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
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Arnold Schwarzenegger
Governor

March 2, 2005

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James Moore
E L Yeager Construction Company
P.O. Box 87
Riverside, CA 92502

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R8-2005-0021

Dear Mr. Moore:

We are enclosing a certified copy of Complaint No. R8-2005-0021, proposing administrative civil liability of $3,000 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. Of this amount, $1,000 will be suspended if the annual report is received by this office by March 18, 2005. 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 $3,000 ($2,000 if the annual report is received by this office by the March 18, 2005 deadline). 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

If you do not wish to waive your right to a hearing, a pre-hearing meeting with Board staff is recommended. Should you wish to schedule a pre-hearing meeting, please call us prior to March 18, 2005. At that time, you may submit information that may not have been previously available to staff regarding this matter. This information should address the following:

1. Nature, circumstances, extent and gravity of violation;
2. Your ability to pay the proposed assessment;
3. Your degree of culpability;
4. Any prior history of violations;
5. Economic benefit or savings; and,
6. Such other matters as justice may require.

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. R8-2005-0021, 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
Riverside County, Storm Water Program, NPDES Coordinator – Alex Gann
City of Riverside, NPDES Coordinator – Sandy Caldwell

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

In the matter of: **E L Yeager Construction Company** **P.O. Box 87** **Riverside, CA 92502** **Atten: Mr. James Moore**	)))))))	**Complaint No. R8-2005-0021** **for** **Administrative Civil Liability**

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), may impose liability under Sections 13385 and 13899.33 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 civil liability by the Board. An agenda for the meeting will be mailed to you not less than 10 days prior to the hearing date.

3. At the hearing, the Board will consider whether to affirm, reject or modify the proposed administrative civil liability or whether to refer the matter to the Attorney General for recovery of judicial civil liability.

4. E L Yeager Construction Company (hereinafter E L Yeager), 26th Street and Avalon Road in Riverside, 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). Your facility's WDID Number is 8 33I010149. The General Permit requires you to submit an

received on September 19, 2004. In both NNCs, Board staff requested submittal of the completed annual report, 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 identified the mandatory minimum penalty for failure to submit the annual report. In the second NNC, Board staff requested submittal of the completed annual report by September 17, 2004.

6. To date, the Board has not received the annual report. 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 242 days (from July 2, 2004 to February 28, 2004). The maximum liability for this violation is $2,420,000.

9. Section 13399.33(c) of the California Water Code provides that the Regional Board shall 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 civil liability be imposed on E L Yeager in the amount of $3,000 (of this amount, $1,000 will be suspended if the annual report is received by this office by March 18, 2005) for the violation cited above. This amount includes the mandatory minimum penalty of $1,000.

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 under Paragraph 10. 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 Milasol Gaslan at (951) 782-4419, or contact the Regional Board's legal counsel, Jorge Leon, at (916) 341-5180.

3/2/05
Date

Gerard J. Thibeault
Executive Officer