



California Regional Water Quality Control Board San Diego Region



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April 15, 2011

Certified Mail-Return Receipt Requested

Article No: 7010 1060 0000 4952 5491

Rondi K. Prescott
President
Healthy Times, Inc.
14984 Huntington Gate Drive
Poway, California 92064

In reply refer to:

FMelbourn: WDID No. 9 371017603

Dear Mrs. Prescott:

**ADOPTION OF ORDER NO. R9-2011-0031 ADMINISTRATIVE CIVIL LIABILITY
AGAINST HEALTHY TIMES, INC. FOR VIOLATIONS OF STATE WATER
RESOURCES CONTROL BOARD ORDER NO. 97-03-DWQ**

Enclosed find Order No. R9-2011-0031 (Order) for Administrative Civil Liability against Healthy Times, Inc. for violations of State Water Resources Control Board (State Water Board) Order No. 97-03-DWQ (Statewide General Industrial Storm Water Permit) adopted on April 13, 2011, by the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board). As required by the Order, Healthy Times, Inc. must submit payment of \$9,492 payable to the "State Water Resources Control Board" to the San Diego Water Board at the address on this letterhead within thirty days of the date of the adoption of the Order. Failure to pay the full amount of liability assessed by the San Diego Water Board will result in the matter either being referred to the Attorney General's office or the State Water Board for further enforcement.

Payment of the \$9,492 liability will satisfy the three unpaid annual fees and the two outstanding annual reports cited in the Order. If Healthy Times, Inc. has ceased all industrial activities requiring mandatory coverage under the Statewide General Industrial Storm Water Permit, then it should submit a completed Notice of Termination form. I have attached the form with instructions for your convenience. The San Diego Water Board will review the request and provide a written response.

In the subject line of any response, please include the requested "In reply refer to:" information located in the heading of this letter. For questions pertaining to the subject matter, please contact Frank Melbourn at (858) 467-2973 or by e-mail at fmelbourn@waterboards.ca.gov.

California Environmental Protection Agency

Rondi K. Prescott
Healthy Times, Inc.
ACL Order No. R9-2011-0031

- 2 -

April 15, 2011

Respectfully,



DAVID W. GIBSON
Executive Officer

DWG:jch:ftm

Enclosure: 1. Order No. R9-2011-0031
2. Notice of Termination form

cc: Catherine Hagan, Esq., State Water Board, chagan@waterboards.ca.gov
Gary Jacobsen, Esq., Koenig Jacobsen LLP, gji@kjattorneys.com
Roger Morrison, City of Poway, rmorrison@poway.org

SMARTS:

Violation ID: 783259 Failure to submit FY 2007/08 Annual Report
840410 Failure to submit FY 2008/09 Annual Report
842759 Failure to submit FY 2009/10 Annual Report
842760 Failure to pay FY 2008/09 Annual Fee
842761 Failure to pay FY 2009/10 Annual Fee

Enforcement ID: 402599 ACL

WDID No. 9 371017603

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

ORDER NO. R9-2011-0031

**ADMINISTRATIVE ASSESSMENT OF CIVIL LIABILITY
AGAINST**

**HEALTHY TIMES, INC.
POWAY, CALIFORNIA**

**FOR
VIOLATIONS OF STATE WATER BOARD ORDER NO. 97-03-DWQ
AND
WATER CODE SECTION 13260**

The California Regional Water Quality Control Board, San Diego Region (San Diego Water Board), having held a public hearing on April 13, 2011, to receive evidence and comments on the allegations contained in Complaint No. R9-2010-0126 (Complaint), dated November 17, 2010, having considered all the evidence and public comment received, and on the recommendation for administrative assessment of Civil Liability in the amount of \$9,492, finds as follows:

1. Healthy Times, Inc. (Healthy Times) located at 13200 Kirkham Way, Building 104, Poway, California, is alleged to have violated provisions of law for which the San Diego Water Board must impose civil liability pursuant to Water Code section 13399.33, and may impose civil liability pursuant to Water Code sections 13261 and 13385.
2. On November 6, 2002, Healthy Times obtained coverage under the California State Water Resources Control Board (State Water Board) Order No. 97-03-DWQ, *National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000001, Waste Discharge Requirements (WDRs) for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities* when it submitted a completed and signed Notice of Intent (NOI) with annual fee to the State Water Board.

Failure to Submit Annual Reports (FY 2007/08 and FY 2008/09)

3. Provision No. 3. of Order No. 97-03-DWQ requires facility operators to comply with Section B, Monitoring Program and Reporting Requirements. Paragraph 14 of Section B requires facility operators to submit an Annual Report by July 1 of each year to the Executive Officer of the appropriate Regional Board.

