CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

In the matter of:	)	
	)	
Fairvac A T Wrecking	)	**Settlement Agreement and Stipulation for**
Complaint No. R2-2010-0051	)	**Order; Order No. R2-2010-0089**
Administrative Civil Liability	)	
	)	

Section I: Introduction

1. This Settlement Agreement and Stipulation for Order ("Stipulation") and Administrative Civil Liability Order ("Order") are issued in reference to an adjudicative proceeding initiated by the issuance of Administrative Civil Liability Complaint No. R2-2010-0051, dated February 16, 2010 (the "Complaint"). The parties to this proceeding are the San Francisco Bay Regional Water Quality Control Board ("Regional Water Board") Prosecution Team ("Prosecution Team"), and Fairvac A T Wrecking (the "Discharger") (collectively hereinafter the "Parties").

Section II: Recitals

2. The Discharger owns and operates the Fairvac A T Wrecking facility located at 5016 Peabody Road, Fairfield, California, Solano County. The Discharger and its facility are subject to the requirements set forth in the State Water Resources Control Board's Water Quality Order No. 97-03-DWQ National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities ("General Permit").

3. The Complaint proposes an administrative civil liability in the amount of $4,725 for the alleged violation of the General Permit for the failure to submit a required annual report by July 1, 2009. That proposed amount includes the recovery of staff costs in the amount of $1,800.

4. To resolve by consent and without further administrative proceedings certain alleged violations of the California Water Code ("CWC") and General Permit, as set forth in the Complaint, the Discharger shall pay $4,725 to the State Water Resources Control Board Cleanup and Abatement Account, which includes $1,800 for staff costs. Payment shall be due no later than 30 days following the issuance of this Order by the Regional Water Board.

Section III: Stipulations

5. The Parties incorporate Paragraphs 1 through 4 by this reference as if set forth fully herein, stipulate to the entry of this Order as set forth below, and recommend that the Regional Water Board issue this Order to effectuate the settlement.

6. The Discharger hereby agrees to pay the administrative civil liability in the amount of $4,725 as set forth in Paragraph 4 of Section II herein.

7. The Discharger understands that payment in accordance with this Order is not a substitute for compliance with applicable laws, and that future violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional administrative civil liability.

8. Each Party shall bear all attorneys' fees and costs arising from the Party's own counsel in connection with the matters set forth herein.

9. In consideration of the Discharger's compliance with this Stipulation and this Order, the Prosecution Team hereby agrees not to initiate any other administrative or judicial enforcement actions against the Discharger for the violations alleged in the Complaint.

10. In settling this matter, the Discharger does not admit to any of the findings of the Complaint, or that they have been or are in violation of the CWC, or any other federal, state, or local law or ordinance, provided, the Discharger agrees that in the event of any future enforcement actions by the Regional Water Board, this Order may be used as evidence of a prior enforcement action consistent with CWC sections 13327 and 13385.

11. The Discharger understands that this Order must be noticed for a 30-day public comment period prior to consideration by the Regional Water Board or its delegee, the Executive Officer. In the event objections are raised during the public comment period for this Order, the Regional Water Board or the Executive Officer may, under certain circumstances, require a public hearing regarding this Order. In that event, the Parties agree to meet and confer concerning any such objections, and may agree to revise or adjust this Order as necessary or advisable under the circumstances.

12. The Parties agree that the procedure contemplated for adopting this Order by the Regional Water Board and review of this Stipulation by the public is lawful and adequate. In the event procedural objections are raised prior to this Order becoming effective, the Parties agree to meet and confer concerning any such objections, and may agree to revise or adjust the procedure as necessary or advisable under the circumstances.

13. The Stipulation shall be construed as if the Parties prepared it jointly. Any uncertainty or ambiguity shall not be interpreted against any one Party.

14. This Order shall not be modified by any of the Parties by oral representation made before or after its execution. All modifications must be in writing, signed by all Parties, and approved by the Regional Water Board, or its delegee, the Executive Officer.

