

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

<b>In the matter of:</b>	)	<b>Complaint No. R8-2012-0054</b>
	)	<b>for</b>
<b>Garda Cash Logistics</b>	)	<b>Mandatory Minimum Penalty and Staff Costs</b>
<b>1601 West Oranewood Avenue</b>	)	
<b>Orange, CA 92868</b>	)	
	)	
<b>Attention: Jimmy Allums</b>	)	

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**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.
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 1, 2013, at the Loma Linda City Council Chambers, 25541 Barton Road, City of Loma Linda, California. 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 a mandatory penalty and staff costs 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 will consider whether to affirm, reject or modify the proposed Mandatory Minimum Penalty Complaint and assessment of staff costs pursuant to Section 13399.33 of the Water Code, to assess discretionary penalties pursuant to Section 13385 of the Water Code, or to refer the matter to the Attorney General for recovery of judicial civil liability.
4. Garda Cash Logistics (hereinafter Garda), located at 1601 West Oranewood Avenue in Orange, 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 8 30I019555. The General Permit requires submittal of an annual report by July 1 of each year.
5. Garda's 2011-2012 annual report was not received by Board staff by the July 1, 2012 deadline. Therefore a Notice of Non-Compliance (NNC) was issued to Garda, by certified mail, on July 31, 2012. The post office returned the NNC stating that the facility was vacant; however, Board staff confirmed that industrial activities still occur onsite by conducting a cursory inspection on August 21, 2012. Board staff faxed a copy of the NNC to Mr. Jimmy Allums, Garda's contact, on August 21, 2012. When Board staff received no response to the first NNC, a second NNC was issued on August 29, 2012. The post office returned the second NNC stating that the letter was unclaimed. In both NNCs, Board staff requested submittal of the completed annual report and reminded Garda of the mandatory minimum penalty for late submittal of the annual report. The second NNC requested that the annual report be submitted by September 28, 2012 along with a statement explaining why the annual report was not submitted by the July 1 deadline, and the measures that would be taken to ensure that future annual reports are submitted on time. Both NNCs are attached to this Complaint as Exhibits 1 and 2.

6. On September 25, 2012, Board staff spoke with Mr. Allums informing him of the mandatory minimum penalty if the annual report was not submitted by September 28, 2012. To date, the annual report has not been received by the Regional Board office. Garda violated the General Permit, the Federal Clean Water Act and the California Water Code by failing to submit the annual report by July 1, 2012.
7. Historically, Garda received two NNCs for the non-submittal of its 2010-2011 annual report; received two NNCs for the non-submittal of its 2009-2010 annual report; received two NNCs for the non-submittal of its 2008-2009 annual report; received two NNCs for the non-submittal of its 2007-2008 annual report; received two NNCs for the non-submittal of its 2005-2006 annual report. In each of those prior years Garda submitted their annual report within 60 days of the transmittal of the first NNC.
8. 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.
9. Based on non-submittal of the 2011-2012 annual report, Garda is alleged to have violated the General Permit for 170 days (from July 2, 2010 to December 19, 2012, the date of issuance of this complaint). The total maximum liability for this violation is \$1,700,000 (170 days at \$10,000/day).
10. Section 13399.33(c) of the California Water Code requires that the Regional Board impose a 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. Section 13399.33(d) of the California Water Code further requires that the Regional Board recover the costs incurred by the Regional Board with regard to those persons.

#### **PROPOSED PENALTIES AND ASSESSMENT OF COSTS**

1. Pursuant to Section 13399.33(c) the Division Chief proposes that the mandatory minimum penalty of \$1,000 be imposed on Garda for the violation cited above. In addition, the Division Chief proposes that staff costs in the amount of \$750 (5 hours at \$150/hour) be recovered from Garda for the enforcement efforts associated with the 2011-12 annual report and the Division Chief further proposes that staff costs in the amount of \$3,750 (25 hours at \$150/hour) be recovered from Garda for the enforcement efforts that were necessary to gain Garda's compliance with the annual report provisions of the General Permit during the prior years. The total proposed mandatory minimum penalty and staff costs amount is \$5,500.
2. Notwithstanding the issuance of this Complaint, the Regional Board retains the authority to assess additional penalties for violations of the requirements of Garda's waste discharge requirements for which penalties have not yet been assessed or for violations that may subsequently occur.

3. Issuance of this Complaint is an enforcement action and is therefore exempt from the provisions of the California Environmental Quality Act (Pub. Res. Code § 21000 et seq.) pursuant to title 14, California Code of Regulations sections 15308 and 15321 subsection (a) (2).

12-19-12  
Date

  
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Michael J. Adackapara, Division Chief