4. The integrity and effectiveness of the NPDES regulatory program relies upon discharger compliance accomplished by self-evaluation and self-reporting. Self-evaluation is accomplished by implementing the programs and provisions of Order No. 97-03-DWQ. Self-reporting is accomplished by the submission of an annual report as outlined in Order No. 97-03-DWQ section B-14. The annual report includes a summary and evaluation of visual observations and sampling results, laboratory reports and an Annual Comprehensive Site Compliance Evaluation Report. Therefore, timely submittal of the required annual report is necessary to evaluate a facility's compliance with water quality standards.
5. Pursuant to Water Code section 13399.31, the San Diego Water Board issued the following Notices of Violation (NOVs) that indicated the penalties associated with the failure to submit the required annual report:
 - a. First NOV, September 8, 2008, for Fiscal Year 2007/08;
 - b. Second NOV, October 17, 2008, for Fiscal Year 2007/08;
 - c. First NOV, December 1, 2009, for the Fiscal Year 2008/09; and
 - d. Second NOV, March 9, 2010, for the Fiscal Year 2008/09.

The Fiscal Year 2007/08 Annual Report was due July 1, 2008, and the Fiscal Year 2008/09 Annual Report was due July 1, 2009.

6. Water Code sections 13399.31(d) and 13399.33 direct the San Diego Water Board to impose administrative civil liability in an amount that is not less than \$1,000 and recover the costs incurred if a discharger fails to submit the required annual report within 60 days after the San Diego Water Board issues the initial Notice of Non-Compliance¹.
7. Pursuant to Water Code section 13385 the maximum administrative civil liability that the San Diego Water Board can impose for failing to submit an annual report is \$10,000 per day of violation.
8. Healthy Times failed to submit the Fiscal Year 2007/08 Annual Report (1,016 days past due), and the 2008/09 Annual Report (651 days past due).
9. San Diego Water Board staff expended \$300 to investigate, prepare enforcement documents, and communicate with Healthy Times concerning the Fiscal Year 2007/08 Annual Report, and \$600 for the Fiscal Year 2008/09 Annual Report.

¹ Use of the term "Notice of Non-Compliance" and "Notice of Violation" are used synonymously in this Order.

10. The maximum administrative civil liability that the San Diego Water Board can assess for these violations are:
- \$10,160,000 failure to submit Fiscal Year 2007/08 Annual Report; and
 - \$6,510,000 failure to submit Fiscal Year 2008/09 Annual Report.

Failure to Pay Annual Fees (FY 2007/08, FY 2008/09, and FY 2009/10)

11. Order No. 97-03-DWQ and Water Code section 13260 require the payment of annual fees by permitted facility operators.
12. Pursuant to Water Code section 13261(b), the maximum administrative civil liability which could be imposed by the San Diego Water Board for failure to pay a required fee is \$1,000 for each day in which the violation occurs.
13. FY 2007/08 Annual Fee
The State Water Board invoiced Healthy Times \$830 for the Fiscal Year 2008/09 Annual Fee on October 12, 2007, with payment due on November 13, 2007. Having not received payment, the State Water Board issued a Demand for Payment letter on November 15, 2007, and a Notice of Violation on December 19, 2007. Both the Demand for Payment letter and the Notice of Violation stated that failure to pay the required annual fee could result in the imposition of administrative civil liability of up to \$1,000 per day of violation. Healthy Times failed to pay the Fiscal Year 2007/08 Annual Fee to the State Water Board; therefore the payment is 1,247 days late.
14. FY 2008/09 Annual Fee
The State Water Board invoiced Healthy Times \$1,008 for the Fiscal Year 2007-2008 Annual Fee on October 31, 2008, with payment due on November 30, 2008. Having not received payment, the State Water Board issued a Demand for Payment letter on December 12, 2008, and a Notice of Violation on January 27, 2009. Both the Demand for Payment letter and the Notice of Violation stated that failure to pay the required annual fee could result in the imposition of administrative civil liability of up to \$1,000 per day of violation. Healthy Times failed to pay the Fiscal Year 2008/09 Annual Fee to the State Water Board; therefore the payment is 864 days late.

