

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION**

In the matter of:)	Complaint No. R8-2006-0080
)	for
Ross Pallet, Inc.)	Administrative Civil Liability
913 East Walnut Street)	
Santa Ana, CA 92705)	
)	
Attention: Ms. Charyto Gardea)	

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 (hereinafter Board), must impose liability under Section 13399.33 of the California Water Code, and may impose additional liability under Section 13385 of the California Water Code.
2. A hearing concerning this Complaint will be held before the Board within ninety days of the date of issuance of this Complaint. The hearing in this matter has been scheduled for the Board's regular meeting on February 2, 2007, at the Loma Linda City Council Chambers, in the city of Loma Linda. You or your representative 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 will be mailed to you not less than 10 days before the hearing date.
3. At the hearing, the Board must consider whether to affirm, reject or modify the proposed Administrative Civil Liability Complaint or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. Ross Pallet, Inc. (hereinafter Ross Pallet), located at 913 East Walnut Street in Santa Ana, is currently regulated under the State's General Permit for Storm Water Discharges Associated with Industrial Activities, Water Quality Order No. 97-03-DWQ, NPDES No. CAS000001 (General Permit). The facility's WDID Number is 830I017644. The General Permit requires submittal of an annual report by July 1 of each year.
5. The 2005-2006 Annual Report, which was due on July 3, 2006, as July 1 was a Saturday, was not received from Ross Pallet. A Notice of Non-Compliance (NNC) was issued to Ross Pallet, by certified mail, on August 1, 2006 and the return receipt indicated that the NNC was received by Ross Pallet on August 24, 2006. When Board staff did not receive a response to the first NNC, a second NNC was issued on August 31, 2006, again by certified mail, and that second NNC was received by Ross Pallet on September 5, 2006. In both NNCs, Board staff

requested the following: submittal of the completed annual report, a statement explaining why the annual report was not submitted by the July 3 deadline, and identification of the measures that would be taken to ensure that future annual reports are submitted on time. Both NNCs also identified the mandatory minimum penalty for failure to submit the annual report by the September 29, 2006 deadline included in the second NNC.

6. On September 27, 2006, Board staff left a detailed message for Ms. Charyto Gardea (facility contact) with Ross Pallet's receptionist. On September 29, 2006, Board staff again left a detailed telephone message for Ms. Gardea with Ross Pallet's receptionist, reiterating the mandatory minimum penalty conditions. In response, the receptionist stated that Ms. Gardea had been given the message on September 27, 2006. To date, the annual report has not been received by this office. Ross Pallet violated the General Permit, the Federal Clean Water Act and the California Water Code by failing to submit the annual report by July 3, 2006.
7. Section 13385(a)(2) of the California Water Code provides that any person who violates waste discharge requirements issued pursuant to the Federal Clean Water Act shall be civilly liable. Section 13385(c) provides that civil liability may be administratively imposed by a regional board in an amount not to exceed ten thousand dollars (\$10,000) for each day the violation occurs.
8. Based on non-submittal of the 2005-2006 Annual Report, Ross Pallet is alleged to have violated the General Permit for 148 days (from July 3, 2006) as of the date of this complaint, and is still in violation. The total maximum liability for this violation is \$1,480,000.
9. Section 13399.33(c) of the California Water Code requires that the Board impose a mandatory, minimum penalty of \$1,000 for any person who fails to submit an annual report in accordance with Section 13399.31 of the Water Code.
10. Section 13385(e) specifies factors that the Board shall consider in establishing the amount of civil liability. These factors are addressed in the following table:

Factor	Comment
A. Nature, Circumstance, Extent, and Gravity of Violation	Ross Pallet did not submit their annual report despite repeated attempts by Board staff to gain compliance with the permit. The preparation of an adequate annual report and the implementation of a monitoring plan is crucial to ensure that the BMPs implemented at the site are successful in reducing pollutant loads in storm water discharges. A review of Ross Pallet's past annual reports showed that they have never collected a storm water sample during the four years that they have been under the program. A general statement that has been included in each

Factor	Comment
A. Nature, Circumstance, Extent, and Gravity of Violation (cont.)	annual report states that no qualified storms events occurred during the year (i.e., for all storm events during this four year period, either the first hour of discharge occurred outside of normal business hours or the storm water discharge was not preceded by 3 working days without discharge.)
B. Culpability	Ross Pallet failed to submit their annual report as required by the General Permit. Ross Pallet received two certified mailings and two phone calls reminding them that the annual report was overdue and the consequences of non-submittal.
C. Economic Benefit or Savings	Staff has estimated that Ross Pallet saved approximately \$2,000 during the 2005-2006 reporting year by not collecting and analyzing storm water samples, not performing the required observations and not completing and submitting their annual report.
D. Prior History of Violations	Ross Pallet received two Notices of Non-Compliance and a Minimum Mandatory Penalty in the amount of \$1,000 for the non-submittal of their 2002-2003 Annual Report. Further, Ross Pallet received a Notice of Violation from the State Board for late payment of their 2003-2004 storm water permit fee.
E. Staff Costs	Board staff spent at least 2 hours of staff time in association with this violation (@\$70.00 per hour, the total cost for staff time is \$140).
F. Ability to pay	Ross Pallet has not provided any information to indicate that it is unable to pay the proposed amount.

11. After consideration of the factors listed in Item 10, the Assistant Executive Officer proposes that civil liability be imposed on Ross Pallet in the amount of \$5,000 for the violation cited above.

WAIVER OF HEARING

You may waive your right to a hearing. If you choose to do so, please sign the attached waiver form and mail it, together with a check or money order payable to the State Water Resources Control Board, for the amount of the penalty proposed in Item 11. The waiver form, the bottom portion of the invoice, the check and any other correspondence regarding this Complaint should be sent to this office at the address on this letterhead.

If you have any questions, please contact Michelle Beckwith at (951) 782-4433, or Mark Smythe at (951) 782-4998. For legal questions, contact the Regional Board's staff counsel, Erik Spiess at (916) 341-5167.

11/27/06
 Date

Kurt V. Berchtold
 Kurt V. Berchtold
 Assistant Executive Officer

In the matter of:)
)
Ross Pallet, Inc.)
913 East Walnut Street)
Santa Ana, CA 92705)
)
Attention: Ms. Charyto Gardea)

Complaint No. R8-2006-0080
for
Administrative Civil Liability

WAIVER OF HEARING

I agree to waive the right of Ross Pallet, Inc., to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the violations alleged in Complaint No. R8-2006-0080.

I have enclosed a check or money order, made payable to the State Water Resources Control Board, in the amount of \$5,000. I understand that I am giving up the right of Ross Pallet, Inc., to be heard and to argue against allegations made by the Assistant Executive Officer in this Complaint, and against the imposition of, and the amount of, the liability proposed.

Date

for Ross Pallet, Inc.