



Serving Sutter and Yuba Counties

541 Washington Avenue
Yuba City, CA 95991
(530) 634-7659
FAX (530) 634-7660
www.fraqmd.org

Christopher D. Brown, AICP
Air Pollution Control Officer

November 30, 2018

CERTIFIED LETTER: 7017 3040 0000 4073 4826

RECEIVED
NOV 30 4 07 PM '18
BY: _____

Mr. John Tillotson
Olivehurst Public Utility District
P.O. Box 670
Olivehurst, CA 95961

**RE: NOTICE OF VIOLATION #KS-18-12-Y AND SETTLEMENT AGREEMENT #KS 18-12
OPEN BURN – 3908 MARY AVENUE, OLIVEHURST, CA 95961**

Dear Mr. Tillotson,

The District issued Notice of Violation (NOV) #KS-18-12-Y (enclosed) for alleged violations of District Rules 2.F.1, 2.H.1, 2.I.1, 2.I.6, 2.I.7, 2.I.11, 2.J.6, and California Health and Safety Code (HSC) Section 41800. Specifically the NOV documented the illegal disposal by open burning prohibited materials including transported vegetation, plastic and concrete sump containers, furniture, mattress, garbage, processed and painted wood, and plastic buckets on November 21, 2018, a No-Burn day, without authorization, and without permit. The fire was attended by the fire department and extinguished.

Under District Rule 2.F.3, the cost of putting out the fire may be charged to the person responsible for the fire and is in addition to any other penalties that are authorized by Section 42400 through 42404 of the California Health and Safety Code and provisions of these Rules and Regulations.

California Health and Safety Code Sections 42402, 42402.1, 42402.2 or 42402.3 provide for civil penalties ranging from \$5,000 to \$75,000 per day per violation. Based upon the allegations contained in the NOV, the maximum penalty which could be imposed for this violation is fifty-five thousand (\$55,000) dollars. A copy of these statutes is enclosed for your reference.

The District has a policy of attempting to resolve violations whenever possible. Violations are reviewed by the Compliance Division of the District and, when appropriate, referred to the District's Mutual Settlement Program. Under this program, the NOV is resolved by mutual agreement for a specified amount.

Based upon a review of this NOV, you are eligible to participate in this program. Should you choose to participate, the NOV would be resolved by way of a written settlement agreement for the total sum of \$5,879.00. That amount would be due and payable upon execution of the agreement. Under the terms of the agreement, the District would be precluded from seeking additional penalties for these alleged violations.

If you are interested in participating in the program but disagree with the amount set forth above, you may call me at (530) 634-7659 ext. 205 to discuss the NOV and provide any mitigating factors which you would like the District to consider. You may also request a copy of the Mutual Settlement Program Policy provisions for resolution.

If you are in agreement with the amount set forth above, the terms and conditions under which the District is willing to resolve this NOV are as follows:


The FEATHER RIVER AIR QUALITY MANAGEMENT DISTRICT (DISTRICT) and JOHN TILLOTSON representing the OLIVEHURST PUBLIC UTILITY DISTRICT (OPUD) hereby agree that Notice of Violation (NOV) #KS-18-12-Y shall be resolved under the following terms and conditions.

1. The above-listed NOV shall be settled for the total amount of five thousand eight hundred seventy-nine (\$5,879) dollars. That amount shall be paid to the District upon execution of this agreement;
2. If any of the terms of this Mutual Settlement Agreement are breached, enforcement action may commence notwithstanding any of the terms of the Agreement;
3. Nothing in this Agreement shall prevent the DISTRICT from enforcing any subsequent violation of DISTRICT Rules or any violation of State or Federal air pollution control laws;
4. DISTRICT may consider evidence of the alleged violation, including this settlement, in connection with any petition for variance, permit revocation, or abatement order before the District Hearing Board; and,
5. Nothing in this agreement shall relieve OPUD of the responsibility to comply with all DISTRICT Rules in the future.

This offer shall remain open until close of business on **January 18, 2019**, at which time the offer will be revoked and the matter will be submitted to District counsel for further action. If you elect to participate in this program and resolve the NOV under the terms and conditions outlined in this letter, please sign and return this letter to the District together with a check in the amount of \$5,879 made payable to FRAQMD.

Alternatively, you may pay with a credit card on-line by visiting the District's website at www.fraqmd.org and following the link under the tab "I Want To..." labeled "Make a Payment" then follow the directions for Mutual Settlement Fines. If you choose the option to pay online, this signed page must be received by the District to validate the agreement. Should you have questions or wish to discuss this matter further, please do not hesitate to contact me at (530) 634-7659 extension 205.

Sincerely,



Karla Sanders
Air Quality Compliance Supervisor

Enclosures: NOV #KS-18-12-Y, HSC

I, the undersigned, hereby accept each and every term and conditions set forth in this agreement and agree to settle Notice of Violation #KS-18-12-Y in accordance with the terms and conditions set forth above.