15. FY 2009/10 Annual Fee
The State Water Board invoiced Healthy Times \$1,008 for the Fiscal Year 2007-2008 Annual Fee on October 29, 2009, with payment due on November 30, 2009. Having not received payment, the State Water Board issued a Demand for Payment letter on December 8, 2009, and a Notice of Violation on February 25, 2010. Both the Demand for Payment letter and the Notice of Violation stated that failure to pay the required annual fee could result in the imposition of administrative civil liability of up to \$1,000 per day of violation. Healthy Times failed to pay the Fiscal Year 2009/10 Annual Fee to the State Water Board; therefore the payment is 499 days late.
16. The maximum administrative civil liability that the San Diego Water Board can assess for these violations are:
- \$1,247,000 for failing to pay Fiscal Year 2007/08 annual fee;
 - \$864,000 for failing to pay Fiscal Year 2008/09 annual fee; and
 - \$499,000 for failing to pay Fiscal Year 2009/10 annual fee.
17. San Diego Water Board staff expended \$300 to investigate, prepare enforcement documents, and communicate with Healthy Times concerning the Fiscal Year 2007/08 annual fee, \$300 for the Fiscal Year 2008/09 annual fee, and \$300 for the Fiscal Year 2009/10 annual fee.

Complaint for Administrative Civil Liability

18. On November 17, 2010, the Assistant Executive Officer issued Administrative Civil Liability Complaint No. R9-2010-0126 with attached Technical Analysis to Healthy Times, Inc., recommending the imposition of \$9,492 in liability for the failure to submit annual reports and pay annual fees as described above, in the Complaint, and Technical Analysis.
19. The amount of discretionary assessment proposed for each of the annual fee violations are based upon consideration of factors contained in Water Code section 13327 and detailed in the Technical Analysis of the Complaint. Water Code section 13327 specifies the factors that the San Diego Water Board considered in establishing the amount of discretionary liability for the violations, which included: the nature, circumstance, extent, and gravity of the violations, the ability to pay, the effect on ability to continue in business, prior history of violation, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters as justice may require.

20. The penalty calculation methodology within section VI of the Water Quality Enforcement Policy incorporates the factors of Water Code section 13327. An analysis of the penalty calculation methodology for this matter is included in the Technical Analysis for the Complaint and attached to this Order as Exhibit 1. As shown in the Technical Analysis, Steps 1 and 2 of the Analysis do not apply to the annual fee violations because they are non-discharge violations.
21. In determining Step 3, the evidence supports finding that 0.3 as the per day factor. The potential harm is minor but the extent of deviation from applicable requirements is major. Using the per day factor of 0.3 multiplied by the total days of violation (2,155 days for all three FY), multiplied by the statutory maximum liability of \$1,000 per day of violation, the Initial Base Liability under Step 3 of the Analysis is \$646,000.
22. Step 4 involves adjusting the Initial Base Liability based on the discharger's culpability, the discharger's efforts to cleanup or cooperate, and the discharger's compliance history. First, the San Diego Water Board considered an adjustment factor based on the discharger's culpability. Healthy Times, Inc. verified its understanding of an commitment to the annual fee requirement when it filed its Notice of Intent and received delinquent notices and notices of violations regarding failure to pay the annual fee for each FY 2007-2008, 2008-2009 and 2009-2010. Healthy Times, Inc. demonstrated continued disregard for the obligation to pay the annual fee, evidencing negligent behavior. Therefore, the appropriate adjustment for the culpability factor is 1.5.
23. Second, the San Diego Water Board finds that an adjustment for cleanup and cooperation is inappropriate because the failure to pay annual fees is a non-discharge violation.
24. Third, the San Diego Water Board considered an adjustment factor for Healthy Times, Inc.'s history of violations. Multipliers of 1.0, 1.1, and 1.2 for each FY 2007-2008, 2008-2009, and 2009-2010, respectively, are appropriate and reflect continuing non-compliance.

25. The San Diego Water Board also finds that an adjustment to the Initial Base Liability for the per-day basis for liability is appropriate for violations lasting more than 30 days because the continuance of the violations is not causing daily detrimental impacts. Therefore, it is appropriate to use the alternate approach to penalty calculation recommended by the Prosecution Team in the Technical Analysis to assess penalties for 42 days of violation rather than 1096 for failure to pay the FY 2007-2008 annual fee, 29 days of violation rather than 712 for failure to pay the FY 2008-2009 annual fee and 17 days of violation rather than 347 days of violation for failure to pay the FY 2009-2010 annual fee.
26. Adjusting the Initial Base Liability as described in Findings 21-25 above results in a Total Base Liability of \$42,435 for all three violations for failure to pay annual fees. Exhibit 1 details the calculations that involve the above-discussed factors in determining the Total Base Liability.
27. The record contains sufficient uncontroverted information that Healthy Times, Inc. has the ability to pay the Total Base Liability amount. Therefore, the Total Base Liability is not reduced to reflect an inability to pay or continue in business.
28. Water Code section 13327 authorizes the San Diego Water Board to reduce or increase a discretionary penalty upon consideration of other factors as justice may require. The Total Base Liability of \$42,435 for all three annual fee violations is more than 14 times greater than the total value of the original fees owed and is therefore disproportionate to the magnitude and effect of the violations. It is appropriate to reduce the Total Base Liability to \$5,692, which represents twice the value of the original fees owed by Healthy Times, Inc. This reduction is shown in Step 7 of the penalty calculation methodology in Exhibit 1.
29. Staff costs associated with the three annual fee violations total \$900, and as recommended in the Enforcement Policy, this amount is added to the liability amount. This addition is shown in Step 7 of the penalty calculation methodology in Exhibit 1.

