STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION

In the matter of:	)	**Complaint No. R8-2006-0027 (revised)**
	)	**for**
Larry Fricker Co., Inc.	)	**Administrative Civil Liability**
1421 State College Boulevard	)	
Anaheim, CA 92806	)	
	)	
Attention: Mr. Paul Etzold	)	

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(c) of the 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 21, 2006, at the City Council Chambers, 25541 Barton Road, Loma Linda, CA. 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 liabilities 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 administrative civil liability or whether to refer the matter to the Attorney General for recovery of judicial civil liability.

4. Larry Fricker Co., Inc. (hereinafter Larry Fricker), located at 1421 State College Boulevard, Anaheim, California, 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) under WDID Number 8 30I016910.

5. The General Permit requires submittal of an annual report by July 1 of each year. The 2004-05 annual report was not received by the July 1, 2005 deadline. Therefore, a Notice of Non-Compliance (NNC) was issued to Larry Fricker, by certified mail, on July 15, 2005. The return receipt confirmed that Larry Fricker received the NNC on July 25, 2005. When Board staff received no response to the first NNC, a second NNC was issued on August 15, 2005, again by certified mail, and the return receipt confirmed that Larry Fricker received the second NNC on August 19, 2005. In the second NNC, Board staff requested submittal of the

completed annual report by September 15, 2005. In both NNCs, Board staff requested submittal of the 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 also identified the mandatory minimum penalty and other potential penalties for failure to submit the annual report.

5. The annual report was received on March 16, 2006. 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, 2005.

6. 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.

7. Based on non-submittal of the 2004-2005 Annual Report, the facility is alleged to have violated the General Permit for 257 days (from July 2, 2005 to March 16, 2006). The total maximum liability for this violation is $2,570,000.

8. 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. These factors include: nature, circumstances, extent, and gravity of the violation, and, with respect to the discharger, the ability to pay, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters that justice may require. At a minimum, liability shall be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation.

11. Larry Fricker has a long history of violations. A mandatory minimum penalty complaint for $5,000 was issued to the company in 2001 for not obtaining coverage under the General Permit even after repeated warnings (NNCs) from Board staff. In 2003, 2004 and 2005, the company was issued a number of NNCs and at least one Notice of Violation. After consideration of the factors listed in Paragraph 10, above, including the history of violations on February 15, 2006, the Executive Officer issued a civil liability complaint for Larry Fricker in the amount of $10,000 (including $1,000 for the mandatory minimum penalty under Section 13399.33 of the Water Code) for violations cited above.

12. After meeting with representatives of Larry Fricker, the following revised assessment was agreed upon by all parties:

DATE	AMOUNT DUE
March 30, 2006	$500 (previous MMP balance due)
April 30, 2006	$1,000
May 31, 2006	$1,000
June 30, 2006	$1,000
July 31, 2006	$1,000
August 31, 2006	$1,000

The amount of $5000 will be suspended if this office receives the 2005-06 Annual Report by July 3, 2006 and the above payments are made on time. If the annual report is not submitted by July 3, 2006 or any of the above payments are late, the entire balance of the original $10,000 assessment becomes immediately due and payable.

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 payable to the State Water Resources Control Board for the amount of the penalty proposed under Paragraph 12. The waiver form and the check should be mailed to Sacramento in the enclosed envelope.

If you have any questions, please call Michelle Beckwith at (951) 782-4433 or Mark Smythe at (951) 782-4998. For legal questions, contact the Regional Board's legal counsel, Mr. Jorge Leon at (916) 341-5180.

3/24/06
Date

for Kevin Bettl
Gerard J. Thibeault
Executive Officer

In the matter of:	)	**Complaint No. R8-2006-0027 (revised)**
	)	**for**
	)	**Administrative Civil Liability**
Larry Fricker Co., Inc.	)	
1421 State College Boulevard	)	
Anaheim, CA 92806	)	
	)	
Attention: Mr. Paul Etzold	)	

WAIVER OF HEARING

I agree to waive the right of Larry Fricker Co., Inc., to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the violations alleged in Complaint No. R8-2006-0027. On behalf of Larry Fricker Co., Inc., I agree to the following payment schedule for the assessed amount:

DATE	AMOUNT DUE
March 30, 2006	$500 (previous MMP balance due)
April 30, 2006	$1,000
May 31, 2006	$1,000
June 30, 2006	$1,000
July 31, 2006	$1,000
August 31, 2006	$1,000

I understand that the balance of the assessed amount, $5,000, will be suspended if Larry Fricker Co., Inc. submits a complete annual report for 2005-06 by July 3, 2006 and the above payments are made on time. If the annual report is not submitted by July 3, 2006 or any of the above payments are late, the entire balance of the original $10,000 assessment becomes immediately due and payable. I understand that I am giving up the right of Larry Fricker Co., Inc. to be heard and to argue against allegations made by the Executive Officer in the complaint, and against the imposition of, and the amount of, the liability proposed.

_____ _____

Date for Larry Fricker Co., Inc.

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 24, 2006

Mr. Paul Etzold
Larry Fricker Co., Inc.
1421 State College Boulevard
Anaheim, CA 92806

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADMINISTRATIVE CIVIL LIABILITY (ACL) COMPLAINT NO. R8-2006-0027 (revised)

Dear Mr. Etzold:

We are enclosing a certified copy of ACL Complaint No. R8-2006-0027 (revised), proposing a conditional penalty of $5,000 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. The violation pertains to your failure to submit the 2004-05 annual report in a timely manner.

Following our meeting on March 16, 2006, a revised penalty was proposed by Regional Board staff. The enclosed revised complaint and waiver reflect these changes. Should you still wish to 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 the penalty proposed under Paragraph 12 of the ACL. The check should be made payable to the State Water Resources Control Board. The waiver form and check should be mailed to this office in the enclosed pre-printed envelope by March 30, 2006.

If you have any questions regarding this complaint, you may contact Michelle Beckwith at (951) 782-4433 or Mark Smythe at (951) 782-4998. All legal questions should be referred to our legal counsel, Jorge Leon, at (916) 341-5180.

Sincerely,

Kt V. Bltl

for Gerard J. Thibeault
Executive Officer

Enclosures: Complaint No. R8-2006-0027 (revised), Waiver Form, and envelope

cc (w/Encl): 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
Orange County Resources and Development Management Department – Richard Boon
City of Anaheim, NPDES Coordinator – Keith Linker