I have elected to pay online
at www.fraqmd.org

Signed: _____

Print name: _____ Title: _____ Date: _____

(Return this original signature page)

FOR FRAQMD USE ONLY

CASE #: KS 18-12 SETTLEMENT DUE: 01/18/19 AMOUNT DUE: \$5,879.00
DATE: _____ AMOUNT PAID: _____ RECEIPT #: _____ RECEIVED BY: _____
DATE CLOSED: _____

Feather River Air Quality Management District

**California Health & Safety Code Sections
42402 through 42402.4**



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- 42402.** (a) Except as provided in Sections 42402.1, 42402.2, 42402.3, and 42402.4, any person who violates this part, any order issued pursuant to Section 42316, or any rule, regulation, permit, or order of a district, including a district hearing board, or of the state board issued pursuant to Part 1 (commencing with Section 39000) to Part 4 (commencing with Section 41500), inclusive, is strictly liable for a civil penalty of not more than five thousand dollars (\$5,000).
- (b) (1) Any person who violates any provision of this part, any order issued pursuant to Section 42316, or any rule, regulation, permit or order of a district, including a district hearing board, or of the state board issued pursuant to Part 1 (commencing with Section 39000) to Part 4 (commencing with Section 41500), inclusive, is strictly liable for a civil penalty of not more than ten thousand dollars (\$10,000).
- (2) (A) If a civil penalty in excess of five thousand dollars (\$5,000) for each day in which a violation occurs is sought, there is no liability under this subdivision if the person accused of the violation alleges by affirmative defense and establishes that the violation was caused by an act that was not the result of intentional conduct or negligent conduct.
- (B) Subparagraph (A) shall not apply to a violation of federally enforceable requirements that occur at a Title V source in a district in which a Title V permit program has been fully approved.
- (C) Subparagraph (A) does not apply to a person who is determined to have violated an annual facility emissions cap established pursuant to a market based incentive program adopted by a district pursuant to subdivision (b) of Section 39616.
- (c) Any person who owns or operates any source of air contaminants in violation of Section 41700 that causes actual injury, as defined in subdivision (d) of Section 42400, to the health and safety of a considerable number of persons or the public, is liable for a civil penalty of not more than fifteen thousand dollars (\$15,000).
- (d) Each day during any portion of which a violation occurs is a separate offense.
- 42402.1.** (a) Any person who negligently emits an air contaminant in violation of this part or any rule, regulation, permit, or order of the state board or of a district, including a district hearing board, pertaining to emission regulations or limitations is liable for a civil penalty of not more than twenty-five thousand dollars (\$25,000).
- (b) Any person who negligently emits an air contaminant in violation of Section 41700 that causes great bodily injury, as defined by Section 12022.7 of the Penal Code, to any person or that causes the death of any person, is liable for a civil penalty of not more than one hundred thousand dollars (\$100,000).
- (c) Each day during any portion of which a violation occurs is a separate offense.
- 42402.2.** (a) Any person who emits an air contaminant in violation of any provision of this part, or any order, rule, regulation, or permit of the state board or of a district, including a district hearing board, pertaining to emission regulations or limitations, and who knew of the emission and failed to take corrective action, as defined in subdivision (b) of Section 42400.2, within a reasonable period of time under the circumstances, is liable for a civil penalty of not more than forty thousand dollars (\$40,000).
- (b) Any person who owns or operates any source of air contaminants in violation of Section 41700 that causes great bodily injury, as defined by Section 12022.7 of the Penal Code, to any person or that causes the death of any person, and who knew of the emission and failed to take corrective action, as defined in subdivision (b) of Section 42400.2, within a reasonable period of time under the circumstances, is liable for a civil penalty not to exceed two hundred fifty thousand dollars (\$250,000).
- (c) Each day during any portion of which a violation occurs is a separate offense.
- 42402.3.** (a) Any person who willfully and intentionally emits an air contaminant in violation of this part or any rule, regulation, permit, or order of the state board, or of a district, including a district hearing board, pertaining to emission regulations or limitations, is liable for a civil penalty of not more than seventy-five thousand dollars (\$75,000).
- (b) Any person who willfully and intentionally, or with reckless disregard for the risk of great bodily injury, as defined by Section 12022.7 of the Penal Code, to, or death of, any person, emits an air contaminant in violation of Section 41700 that results in an unreasonable risk of great bodily injury to, or death of, any person, is liable for a civil penalty of not more than one hundred twenty-five thousand dollars (\$125,000). If the violator is a corporation, the maximum penalty may be up to five hundred thousand dollars (\$500,000).
- (c) Any person who willfully and intentionally, or with reckless disregard for the risk of great bodily injury, as defined by Section 12022.7 of the Penal Code, to, or death of, any person, emits an air contaminant in violation of Section 41700 that causes great bodily injury, as defined by Section 12022.7 of the Penal Code, to any person or that causes the death of any person, is liable for a civil penalty of not more than two hundred fifty thousand dollars (\$250,000). If the violator is a corporation, the maximum penalty may be up to one million dollars (\$1,000,000).
- (d) Each day during any portion of which a violation occurs is a separate offense.
- 42402.4.** Any person who knowingly and with intent to deceive, falsifies any document required to be kept pursuant to any provision of this part, or any rule, regulation, permit, or order of the state board or of a district, including a district hearing board, is liable for a civil penalty of not more than thirty-five thousand dollars (\$35,000).