30. The Enforcement Policy directs the San Diego Water Board to consider any economic benefit of the violations to the discharger and recommends that the total liability should exceed the economic benefit amount regardless of whether the economic benefit represents a statutory minimum amount of liability. The Water Code does not provide a statutory minimum liability for violations for failure to pay annual fees. However, in this case the economic benefit is estimated to be the unpaid fee plus a time value calculated using the USEPA Economic Benefit Calculator, resulting in an estimated economic benefit of \$3,048 for all three violations combined. Therefore the adjusted liability of \$6,592 exceeds and recovers the estimated economic benefit to the discharger.
31. The Enforcement Policy also directs the San Diego Water Board to consider any maximum or minimum liability amount associated with a violation and recommends the board recover at least ten percent more than the economic benefit. The Water Code does not specify a minimum liability amount for violation of the requirement to pay annual fees set forth in Water Code section 13261. The maximum liability associated with the three annual fee violations is \$1,000 per day for 1,096 days. The estimated economic benefit discussed in Finding 9, plus ten percent, is \$3,353, well under the adjusted liability amount of \$6,592.
32. The penalty calculation methodology analysis described in the Technical Analysis, and discussed in Findings 20-31 above, together with the evidence received, supports an administrative civil liability against Healthy Times, Inc., for violations of the requirement to pay annual fees for FY 2007-2008, 2008-2009 and 2009-2010 in the amount of \$6,592.
33. The Complaint and Technical Analysis, as set forth in Findings 3-10 above, together with the evidence received, support an administrative civil liability against Healthy Times, Inc., for failure to file annual reports required by Order No. 97-03 DWQ for FY 2007-2008 and 2008-2009 in the amount of \$2,900.
34. Issuance of this Order is an enforcement action taken by a regulatory agency and is exempt from the provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.) pursuant to section 15321(a)(2), Chapter 3, Title 14 of the California Code of Regulations. This action is also exempt from the provisions of CEQA in accordance with section 15061(b)(3) of Chapter 3, Title 14 of the California Code of Regulations because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

IT IS HEREBY ORDERED, that pursuant to Water Code sections 13399.33 and 13261(b)(1) that:

1. Civil liability is imposed on Healthy Times, Inc., in the amount of nine thousand four hundred and ninety-two dollars (\$9,492).
2. Healthy Times, Inc., shall submit a check for \$9,492 to the San Diego Water Board payable to the "State Water Resources Control Board" for deposit into the Waste Discharge Permit Fund within 30 days of the adoption of this Order.
3. Fulfillment of Healthy Times, Inc.'s obligations under this Order constitutes full and final satisfaction of any and all liability for each allegation in Administrative Civil Liability Complaint No. R9-2010-0126.
4. If Healthy Times, Inc., fails to make the specified payment within the time limit specified in this Order, the San Diego Water Board may enforce this Order, including referring the matter to the Attorney General for collection.

I, David W. Gibson, Executive Officer, do hereby certify that the foregoing is a full, true and correct copy of an Order imposing civil liability assessed by the California Regional Water Quality Control Board, San Diego Region on April 13, 2011.



DAVID W. GIBSON
Executive Officer

Attachment: Exhibit 1: Penalty Calculation Methodology Decisions Summary

SMARTS:

Violation ID: 783259 Failure to submit FY 2007/08 Annual Report
840410 Failure to submit FY 2008/09 Annual Report
842759 Failure to submit FY 2009/10 Annual Report
842760 Failure to pay FY 2008/09 Annual Fee
842761 Failure to pay FY 2009/10 Annual Fee

Enforcement ID: 402599 ACL

WDID No. 9 371017603



State Water Resources Control Board



Linda S. Adams

*Secretary for
Environmental Protection*

Division of Water Quality

1001 I Street • Sacramento, California 95814 • 1-866-563-3107

Mailing Address: P.O. Box 1977 • Sacramento, California • 95812-1977

FAX (916) 341-5543 • Internet Address: http://www.waterboards.ca.gov/water_issues/programs/stormwater/

Edmund G. Brown Jr.

