service of Process for Beyond Food Mart, Inc.
4300 Edison Avenue
Chino, CA 91710
(Via Certified Mail)

CONDITIONAL SETTLEMENT OFFER NO. R8-2024-0024 TO PARTICIPATE IN EXPEDITED PAYMENT PROGRAM RELATING TO VIOLATIONS OF THE GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITIES (ORDER NO. 2009-0009-DWQ, NPDES NO. CAS000002) FOR BEYOND FOOD MART, INC., 835 EAST NUEVO ROAD, PERRIS, WDID NO. 8 33C393281

Dear Mr. Sater,

This letter is to notify Beyond Food Mart, 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 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 Stormwater Multiple Application & Report Tracking System (SMARTS), the Santa Ana Water Board alleges that the Discharger is in violation of the General Permit Associated with Construction and Land Disturbance Activities, Order No. 2009-0009-DWQ, National Pollutant Discharge Elimination System (NPDES) Permit No. CAS000002 (General Permit), for the failure to submit the 2022-2023 Annual Report for the construction site located at 835 East Nuevo Road in the City of Perris. The Annual Report was due to the Santa Ana Water Board by September 1, 2023, as required by

KRISTINE MURRAY, CHAIR | JAYNE JOY, EXECUTIVE OFFICER

Section XVI.A of the General Permit. The Discharger failed to submit the construction site's Annual Report by September 1, 2023 as required based on the Notices of Non-Compliance (NNCs) issued on September 18, 2023 and October 18, 2023. The Discharger submitted the 2022-2023 Annual Report on November 17, 2023, one (1) day after the final deadline of November 16, 2023. 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 (ACLC), 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 Conditional Settlement Offer**, waive your right to a board hearing, and pay a settlement of **one thousand five hundred and eighty-eight dollars (\$1,588)**. The minimum administrative civil liability pursuant to California Water Code section 13399.33(c) is \$1,000 for failure to submit an annual report. Staff costs in this matter are \$588. This is a Conditional Settlement 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 April 19, 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:

Michelle Beckwith, 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 Santa Ana Water Board 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 your Annual Report, or you are no longer in business. If you choose this option, you must **submit your written documentation by April 19, 2024**. The Santa Ana Water Board 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 Tavish Sturdivant.

If you do not respond in a manner described in the above options, the Santa Ana Water Board Prosecution Team will prepare an ACLC for the violations 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 SANTA ANA WATER 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 19, 2024**, 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 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 Michelle Beckwith via email at Michelle.Beckwith@waterboards.ca.gov or via phone at (951) 782-4433.

Sincerely,



Eric Lindberg, P.G., C.H.G.
Assistant Executive Officer
Santa Ana Water Board Prosecution Team

enclosures:

Notice of Non-Compliance, dated September 18, 2023

Notice of Non-Compliance, dated October 18, 2023

Acceptance of Conditional Resolution and Waiver of Right to Hearing; (proposed)
Order



Santa Ana Regional Water Quality Control Board

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

Beyond Food Mart, Inc. (WDID No. 8 33C393281)
Settlement Offer No. R8-2024-0024

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), Beyond Food Mart 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 described in the Notices of Non-Compliance (NNCs) which are attached and incorporated herein by reference.

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 sections 13399.31 and 13399.33, in the sum of \$1,588 (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, submit the completed Acceptance and Waiver to:

Michelle Beckwith, General Stormwater Unit
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 Conditional Settlement 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 \$1,588 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
Division of Administrative Services, Accounting Branch
Re: Order No. R8-2024-0024
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.

Beyond Food Mart, Inc.

By: 
(Signed Name)
MARK SATER
(Printed or Typed Name)

7/9/24
(Date)
CEO
(Title)

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

By: _____
Jayne E. Joy, P.E.
Executive Officer

9589 0710 5270 0843 5729 21

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<input type="checkbox"/> Adult Signature Required	\$ _____
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BEYOND FOOD MART INC
4300 EDISON AVE
CHINO CA 91710

8 33C393281
MRB, NP

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\$ BEYOND FOOD MART INC
 \$ MARK SATER AGENT FOR SERVICE OF
 \$ PROCESS FOR BEYOND FOOD MART INC
 \$ 4300 EDISON AVE
 \$ CHINO CA 91710

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

8 33C393281
MRB, NP



Santa Ana Regional Water Quality Control Board

September 18, 2023

Beyond Food Mart Inc
4300 Edison Ave
Chino, California 91710

CERTIFIED MAIL
RETURN RECEIPT REQUIRED
9589 0710 5270 0881 3296 31

Mark Sater
mark@beyondfoodmart.com

NOTICE OF NON-COMPLIANCE: FAILURE TO COMPLY WITH THE GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH CONSTRUCTION AND LAND DISTURBANCE ACTIVITIES (ORDER NO. 2009-0009-DWQ, NPDES NO. CAS000002) (GENERAL PERMIT), WDID No. 8 33C393281

Dear Mark Sater:

Your construction site located at 835 E Nuevo Rd, in the city of Perris, is regulated under the General Permit and is identified by WDID No. 8 33C393281. Section XVI.A of the General Permit requires that you prepare and electronically submit an annual report by September 1st of each year. According to our records, we have not received your 2022-2023 annual report.