15. This Stipulation may be signed in counterparts and by facsimile signature.

16. In the event that this Order does not take effect because it is not approved by the Regional Water Board, or its delegee, or is vacated in whole or in part by the State Water Resources Control Board or a court, the Parties acknowledge that they expect to proceed to a contested evidentiary hearing before the Regional Water Board to determine whether to assess administrative civil liabilities for the underlying alleged violations, unless the Parties agree otherwise. The Parties agree that all oral and written statements and agreements made during the course of settlement discussions will not be admissible as evidence in the hearing. The Parties agree to waive any and all objections based on settlement communications in this matter, including, but not limited to:

    a. Objections related to prejudice or bias of any of the Regional Water Board members or their advisors and any other objections that are premised in whole or in part on the fact that the Regional Water Board members or their advisors were exposed to some of the material facts and the Parties' settlement positions as a consequence of reviewing the Stipulation and/or this Order, and therefore may have formed impressions or conclusions prior to any contested evidentiary hearing on the Complaint in this matter; or

    b. Laches or delay or other equitable defenses based on the time period for administrative or judicial review to the extent this period has been extended by these settlement proceedings.

17. The Discharger has been informed of the rights provided by CWC section 13323, subdivision (b), and hereby waives its right to a hearing before the Regional Water Board prior to the adoption of this Order.

18. The Discharger hereby waives its right to petition the Regional Water Board's adoption of this Order for review by the State Water Resources Control Board, and further waives its rights, if any, to appeal the same to a California Superior Court and/or any California appellate level court.

19. The Discharger covenants not to sue or pursue any administrative or civil claim(s) against any State Agency or the State of California, their officers, Board Members,

20. The Assistant Executive Officer warrants by signing below that he has the authority to execute the Stipulation on behalf of the Prosecution Team. Bob Bates further warrants by signing below that he has the legal authority to bind the Discharger to the terms of this Stipulation. The Parties hereto have caused this Stipulation to be signed by their respective officers on the dates set forth, and the Stipulation is effective as of the most recent date signed.

21. This Stipulation is effective and binding on the Parties upon the signature of the Assistant Executive Officer for the Prosecution Team and Bob Bates for the Discharger.

IT IS SO STIPULATED.

California Regional Water Quality Control Board Prosecution Team
San Francisco Bay Region

By: _____
Thomas Mumley, Assistant Executive Officer

Date: 5/10/10

Fairvac A T Wrecking

By: _____
Bob Bates

Date: 5-5-2010

<u>Section IV:</u> Findings of the Regional Water Board

22. The Regional Water Board incorporates Paragraphs 1 through 21 by this reference as if set forth fully herein.

23. The Parties believe that settlement of this matter is in the best interest of the People of the State. Therefore, to settle the Complaint, the Discharger hereby agrees to comply with the terms and conditions of this Order.

24. This is an action to enforce the laws and regulations administered by the Regional Water Board. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, sections 21000 et seq.), in accordance with section 15321(a)(2), Title 14, of the California Code of Regulations.

Environmental Quality Act (Public Resources Code, sections 21000 et seq.), in accordance with section 15321(a)(2), Title 14, of the California Code of Regulations.

25. The Executive Officer of the Regional Water Board is authorized to refer this matter directly to the Attorney General for enforcement if the Discharger fails to perform any of its obligations under the Stipulation or this Order.

26. Fulfillment of the Discharger's obligations under this Order constitutes full and final satisfaction of any and all liability for each claim in the Complaint in accordance with the terms of this Order.

27. The Regional Water Board finds that the Recitals set forth herein in Section I are true.

28. This Stipulation and Order are severable; should any provision be found invalid the remainder shall remain in full force and effect.

29. In accepting this settlement, the Regional Water Board has considered, where applicable, each of the factors prescribed in CWC sections 13385(e). The Regional Water Board's consideration of these factors is based upon information obtained by the Regional Water Board staff in investigating the allegations in the Complaint or otherwise provided to the Regional Water Board. In addition, this settlement recovers the costs incurred by the staff of the Regional Water Board for this matter as a "matter that justice may require".

Pursuant to CWC section 13323 and Government Code section 11415.60, **IT IS HEREBY ORDERED** on behalf of the California Regional Water Quality Control Board, San Francisco Region that the Discharger shall comply with the terms set forth in this Stipulation and this Order.

Digitally signed by Bruce Wolfe
Date: 2010.06.17 16:19:04
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Bruce H. Wolfe
Executive Officer

Date: June 17, 2010