Governor

To: Storm Water Permit Holder

RE: NOTICE OF TERMINATION OF COVERAGE UNDER THE GENERAL
INDUSTRIAL STORM WATER PERMIT (GENERAL PERMIT)

To terminate your coverage under the General Permit, please complete and submit the attached Notice of Termination (NOT) to your local Regional Water Quality Control Board (RWQCB). The addresses of each RWQCB, as well as staff contacts can be located on page 9 of the attached Annual Report.

You are still responsible for completing an Annual Report for the period after July 1 that your facility was required to be permitted. The completed Annual Report should be submitted along with your NOT.

Submittal of a NOT does not guarantee termination and outstanding invoices will remain payable. If your NOT is denied, you will be required to continue monitoring and reporting activities required by the General Permit and all outstanding invoice(s) are due. You will be notified of your NOT status by the RWQCB or State Water Resources Control Board. Approval of your Notice of Termination does not relieve you from paying any applicable outstanding invoices.

Should you have any questions regarding this matter, please contact your local RWQCB or the Storm Water Unit at (916) 341-5538.

Sincerely,

Storm Water Section
Division of Water Quality

Enclosure

SEND TO YOUR LOCAL RWQCB FOR APPROVAL

State of California
State Water Resources Control Board

NOTICE OF TERMINATION

Submission of this Notice of Termination constitutes notification that the facility operator identified below is no longer required to comply with the **Industrial Activities** Storm Water General Permit No. 97-03-DWQ.

I. **WDID NO.** _____

II. **FACILITY OPERATOR**

NAME _____ CONTACT PERSON _____
ADDRESS _____ TITLE _____
CITY _____ STATE _____ ZIP _____ PHONE _____

III. **FACILITY SITE INFORMATION**

FACILITY NAME _____ CONTACT PERSON _____
LOCATION _____ TITLE _____
CITY _____ STATE **CA** ZIP _____ PHONE _____
SIC CODE(S) ____ / ____ / ____ , ____ / ____ / ____ TYPE OF BUSINESS _____

IV. **BASIS OF TERMINATION**

- _____ 1. **Closed Facility.** The facility is closed and all closure, moving, and clean-up activities are complete.
Date of closure ____/____/____ Are you moving to a new location in CA? ____ Yes ____ No
If Yes, start date at new location? ____/____/____ Will you file new NOI? ____ Yes ____ No

NEW FACILITY INFORMATION

NAME _____ CONTACT PERSON _____
MAILING ADDRESS _____ TITLE _____
CITY _____ STATE _____ ZIP _____ PHONE _____

- _____ 2. **Light Industry Exemption.** Exposure of industrial activities, materials, and equipment to storm water has been eliminated (Applies only to certain facilities - see instructions). Complete and submit Attachment A.

Date of evaluation: ____/____/____ Date exposure eliminated (if applicable): ____/____/____

Planned date of next evaluation: ____/____/____

- _____ 3. **No Storm Water Discharge.** Storm water associated with industrial activity does not discharge to waters of the United States because:

- ____ a. the storm water is retained on site (such as in evaporation or percolation ponds).
____ b. the storm water is discharged to a municipal sanitary sewer systems or municipal combined sewer system.
____ c. the storm water is retained offsite (such as in evaporation or percolation ponds).

- _____ 4. **Not Required to be Permitted.** The facility is not required by federal regulations to be regulated by an industrial activities storm water NPDES permit.

SEND TO YOUR LOCAL RWQCB FOR APPROVAL

5. **Regulated by Another Permit.** Discharge of storm water associated with industrial activity is specifically regulated by another general or individual NPDES permit.

NPDES Permit No. _____ Date coverage began ____/____/____

6. **New Facility Operator.** There is a new facility operator of the identified facility.

Date facility was transferred to new facility operator ____/____/____.

Have you notified the new facility operator of the storm water NPDES Permit requirements? Yes___ No

NEW FACILITY OPERATOR INFORMATION

NAME _____ CONTACT PERSON _____
MAILING ADDRESS _____ TITLE _____
CITY _____ STATE _____ ZIP _____ PHONE _____

V. ADDITIONAL TERMINATION INFORMATION

Are you attaching any additional termination information? Yes___ No

VI. FACILITY PHOTOGRAPHS

Have you attached facility photographs? Yes___ No___ (See Instructions)

VII. ANNUAL REPORT

Have you attached an Annual Report? Yes___ No___ (See Instructions)

VIII. CERTIFICATION

I certify under penalty of law that 1) I am not required to be permitted under the Industrial Activities Storm Water General Permit No. 97-03-DWQ, and 2) this document and all attachments were prepared under my direction and supervisions in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. I am aware that it is unlawful under the Clean Water Act to discharge storm water associated with industrial activity to waters of the United States if the discharge is not authorized by a NPDES permit, and there are significant penalties for submitting false information. I understand that the facility operator is still required to submit an annual report to the Regional Water Board by July 1. I also understand that the submittal of this Notice of Termination does not release a facility operator from liability for any violations of the General Permit or the Clean Water Act.