Currently, you are in violation of the General Permit, the California Water Code, and the federal Clean Water Act for failure to submit a complete 2022-2023 annual report. We request that you submit a complete 2022-2023 annual report via the Stormwater Multiple Application and Report Tracking System (SMARTS) no later than **October 17, 2023**. Help guides related to SMARTS are available [here](#).

Failure to submit the requested information will result in further enforcement action, which may include 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 mandatory minimum penalty of \$1,000 to those permittees that do not submit their annual report after notification.

If you need assistance in completing the annual report, please contact the SMARTS Help Desk at Stormwater@waterboard.ca.gov. If you have any questions specific to your site, please contact Karina Jhaj via email at karina.jhaj@waterboards.ca.gov or via phone at (951) 782-3286.

Sincerely,

Michelle R. Beckwith, Supervisor
Senior Environmental Scientist
General Stormwater Unit

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<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	\$ _____

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Total Po
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 4300 Edison Ave
 Chino, California 91710

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 City, Sta _____

PS Form _____ See reverse for instructions

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- Adult Signature Required \$ _____
- Adult Signature Restricted Delivery \$ _____

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Total Po

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Beyond Food Mart Inc
4300 Edison Ave
Chino, California 91710

Street or

City, Sta

PS Form

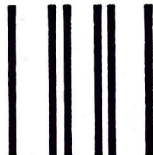
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Permit No. G-10

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Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box

CA REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION
3737 MAIN STREET, SUITE 500
RIVERSIDE, CA 92501-3348



8 33C393281 - KJ

334825



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- 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:

Beyond Food Mart Inc
4300 Edison Ave
Chino, California 91710



9590 9402 8150 3030 2881 56

2. Article Number (Transfer from service label)

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COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Agent

Addressee

B. Received by (Printed Name)

Ralph McMillan

C. Date of Delivery

9/20/23

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

Yes

No

3. Service Type

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- Certified Mail Restricted Delivery
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Santa Ana Regional Water Quality Control Board

October 18, 2023

Beyond Food Mart Inc
4300 Edison Ave
Chino, California 91710

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Mark Sater
mark@beyondfoodmart.com

NOTICE OF NON-COMPLIANCE: FAILURE TO COMPLY WITH THE GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH CONSTRUCTION AND LAND DISTURBANCE ACTIVITIES (ORDER NO. 2009-0009-DWQ, NPDES NO. CAS000002) (GENERAL PERMIT), WDID No. 8 33C393281 SECOND NOTICE

Dear Mark Sater:

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This is your second and final notice. The first notice was sent on September 18, 2023, and to date, we have not received an adequate response to that notice. Please note that Section 13399.33 of the California Water Code stipulates a mandatory minimum penalty of \$1,000 to those permittees that do not submit their annual reports. Further enforcement action, including civil monetary penalties of up to \$10,000 for each day of violation, may result.

If you need assistance in completing the annual report, please contact the SMARTS Help Desk at Stormwater@waterboards.ca.gov. If you have any questions specific to your site, please contact Karina Jhaj via email at karina.jhaj@waterboards.ca.gov or via phone at (951) 782-3286.

Sincerely,

Michelle R. Beckwith, Supervisor
Senior Environmental Scientist
General Stormwater Unit

KRISTINE MURRAY, CHAIR | JAYNE JOY, EXECUTIVE OFFICER

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- Print your name and address on the reverse so that we can return the card to you.
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1. Article Addressed to:

Beyond Food Mart Inc
 4300 Edison Ave
 Chino, California 91710



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2. Article Number (Transfer from service label)

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COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

- Agent
- Addressee

B. Received by (Printed Name)

Daniel Kim

C. Date of Delivery

10/20/23

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

3. Service Type

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- Collect on Delivery Restricted Delivery
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- Signature Confirmation™
- Signature Confirmation Restricted Delivery

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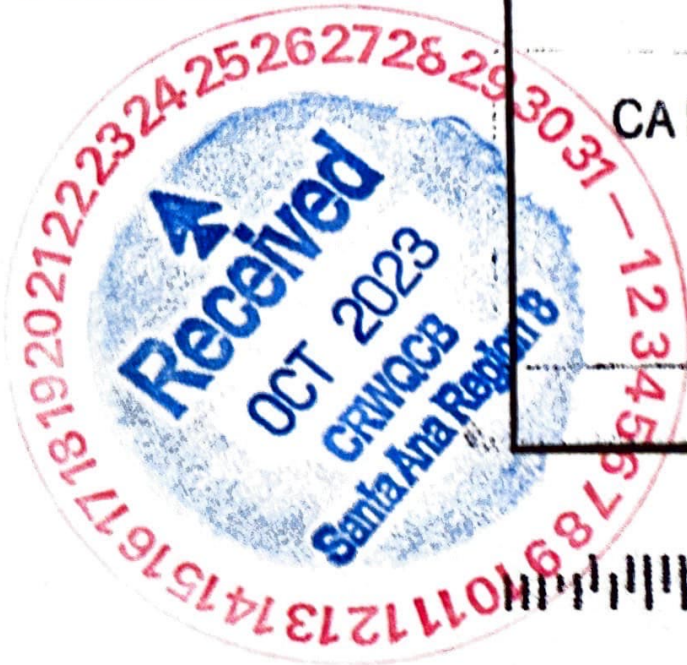
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Permit No. G-10

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8 33C393281-KJ

