

California Regional Water Quality Control Board
North Coast Region

Complaint No. R1-2006-0019

For

Administrative Civil Liability

In the Matter of

Dura Glass Products
1500A Copperhill Pkwy
Santa Rosa
WDID No. 1 49I014731

For

Failure to File an Annual Storm Water Report
for Fiscal Year 2003-04

Sonoma County

The Executive Officer of the California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board), hereby gives notice that:

1. Dura Glass Products (hereinafter the Discharger) operated Dura Glass Products site, a glass, fiberglass, and plumbing equipment manufacturing facility located at 1500A Copperhill Pkwy in Santa Rosa, California (hereinafter Facility).
2. The U.S. Environmental Protection Agency issued regulations for storm water discharges on November 16, 1990. Subsequently, the State Water Resources Control Board (State Water Board) adopted Water Quality Order No. 91-013-DWQ, National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities (hereinafter General Permit). On September 17, 1992, the State Water Board amended the General Permit, and on August 17, 1997, the State Water Board issued Order No. 97-03-DWQ, which revised and replaced the General Permit.
3. Provision E(1) of the General Permit requires that all facility operators seeking coverage under the General Permit file a Notice of Intent (NOI) for each of the facilities they operate. Dura Glass Products filed a NOI for the Dura Glass Products site on November 5, 1998, and was assigned WDID No. 1 49I014731 for the operation.

4. Provision E(3) and Section B(14) of the General Permit require that all facility operators submit an Annual report by July 1st of each year to the Executive Officer of the Regional Water Board responsible for the area in which the facility is located.
5. The Discharger failed to submit its 2003-04 annual report for the Facility by July 1, 2004.
6. California Water Code (CWC) Section 13399.31(b) requires a Regional Water Board to provide notice of noncompliance to a discharger who has failed to submit an annual report. Should a discharger who is so notified fail to submit an annual report within 30 days of notification, Section 13399.31(c) requires that the Regional Water Board's Executive Officer send a second notice to that discharger.
7. On August 3, 2004, the Executive Officer issued the first Notice of Noncompliance to the Discharger related to the failure to submit the 2003-04 annual report. The Discharger accepted certified mail of this Notice. On September 3, 2004, the Executive Office issued the second Notice of Noncompliance letter to the Discharger. The discharger did not accept certified mail of this Notice.
8. CWC Section 13399.25 provides that CWC Division 7, Chapter 5.9, which includes CWC Section 13399.33, "supplement, and does not supplant, other laws relating to the discharge of storm water."
9. CWC Section 13323 states, in part:

“(a)... any executive officer of a regional board may issue a complaint to any person on whom administrative civil liability may be imposed pursuant to this article.”
10. The Discharger did not submit the 2003-04 annual report for the facility. Failure to submit the 2003-04 annual report has resulted in the discharger being in violation of the General Permit for 1-1/2 years. The total mandatory minimum penalty under CWC Section 13399.33(c) is \$1,000.
11. The annual report for 2003-04 is still required. If the Annual report is not received within 30 days of this Complaint, further penalties may occur under CWC Section 13383.5(c)(7) and Section 13385(c)(1).
12. The issuance of a Complaint for Administrative Civil Liability does not have the potential to result in a physical change in the environment and is, therefore, not a "project" subject to the provisions of the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000 et seq.). A Complaint is an enforcement action and is exempt from CEQA in accordance with Title 14, California Code of Regulations, Section 15321(a)(2).

13. A hearing shall be **conducted** on this Complaint by the Regional Water Board on March 8, 2006, unless the Discharger waives the right to a hearing by signing and returning the waiver form attached to this Complaint within **30** days of the date of *this* Complaint. By doing so, the Discharger agrees to pay the penalty in full within 30 days of the date of this Complaint (or in compliance with a payment schedule issued in writing by the Executive Officer).
14. If a hearing is held, the Regional Water Board may impose **an** administrative civil liability in the amount proposed or for a different **amount**, decline to seek civil liability, or refer the matter to the Attorney General to have a Superior Court consider enforcement.
15. Regulations of the United States Environmental Protection Agency require public notification of any proposed settlement of the civil liability occasioned by violation of the Clean Water Act, including NPDES permit violations. Accordingly, interested persons will be given 30 days to comment on any proposed settlement of this Complaint. The settlement will become effective on the next day **after** the public comment period for this Complaint is closed, provided that there are no significant public comments on this Complaint during the public comment period. If there **are** significant public comments, the Executive Officer may withdraw the Complaint and reissue it as appropriate.

THEREFORE, IT **IS HEREBY** ORDERED THAT Dura Glass Products shall pay **an** Administrative Civil Liability in the amount of \$1,000, due and payable to the State Water Resources Control Board, Waste Discharger Permit Fund, within 30 days of the issuance of this Complaint.

Waiver of Hearing

Dura Glass Products may waive the right to a **future** hearing, if it so chooses, by signing the enclosed Waiver and returning it together with a cashier's check or money order, made payable to the "**State Water Resources Control Board**," for the full amount of the proposed civil liability, within 30 days of the date of this Complaint. The waiver and **check/money** order should be submitted to the California Regional Water Quality Control Board, North Coast Region, 5550 **Skylane** Boulevard, Suite A, Santa Rosa, CA 95403. Penalty monies will be deposited into **the** Waste Discharge **Permit** Fund.



Catherine E. Kuhlman
Executive Officer

February 24, 2006