PRINTED NAME _____ TITLE _____

SIGNATURE _____ DATE ____/____/____

REGIONAL WATER BOARD USE ONLY

Approved and sent to State Board for termination

Denied and returned to applicant

Printed Name

Signature

____/____/____
Date

NOT Effective Date:

____/____/____

State of California
State Water Resources Control Board

**INSTRUCTIONS FOR COMPLETING
NOTICE OF TERMINATION OF COVERAGE UNDER
INDUSTRIAL ACTIVITIES STORM WATER GENERAL PERMIT NO. 97-03-DWQ**

SECTION 1 -- WDID NO.

The WDID NO. is a number assigned to each facility after the Notice of Intent is filed. The WDID number can be found on the annual invoice where it is referenced as the "Facility I.D. Number." If you do not know your facility's WDID No., please call the State Water Board or Regional Water Board (page 9 of the attached Annual Report) and request it prior to submitting the Notice of Termination.

SECTION II -- FACILITY OPERATOR

Enter the name, provided on the Notice of Intent, of the person, company, firm, public organization, or any other entity which owns the business or operations at the facility. The facility operator information may or may not be the same as the facility information requested in Section III.

SECTION III -- FACILITY SITE INFORMATION

Enter the facility's official or legal name, provided on the Notice of Intent, and provide the address, county, and contact person information for the facility. Where the location of the facility is different than the mailing address, a narrative description of the facility location must be provided. The contact person should be the plant or site manager who is completely familiar with the facility and responsible for General Permit compliance. Provide the Standard Industrial Classification (SIC) code(s) that are applicable to the facility and describe the type of business that is conducted at the facility. For closed facilities, however, provide the SIC code(s) and describe the type of business that had been conducted at the facility.

SECTION IV -- BASIS OF TERMINATION

Check the category which best defines the basis of your termination request. Provide dates and other information requested. If the categories provided do not fully or accurately identify the basis of your termination, attach an additional explanation and check the "Yes" box in Section V.

1. Closed Facility. This category applies when the facility is closed and all closure, moving, and clean-up activities are complete. This means that all industrial activities that are subject to federal storm water regulations have been discontinued and that the exposure of industrial equipment, materials, and waste to storm water has been eliminated. The facility operator should refer to the definition of "storm water associated with industrial activity" in Attachment 4 of the General Permit. Facilities that discontinue operations shall not be considered for termination if industrial equipment, materials, or waste remain exposed to storm water. The date when closure is complete shall be provided. If you are moving to a new facility requiring General Permit coverage, provide the name, address, and contact of the new facility.
2. Light Industry Exemption. This category applies only to certain facilities identified as category 10 on Attachment 1 of the General Permit (commonly referred to as "light industries") where exposure of industrial activities, materials, and equipment to storm water has been eliminated. Accidental spills, minor leaks, loss during loading and unloading, movement of unhooded equipment, emissions of dust or particles from stacks or air exhaust systems, and other type of intermittent sources should be considered when determining exposure. Complete and submit Attachment A entitled "Checklist to Evaluate Potential Storm Water Pollutant Sources". Provide the date the facility was evaluated and the date the next evaluation is planned. If you have taken steps to eliminate exposure of industrial activities, materials, and equipment to storm water, provide the date that exposure was eliminated.
3. No Storm Water Discharge. This category applies to facilities where storm water associated with industrial activity does not discharge to waters of the United States. These include facilities where all the storm water is retained on site, discharged to a municipal sanitary sewer system or municipal combined sewer system, or discharged to evaporation or percolation ponds offsite that do not discharge to waters of the United States.
4. Not Required to be Permitted. This category applies to facilities that are not required by federal regulations to be covered by a NPDES storm water permit. Attachment 1 of the General Permit identifies ten categories of industrial facilities required to obtain NPDES permits for discharge of storm water associated with industrial activity. A facility operator who has filed a Notice of Intent for coverage under the General Permit and later

determines that the facility is not included in the identified categories may request termination of coverage. Make sure that the SIC code(s) and type of business in Section III of the NOT form are accurate.

