

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

In the Matter Of:

Gino Russo
Russo Tile and Marble, Inc.
635 Front St.
El Cajon, CA 92020

WDID No. 9 371021620

**Complaint No. R9-2010-0128
For
Administrative Civil Liability**

20 September, 2010

YOU ARE HEREBY GIVEN NOTICE THAT:

1. Russo Tile and Marble, Inc. located at 635 Front St. El Cajon, CA 92020, is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) must impose civil liability pursuant to section 13399.33 of the Water Code.
2. On May 20, 2008, Russo Tile and Marble, Inc. submitted a Notice of Intent for coverage under Order No. 97-03-DWQ, National Pollutant Discharge Elimination System General Permit No. CAS000001, Waste Discharge Requirements (WDRs) for Discharges of Storm Water Associated With Industrial Activities Excluding Construction Activities.
3. Order No. 97-03-DWQ requires the submittal of an annual monitoring report by July 1 of each year.
4. The integrity and effectiveness of the Industrial 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 critically important for the evaluation of a facility's compliance with water quality standards.

ALLEGATIONS

5. Russo Tile and Marble, Inc. violated Monitoring and Reporting Requirements Section 13 of Order No. 97-03-DWQ by failing to submit the Fiscal Year (FY) 2008-2009 annual monitoring report.
6. In accordance with Water Code section 13399.31, the San Diego Water Board issued Notices of Violation dated 1 December 2009 and 9 March 2010 (attached). The San Diego Water Board notified Russo Tile and Marble, Inc. that the San Diego Water Board has not received the 2008-2009 annual report, which was due 1 July 2009. The San Diego Water Board urged Russo Tile and Marble, Inc. to submit its annual report and alerted Russo Tile and Marble, Inc. that continued failure to submit the report would trigger an administrative civil liability complaint assessing monetary penalties. As of the date on this complaint, the San Diego Water Board has not received the Russo Tile and Marble, Inc. 2008-2009 annual report.

MAXIMUM LIABILITY

7. Under Water Code section 13385, the maximum administrative civil liability which could be imposed by the San Diego Water Board for the violations described in the findings of this complaint is ten thousand dollars (\$10,000) for each day in which the violation occurs.
8. Russo Tile and Marble, Inc. has violated Order No. 97-03-DWQ for 445 days, from 1 July 2009 through 20 September 2010. The maximum administrative civil liability which could be imposed by the San Diego Water Board for this violation is four million, four hundred and fifty thousand dollars (\$4,450,000).

MINIMUM LIABILITY

9. Water Code section 13399.33(c) requires that the San Diego Water Board impose a mandatory minimum penalty of not less than \$1,000 and recover San Diego Water Board staff costs associated with this enforcement action for any person who fails to submit an annual report in accordance with Water Code section 13399.31.

PROPOSED LIABILITY

10. It is recommended that the San Diego Water Board impose civil liability against Russo Tile and Marble, Inc. in the amount of one thousand, seven hundred dollars (\$1,700) for failure to submit the FY 2008-2009 annual report. This includes staff costs of \$700 to date. If the discharger elects to contest this matter, the recommended liability may increase to recover additional necessary staff costs.

Complaint No. R9-2010-0128
Russo Tile and Marble Inc

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September 20, 2010

Dated this 20th day of September 2010.



JAMES G. SMITH

Assistant Executive Officer

Signed pursuant to the authority delegated
by the Executive Officer to the Assistant
Executive Officer.

Attachments: Notice of Violation No. R9-2009-0192
Notice of Violation No. R9-2010-0048

SMARTS: Violation ID 840399
Enforcement ID 402596
WDID No. 9 371021620