

California Regional Water Quality Control Board
Santa Ana Region

IN THE MATTER OF:)
)
Nielsen Dillingham Builders) Complaint No. R8-2002-0097
3127 Jefferson Street) for
San Diego, California 92110) Mandatory Penalties

YOU ARE HEREBY GIVEN NOTICE THAT:

1. Nielsen Dillingham Builders is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Regional Board (hereinafter, Board) must impose mandatory penalties pursuant to California Water Code Section 13385.
2. A hearing concerning this complaint will be held before the Board within 60 days of the date of issuance of this complaint, unless Nielsen Dillingham Builders waives its right to a hearing. If the hearing in this matter is not waived, the hearing will be held during the Board's regular meeting on January 17, 2003 at Orange County Water District, 10500 Ellis Avenue, Fountain Valley, CA. The meeting begins at 9:00 a.m. Nielsen Dillingham Builders or its representatives will have an opportunity to appear and be heard and to contest the allegations in this complaint and the imposition of mandatory penalties by the Board. An agenda and announcement for the meeting will be mailed to you not less than 10 days prior to the hearing date.
3. If the January 17, 2003 hearing is held, the Board will consider whether to affirm, reject or modify the proposed mandatory penalties or whether to refer this matter to the Attorney General for recovery of judicial civil liability.
4. This complaint is based on the following facts:
 - A.) On July 10, 1998, the Board adopted general waste discharge requirements for discharges to surface waters which pose an insignificant (De Minimus) threat to water quality, Order No. 98-67 (NPDES No. CAG998001).
 - B.) On April 17, 2001, Nielsen Dillingham Builders was granted authorization under Order No. 98-67 to discharge wastes associated with the construction activities at the Elsinore Valley Municipal Water District's Regional Treatment Plant.
 - C.) Nielsen Dillingham Builders submitted self-monitoring reports of their dewatering discharge, which showed effluent limit violations of Total Suspended Solids (TSS). Nielsen Dillingham Builders reported that the TSS concentration of the discharge was 320 mg/l on October 23, 2002 and 740 mg/l on October 30. Order No. 98-67 limits the TSS concentration to 75 mg/l.

5. Water Code Section 13385 (h)(1) requires the Regional Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious violation, if a discharger exceeds a waste discharge requirement effluent limitation.
6. In accordance with Water Code Section 13385(h)(1), the mandatory minimum penalty for the two violations cited in paragraph 4.C., above, is \$6,000.
7. In accordance with Water Code Section 13385(c), the Regional Board may impose administrative civil liability for the two violations. The maximum administrative civil liability that may be imposed for these violations is \$20,000.
8. The Executive Officer proposes that a mandatory penalty of \$6,000 be imposed on Nielsen Dillingham Builders by the Board for the violations cited above.

You may waive your right to a hearing. If you waive your right to a hearing, please sign the attached waiver and send it together with a check or money order and the lower portion of the attached invoice to the address on the invoice.

If you have any questions regarding this complaint, please contact Gary D. Stewart, Surveillance and Enforcement Section Chief at (909) 782-4379, or the Board's staff counsel, Jorge Leon, at (916) 341-5180.

Date

Gerard J. Thibeault
Executive Officer

California Regional Water Quality Control Board
Santa Ana Region

IN THE MATTER OF:)	
)	
Nielsen Dillingham Builders)	Complaint No. R8-2002-0097
3127 Jefferson Street)	for
San Diego, California 92110)	Mandatory Penalties

WAIVER OF HEARING

Nielsen Dillingham Builders agrees to waive its right to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the alleged violations in Complaint No. R8-2002-0097. Nielsen Dillingham Builders has enclosed a check or money order made payable to the State Water Resources Control Board in the amount of \$6,000 in settlement of Complaint No. R8-2002-0097. Nielsen Dillingham Builders understands that it is giving up its right to be heard and to argue against allegations made by the Executive Officer in Complaint No. R8-2002-0097, and against the imposition of, and amount of, the mandatory penalties.

Date

for Nielsen Dillingham Builders



Winston H. Hickox
Secretary for
Environmental
Protection

California Regional Water Quality Control Board

Santa Ana Region

Internet Address: <http://www.swrcb.ca.gov/rwqcb8>
3737 Main Street, Suite 500, Riverside, California 92501-3339
Phone (909) 782-4130 ☎ FAX (909) 781-6288



Gray Davis
Governor

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website at www.swrcb.ca.gov/rwqcb8.

December 12, 2002

Joe Stengel, Project Manager
Nielsen Dillingham Builders
3127 Jefferson Street
San Diego, California 92110

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

MANDATORY MINIMUM PENALTY COMPLAINT NO. R8-2002-0097 – NIELSEN DILLINGHAM BUILDERS

Dear Mr. Stengel:

This is to transmit a copy of Mandatory Minimum Penalties Complaint No. R8-2002-0097. The complaint is in response to violations of effluent limitations specified in waste discharge requirements, Order No. 98-67. It was issued pursuant to California Water Code Section 13385 (h)(1) and proposes the assessment of a penalty of \$6,000 for two (2) violations that occurred in the month of October 2002.

Nielsen Dillingham Builders may waive its right to a public hearing on this matter. If Nielsen Dillingham Builders chooses to do so, please sign the enclosed waiver form and submit with a check or money order made payable to the 'State Water Resources Control Board' for the amount of the mandatory penalty, \$6,000 in accordance with the instructions on the attached invoice by December 20, 2002.

If Nielsen Dillingham Builders does not wish to waive its right to a hearing, we recommend scheduling a pre-hearing meeting at the Regional Board's office prior to December 20, 2002. At that time, you may wish to submit information that may not have been previously available to staff regarding these violations. This information should address the factual accuracy of the findings in the complaint. If a public hearing is held on this matter, it will be conducted during the Board's January 17, 2003 meeting at Orange County Water District, 10500 Ellis Avenue, Fountain Valley, CA. The staff report concerning the complaint and a meeting agenda will be mailed to you at least 10 days prior to the hearing.

California Environmental Protection Agency



If your staff would like to discuss this matter further, please contact Gary D. Stewart, Surveillance and Enforcement Section Chief, at (909) 782-4379, or Jessie H. Powell, Surveillance and Enforcement Section Staff Engineer, at (909) 320-6358.

Sincerely,

Gerard J. Thibeault
Executive Officer

Enclosure: Complaint No. R8-2002-0097

cc: w/enclosures

U.S. EPA, CWA Compliance Office (WTR-7) – Tom Huetteman
U.S. EPA, Region IX (WTR-7) – Terry Oda
State Water Resources Control Board, Office of the Chief Counsel – Jorge Leon
State Water Resources Control Board, Division of Water Quality – Jim Maughan
Elsinore Valley Municipal Water District – Jim Laughlin
Riverside County Flood Control – Mark Wills
Hydroquip Pump and Dewatering Corp., Downey – Jerry King

NielsenDillinghamBuilders-1102.Cov.doc