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

In the matter of:	)	**Complaint No. R8-2007-0021**
	)	**for**
L & H Mold & Engineering	)	**Administrative Civil Liability**
2031 Del Rio Way	)	
Ontario, CA 91761	)	
	)	
Attention: Ms. Brenda Bishop	)	

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 an administrative civil liability under Sections 13385 and 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 June 29, 2007 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. The staff report pertaining to this item and the 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 penalty or to refer the matter to the Attorney General for recovery of judicial civil liability.

4. L & H Mold & Engineering (L & H), located at 2240 E. Cedar Street in Ontario, 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 36I 016177. The General Permit requires submittal of an annual report by July 1 of each year.

5. The 2005-2006 annual report, which was due on July 3, 2006, as July 1 was a Saturday, was not received from L & H. A Notice of Non-Compliance (NNC) was issued to L & H by certified mail, on August 4, 2006. On August 10, 2006, Board staff received confirmation that the NNC was received at the facility (the return receipt was not dated but was signed by Brenda Bishop).

6. On September 8, 2006, Board staff spoke to Brenda Bishop and reminded her that the annual report was overdue. A second NNC was issued on September 11, 2006, again by certified mail. The return receipt indicated that Brenda Bishop signed for the NNC on September 12, 2006.

7. In both NNCs, Board staff requested submittal of the annual report, a statement explaining why the annual report was not submitted by the 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 annual report by October 11, 2006.

8. On November 2, 3, and 6, 2006, Brenda Bishop contacted Board staff and indicated that the annual report was being prepared by a consultant and would be submitted by November 8, 2006.

9. On November 8, 2006, the annual report was submitted to the Board office. The facility violated the General Permit, the Federal Clean Water Act and the California Water Code by failing to submit the annual report by July 3, 2006.

10. 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.

11. Based on non-submittal of the 2005-2006 annual report, the facility is alleged to have violated the General Permit for 128 days (from July 4, 2006 to November 7, 2006). The maximum liability for this violation is $1,280,000.

12. Section 13399.33(c) of the California Water Code provides that the Regional Board shall 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.

13. Section 13385(e) of the California Water Code specifies factors that the Board shall consider in establishing the amount of civil liability. These factors are addressed in the table below:

Factor	Comment
A. Nature, Circumstance, Extent, and Gravity of Violation	L & H did not submit its annual report in a timely manner. L & H got coverage under the General Permit on October 31, 2000. During 2000-01, the facility did not develop and implement a SWPPP and did not collect any storm water samples. The annual report for 2000-01 indicated that the facility would come into full compliance with the Permit during the 2001-02 reporting period. After six years, the facility still has not developed or implemented a SWPPP, and during the last six years, the facility collected and analyzed storm water samples only during one reporting period (2002-03).
B. Culpability	L & H failed to submit its annual report as required by the General Permit. L & H received two certified letters and a number of phone calls reminding it that the annual report was overdue and warning it of the consequences. The facility has been in violation of the Permit for the last six years with respect to the requirement to develop and implement a SWPPP and is still not in compliance with some of the other provisions of the General Permit.
C. Economic Benefit or Savings	Staff estimates that L & H saved approximately $1,000 during the 2005-2006 reporting year by not collecting and analyzing storm water samples; its savings on delaying the submittal of the annual report itself is negligible.
D. Prior History of Violations	During each of the last six reporting years, the facility has indicated that it is in the process of developing and implementing a SWPPP, but has not yet done so. Therefore the facility has been in violation of the Permit during each of the last six years.
E. Other Factors	Board staff spent at least 3 hours of staff time in its efforts to bring this facility into compliance with respect to submittal of the annual report (@$70.00 per hour, the total cost for staff time is $210).
F. Ability to pay	L & H has not provided any information to indicate that it is unable to pay the proposed assessment.

After consideration of these factors, the Executive Officer proposes that civil liability be imposed on L & H in the amount of $5,000 for the violations cited above. This amount includes $4,000 as administrative civil liability under Section 13385 and $1,000 as mandatory minimum penalty under Section 13399.33.

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 $5,000. The waiver form and the check should be mailed to this office in the enclosed pre-printed envelope.

If you have any questions, please contact Nam K. Nguyen at 951-321-4582, or contact the Board's legal counsel, Erik Spiess, at (916) 341-5167.

May 16, 2007
Date

Gerard J. Thibeault
Executive Officer

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Attn: Ms. Brenda Bishop	)	

WAIVER OF HEARING

I agree to waive the right of L & H Mold & Engineering to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the violations alleged in Complaint No. R8-2007-0021.

I have enclosed a check, made payable to the State Water Resources Control Board, in the amount of $5,000. I understand that I am giving up the right of L & H Mold & Engineering to be heard and to argue against allegations made by the Executive Officer in this Complaint, and against the imposition of, and the amount of, the liability proposed.

_____ _____

Date for L & H Mold & Engineering