California Regional Water Quality Control Board
Santa Ana Region

Alan C. Lloyd, Ph.D.
Agency Secretary

3737 Main Street, Suite 500, Riverside, California 92501-3348
Phone (951) 782-4130 - FAX (951) 781-6288
http://www.waterboards.ca.gov/santaana

Arnold Schwarzenegger
Governor

March 2, 2005

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Barbara Flanagan
Johnston Sweeper Company
4651 Schaefer Avenue
Chino, CA 91710-5542

MANDATORY PENALTY COMPLAINT NO. R8-2005-0017

Dear Ms. Flanagan:

We are enclosing a certified copy of Complaint No. R8-2005-0017, proposing a mandatory penalty of $1,000 for violations of the California Water Code and the State's General Permit for Storm Water Discharges Associated with Industrial Activity, Order No. 97-03-DWQ, NPDES No. CAS000001. An invoice for this amount is also enclosed.

If necessary, a public hearing on this matter will be scheduled for the Regional Board meeting on April 15, 2005. The staff report regarding this complaint and the meeting agenda will be mailed to you not less than 10 days prior to the Board meeting.

You have the option to waive your right to a hearing. Should you waive your right to a hearing and pay the proposed assessment, the Regional Board may not hold a public hearing on this matter. If you choose to waive your right to a hearing, please sign the enclosed waiver form and submit the form with a check or money order for $1,000. The check or money order should be made payable to the State Water Resources Control Board. The waiver form, the bottom portion of the invoice and the check or money order should be mailed to Sacramento using the enclosed envelope. All other correspondence regarding this Complaint should be sent to this office at the address on this letterhead.

If you have any questions regarding this complaint, you may contact Mary Bartholomew at (951) 321-4586 or Milasol Gaslan at (951) 782-4419. All legal questions should be referred to our legal counsel, Jorge Leon, at (916) 341-5180.

Sincerely,

Gerard J. Thibeault
Executive Officer

Enclosures: Complaint No. R8-2005-0017, Waiver Form, Invoice, and envelope

cc: State Water Resources Control Board, Division of Water Quality – Bruce Fujimoto
State Water Resources Control Board, Office of Chief Counsel – Jorge Leon
U.S. Environmental Protection Agency, Region 9 (WTR-7) – Kathi Moore
San Bernardino County, Storm Water Program, Program Manager – Matt Yeager
City of Chino, NPDES Coordinator – Ed Nyland

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION

In the matter of:	)	**Complaint No. R8-2005-0017**
	)	**for**
Johnston Sweeper Company	)	**Mandatory Penalty**
4651 Schaefer Avenue	)	
Chino, CA 91710-5542	)	
	)	
Atten: Ms. Barbara Flanagan	)	

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 April 15, 2005 at the City Council Chambers of Loma Linda, 25541 Barton Road, Loma Linda, CA 92354. 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 penalty 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 Penalty Complaint or whether to refer the matter to the Attorney General for recovery of judicial civil liability.

4. Johnston Sweeper Company, located at 4651 Schaefer Avenue in Chino, 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 36I010707. The General Permit requires submittal of an annual report by July 1 of each year.

5. Because the annual report was not received by Board staff by the July 1, 2004 deadline, a Notice of Non-Compliance (NNC) was issued to Johnston Sweeper

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.

6. The annual report was received in this office on December 14, 2004. This facility violated the General Permit, the Federal Clean Water Act and the California Water Code by failing to submit the annual report by July 1, 2004.

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 2003-2004 Annual Report, the facility is alleged to have violated the General Permit for 165 days (from July 2, 2004 to December 13, 2004). The maximum liability for this violation is $1,650,000.

9. Section 13399.33(c) of the California Water Code requires that the Regional 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. After consideration of those factors, the Executive Officer proposes that the mandatory minimum penalty of $1,000 be imposed on the facility 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 $1,000. The bottom portion of the invoice, the waiver form, and the check or money order should be mailed to Sacramento in the enclosed envelope.

If you have any questions, please contact Mary Bartholomew at (951) 321-4586 or Milasol Gaslan at (951) 782-4419. For legal questions, contact the Regional Board's legal counsel, Jorge Leon at (916) 341-5180.

3/2/05
Date

Gerard J. Thibeault
Executive Officer