5. Regulated by Another Permit. This category applies to facilities where discharges of storm water associated with industrial activity are currently regulated under another general or individual NPDES permit. The general or individual NPDES permit number and date coverage began shall be provided.
6. New Facility Operator. This category applies when there is a new facility operator of the identified facility. The previous facility operator must submit a Notice of Termination and the new facility operator must submit a Notice of Intent and fee for coverage under the General Permit. Provide the date the new facility operator took responsibility for the facility and the new facility operator information. Note that the previous facility operator may be liable for discharges from the facility until the new facility operator files a Notice of Intent for coverage under the General Permit.

SECTION V -- ADDITIONAL BASIS OF TERMINATION INFORMATION

If none of the basis of termination in Section IV accurately reflect your basis for termination, answer "Yes" and attach a detailed explanation why you believe your facility is not required to be permitted.

SECTION VI -- FACILITY PHOTOGRAPHS

If category 1, 2, or 3 is checked in Section IV, attach photographs of all areas of the facility associated with industrial activity including any on-site or off-site storm water containment areas. If category 4, 5, or 6 is checked in Section IV, contact your Regional Water Board (page 9 of the attached Annual Report) to determine whether photographs must be submitted.

SECTION VII -- ANNUAL REPORT

You are responsible for submitting an Annual Report (Attachment B) for all compliance activities conducted between July 1 and the date the facility was no longer required to be permitted. In order to assist the Regional Board in processing your NOT, a completed Annual Report should be attached to your NOT. If you cannot submit an Annual Report, please contact your Regional Board office prior to submitting your NOT.

SECTION VIII -- CERTIFICATION

This section should be read by the facility operator. Please note that the facility operator is still required to prepare and submit a final annual report to the appropriate Regional Water Board office by July 1. The annual report must report all compliance activities that occurred during the current reporting period and prior to the date this Notice of Termination was submitted. The Notice of Termination must be signed by:

For a corporation: a responsible corporate officer. For a Partnership or Sole Proprietorship: a general partner or the proprietor, respectively. For a Municipality, State, or other Non-Federal Public Agency: either a principle executive officer or ranking elected official. For a Federal Agency: either the chief or senior executive officer of the agency.

Where To File

Submit the Notice of Termination to the Regional Water Board responsible for the area in which the facility is located. See attached State and Regional Boards Directory. If the Regional Water Board agrees with the basis of termination, the Notice of Termination will be transmitted to the State Water Board for processing. Approval of your Notice of Termination does not relieve you from paying any applicable outstanding invoices. If the Regional Water Board does not agree with the basis of termination, the Notice of Termination will be returned. The Regional Water Board may contact you or inspect your facility prior to (or following) approving this Notice of Termination.

**CHECKLIST TO EVALUATE POTENTIAL STORM WATER POLLUTANT SOURCES
(COMPLETE ONLY WHEN CHECKING ITEM IV.2 ON NOT FORM)**

The purpose of this checklist is to 1) help you determine whether the exposure of industrial activities, materials, and equipment to storm water has been eliminated, and 2) help Regional Water Board staff to evaluate the adequacy of your pollution control activities and Notice of Termination (NOT). Please answer all questions. Answering "YES" to a question does not negate your NOT. For each "yes" answer you must explain what you are doing to eliminate or prevent exposure from the potential pollutant source. For example, if there are liquid storage tanks outdoors behind secondary containment but the storm water is collected and discharged to the sanitary sewer, then the potential source for storm water exposure from the storage tanks may be satisfactorily eliminated. For the purpose of this questionnaire, "outdoors" are areas of the facility that are not beneath permanent roofed structures.

1. All prohibited non-storm water discharges have been eliminated or otherwise permitted.

	Yes	No
a. Are materials or equipment cleaned outdoors?	_____	_____
b. Are wash or rinse waters generated on-site?	_____	_____
c. Are there any discharges (other than storm water) entering the storm drain system?	_____	_____
d. Do any drains under roofed areas discharge to the storm drain system?	_____	_____
e. Have there been any accidental spills into the storm drain system in the last year?	_____	_____
f. Are any process waste waters disposed of outdoors?	_____	

2. All significant materials related to industrial activity (including waste materials) are not exposed to storm water or authorized non-storm water discharges.

