STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION

In the matter of:	)	**Order No. R8-2007-0048**
	)	**for**
Memo Arauz (also known as	)	**Administrative Civil Liability**
Erasmo Arauz) and Rafaela Aruz	)	
Dba Arauz Trucking Company	)	
10661 Limonite Avenue	)	
Mira Loma, CA 91752	)	

The California Regional Water Quality Control Board, Santa Ana Region (Board), held a hearing on November 19, 1999 to receive testimony and take evidence on the allegations contained in Complaint No. 99-0085, dated October 26, 1999 (Complaint). The Complaint proposed administrative civil liability of $75,000. At the hearing, the Board assessed administrative civil liability pursuant to Water Code Section 13261 in the amount of $99,000. Although the Board did not adopt a separate order memorializing its action, the meeting minutes and the verbatim transcript of the hearing document the assessment of this liability. On June 29, 2007, the Board conducted another hearing to affirm the action taken by the Board at its November 19, 1999 meeting.

Water Code Section 13261 provides that any person failing to furnish a report or pay a fee under Section 13260 when so requested by a regional board is guilty of a misdemeanor and may be liable civilly. On December 21, 1994, Rafaela Arauz of Arauz Trucking was notified by certified mail, article number Z 773 131 817, of the responsibility and liability of manure haulers for the disposal of manure to land, pursuant to Water Code Section 13260. Rafaela Arauz was notified that any person discharging manure to land after receipt of that notification is subject to the issuance of a civil liability complaint or a criminal action in accordance with Water Code Section 13261.

1. At the November 19, 1999 evidentiary hearing, the Board found:

    a. On October 13, 1999, Regional Board staff conducted an investigation of the property at 22260 Kinney Street, Mead Valley.

    b. The property located at 22260 Kinney Street was found to be a residential lot of approximately 2.5 acres. The residence is located on the south-west portion of the property. The property is bounded on the south by a dirt access road (Kinney St.), on the east by open terrain consisting of low relief granitic rocks with erosional soils, on the north by a first order dry stream channel, striking in an east-west direction, tributary to the San Jacinto River, and on the west by a residential lot of approximately 2.5 acres. The property at

22260 Kinney Street did not appear to be cultivated for the growing of crops.

c. On October 13, 1999, Regional Board staff observed a manure hauling truck entering the property at 22260 Kinney Street. The hauling truck was a double trailer gondola type carrier. Each trailer appeared to be carrying a full load of manure. After entering the property, the truck stopped and proceeded to dump the manure. Regional Board staff entered the property and advised the driver not to dump the load of manure. The driver was further advised that disposal of manure in this manner was illegal. The driver complied with Regional Board staff's request, but a portion of the manure was dumped from the trailers. The company name on the door panel of the cab truck was "ARAUZ TRUCKING". Regional Board staff questioned the driver of the truck as to who he was working for. His response was that he was working for "ARAUZ TRUCKING".

d. The manure applied on the central portion of the property was estimated to be about six inches thick. The manure that was pushed toward the northern section of the property into the dry stream channel was estimated to be about five to six feet deep. Regional Board staff received information that the discharge of manure at the property began approximately two months before the Complaint was issued. Some of these discharges were to a dry channel, a tributary to the San Jacinto River. By the time Board staff discovered the illegal operations and stopped it, Arauz had deposited approximately 1,500 tons of manure at the site.

2. Water Code Section 13327 specifies factors that the Board shall consider in establishing an amount of civil liability, including prior history of violations. Arauz had a history of violations including two Cleanup and Abatement orders. These and other factors were considered by the Board in establishing the amount of civil liability. After consideration of the evidence and the factors in Section 13327, the Board assessed civil liability of $99,000, of which $50,000 was suspended with a provision that the manure be removed from the illegal disposal site by December 1, 1999.

3. Arauz did not remove the manure from the site by December 1, 1999.

4. The Board's efforts to collect the assessed amount from Arauz were not successful. Water Code Section 13328 requires a court clerk to enter judgment based on a final ACL order. The statute requires a certified copy of the Board's "action." The court would not enter judgment based on the minutes, and required a certified order. This Order is needed to facilitate further collection efforts. This Order memorializes the action taken by the Board at the November 19, 1999 Board meeting.

7. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 2100 et seq.) in accordance with Section 15321, Chapter 3, Title 14, California Code of Regulations.

IT IS HEREBY ORDERED that, pursuant to California Water Code Section 13261(b) and the Board's action on November 19, 1999, the Board affirms its imposition of an administrative civil liability on Memo (also known as Erasmo) and Rafaela Arauz, dba Arauz Trucking Company, in the amount of $99,000. This amount shall be payable as set forth below.

1. Memo and Rafaela Arauz shall pay $99,000 to the State Water Resources Control Board by July 30, 2007.

The Executive Officer is authorized to refer this matter to the Attorney General for enforcement.

Pursuant to Water Code Section 13320, Arauz may petition the State Water Resources Control Board for review of this Order. If Arauz chooses to do so, Arauz must submit the petition to the State Board within 30 days of the Regional Board's adoption of this Order.

I, Gerard J. Thibeault, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on June 29, 2007.

Gerard J. Thibeault
Executive Officer