STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION

In the matter of:	)	**Order No. R8-2007-0051**
	)	**for**
Die Cast Manufacturing Co.	)	**Administrative Civil Liability**
2212 S. Vista Avenue	)	
Bloomington, CA 92316	)	
	)	
Attention: Mr. Dave Muench	)	

The California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), held a hearing on June 29, 2007 to receive testimony and take evidence concerning the allegations contained in Complaint No. R8-2007-0023, dated May 16, 2007, and concerning the recommendation for the imposition of administrative civil liability pursuant to California Water Code sections 13385 and 13399.33 in the amount of $ 5,000. The Board finds as follows:

1. On April 17, 1997, the State Water Resources Control Board (SWRCB) adopted Waste Discharge Requirements, Order No. 97-03-DWQ, (NPDES No. CAS000001), General Permit for Storm Water Discharges Associated with Industrial Activities (Permit). Die Cast Manufacturing Co. (Die Cast) is authorized to discharge storm water under the Permit, WDID 8 36I008011. The Permit requires Die Cast to submit an annual report by July 1 of each year. Die Cast did not submit the annual report by July 3, 2006 (July 1, 2007 was a Saturday). Subsequently, Board staff sent two certified Notices of Noncompliance (NNCs) to Die Cast. The first NNC was mailed on August 4, 2006 and received on August 24, 2006. A second NNC was issued on September 11, 2006, again by certified mail. The facility received the second NNC on September 13, 2006.

2. 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 3 deadline, and the measures that would be taken to ensure that future annual reports are submitted on time. Both NNCs also warned about the mandatory penalty for failure to submit the annual report. In the second NNC, Board staff requested submittal of the completed annual report by October 11, 2006.

3. In addition, Board staff left messages for Mr. Dave Muench on September 8, 2006, November 13, 2006 and November 22, 2006 to remind him of the requirement to submit the annual report. On December 12, 2006, Board staff spoke to a facility representative who indicated that the annual report would be faxed or mailed to the Board office by the last week of December 2006.

4. On January 4, 2007, a copy of the annual report was faxed to the Board office. The submittal included neither an explanation for the late submittal, nor any measures to insure timely submittal of the reports in the future. 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 3, 2006.

5. Water Code Section 13399.33(c) requires the Board to assess a mandatory minimum penalty of one thousand dollars ($1,000), and Section 13385 allows the Board to assess additional penalties for violations of Waste Discharge Requirements. During the last seven years, Die Cast has submitted the annual report on time only one time. The Board has considered the history of violations and other factors as discussed in the Complaint.

6. On May 16, 2007, the Executive Officer issued Administrative Civil Liability Complaint No. R8-2007-0023 to Die Cast, proposing that the Board impose civil liability in the amount of $5,000 on Die Cast for the violations cited above.

7. Section 13385(e) specifies factors that the Board shall consider in establishing the amount of civil liability. These factors are addressed in the following table.

Factor	Comment
A. Nature, Circumstance, Extent, and Gravity of Violation	Die Cast did not submit its annual report in a timely manner and the accuracy of the report it submitted is questionable. The 2005-06 annual report indicates that it collected one storm water sample (Section E.2), whereas the section on Sampling & Analysis Results shows that no samples were collected, because there was no rain.
B. Culpability	Die Cast failed to submit its annual report as required by the General Permit. Die Cast received two certified letters and a number of phone calls reminding it that the annual report was overdue and warning it of the consequences.
C. Economic Benefit or Savings	Staff estimates that Die Cast 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 the last seven reporting years, Die Cast submitted the annual report by the due date only once. At least six notices of Non-Compliance were issued to Die Cast for late submittal of the annual reports.
E. Other Factors	Board staff spent at least 3 hours of staff time in its efforts to bring this facility into compliance (@$70.00 per hour, the total cost for staff time is $210).
F. Ability to pay	Die Cast has not provided any information to indicate that it is unable to pay the proposed assessment.

8. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) in accordance with Section 15321, Chapter 3, Title 14, California Code of Regulations.

9. After consideration of these factors, the Board finds that civil liability shall be imposed on Die Cast in the amount of $4,000 (of this amount $1,000 represents the mandatory minimum penalty per Water Code Section 13399.33(c)) for the violations cited above.

IT IS HEREBY ORDERED that, pursuant to California Water Code Section 13385, administrative civil liability shall be imposed on Die Cast, in the amount of $4,000 for the violations cited in Complaint No. R8-2007-0023, payable as set forth below.

1. Die Cast shall pay the entire amount of $4,000 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, you may petition the State Water Resources Control Board for a review of this Order. If you choose to do so, you 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