	Yes	No
a. Are there any materials stored outdoors?	_____	_____
b. Are there any materials handled outdoors?	_____	_____
c. Are there any outdoor loading docks?	_____	_____
d. Are there any above ground liquid or non-liquid storage tanks outdoors?	_____	_____
e. Are there any outdoor loading/unloading operations?	_____	_____
f. Are there any products or by-products manufactured or used outdoors?	_____	_____
g. Are there any waste products manufactured or used outdoors?	_____	_____
h. Are there any outdoor waste disposal areas?	_____	_____
i. Is any process wastewater disposed of outdoors?		
j. Are there any drums, pallets, or containers outdoors?	_____	_____

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|--|-------|-------|
| k. Are materials handled/stored on immediate access roads/railways? | _____ | _____ |
| l. Are vehicles maintained or fueled outdoors? | _____ | _____ |
| m. Are any materials stored or disposed of in outdoor ponds or impoundments? | _____ | _____ |
| n. Are materials stored outdoors temporarily? | _____ | _____ |
| o. Does any manufacturing take place outdoors? | _____ | _____ |
| p. Have there been any spills or leaks outdoors in the last year? | _____ | _____ |
| q. Are there areas where materials remain exposed to storm water from past industrial activity? | _____ | _____ |
| 3. All industrial activities and industrial equipment are not exposed to storm water or authorized non-storm water discharges. | | |
| | Yes | No |
| a. Are any material handling vehicles (such as forklifts) parked outdoors? | _____ | _____ |
| b. Is permanent industrial equipment located outdoors? | _____ | _____ |
| c. Is portable industrial equipment used outdoors? | _____ | _____ |
| d. Do any material handling vehicles (such as forklifts and trucks) or outdoor industrial equipment come into contact with materials? | _____ | _____ |
| e. Is there any unhooded rooftop equipment (such as air conditioners, scrubbers, etc.)? | _____ | _____ |
| 4. There is no exposure of storm water to significant materials associated with industrial activities through direct or indirect pathways such as from industrial activities that generate dust and particulates. | | |
| | Yes | No |
| a. Are there any emissions of dust or particles from stacks or air exhaust systems? | _____ | _____ |
| b. Are there any emissions of dust or particles from other outlets such as windows, loading docks, etc.? | _____ | _____ |
| c. Have there been any spills or leaks associated with maintenance of stacks or air exhaust systems? | _____ | _____ |

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARDS

NORTH COAST REGION (1)
 5550 Skylane Blvd, Ste. A
 Santa Rose, CA 95403
 (707) 576-2220 FAX: (707)523-0135
<http://www.waterboards.ca.gov/northcoast/>

SAN FRANCISCO BAY REGION (2)
 1515 Clay Street, Ste. 1400
 Oakland, CA 94612
 (510) 622-2300 FAX: (510) 622-2640
<http://www.waterboards.ca.gov/sanfranciscobay/>

CENTRAL COAST REGION (3)
 895 Aerovista Place, Ste. 101
 San Luis Obispo, CA 93401
 (805) 549-3147 FAX: (805) 543-0397
<http://www.waterboards.ca.gov/centralcoast/>

LOS ANGELES REGION (4)
 320 W. 4th Street, Ste. 200
 Los Angeles, CA 90013
 (213) 576-6600 FAX: (213) 576-6640
<http://www.waterboards.ca.gov/losangeles/>

LAHONTAN REGION (6 SLT)
 2501 Lake Tahoe Blvd
 South Lake Tahoe, CA 96150
 (530) 542-5400 FAX: (530) 544-2271
<http://www.waterboards.ca.gov/lahontan/>

VICTORVILLE OFFICE (6V)
 14440 Civic Drive, Ste. 200
 Victorville, CA 92392-2383
 (760) 241-6583 FAX: (760) 241-7308
<http://www.waterboards.ca.gov/lahontan/>

CENTRAL VALLEY REGION (5S)
 11020 Sun Center Dr., #200
 Rancho Cordova, CA 95670-6114
 (916) 464-3291 FAX: (916) 464-4645
<http://www.waterboards.ca.gov/centralvalley/>

FRESNO BRANCH OFFICE (5F)
 1685 E St.
 Fresno, CA 93706
 (559) 445-5116 FAX: (559) 445-5910
<http://www.waterboards.ca.gov/centralvalley/>

REDDING BRANCH OFFICE (5R)
 415 Knollcrest Drive, Ste. 100
 Redding, CA 96002
 (530) 224-4845 FAX: (530) 224-4857
<http://www.waterboards.ca.gov/centralvalley/>

COLORADO RIVER BASIN REGION (7)
 73-720 Fred Waring Dr., Ste. 100
 Palm Desert, CA 92260
 (760) 346-7491 FAX: (760) 341-6820
<http://www.waterboards.ca.gov/coloradoriver/>

SANTA ANA REGION (8)
 3737 Main Street, Ste. 500
 Riverside, CA 92501-3339
 Phone (951) 782-4130 FAX: (951) 781-6288
<http://www.waterboards.ca.gov/santaana/>

SAN DIEGO REGION (9)
 9174 Sky Park Court, Ste. 100
 San Diego, CA 92123-4340
 (858) 467-2952 FAX: (858) 571-6972
<http://www.waterboards.ca.gov/sandiego/>

