

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION**

In the Matter of:)	
)	
Savanna School District)	Complaint No. R8-2009-0065
1330 S. Knott Avenue)	for
Anaheim, CA 92804)	Administrative Civil Liability
)	
Attn: James Harris)	

YOU ARE HEREBY GIVEN NOTICE THAT:

1. Savanna School District is alleged to have violated provisions of the State's General Permit for Storm Water Discharges Associated Industrial Activities, Water Quality Order No. 97-03-DWQ, NPDES No. CAS000001 (General Permit) by failing to submit the annual report for which the California Regional Water Quality Control Board, Santa Ana Region (hereinafter "Regional Board"), must impose liability under California Water Code (hereinafter "CWC") Section 13399.33.
2. A hearing concerning this Complaint will be held before the Regional Board within 90 days of the date of issuance of this Complaint, unless, pursuant to CWC Section 13323, Savanna School District waives its right to a hearing. The hearing in this matter is scheduled for the Regional Board's regular meeting on January 29, 2010, at the City Council Chambers, City of Loma Linda, 25541 Barton Road, City of Loma Linda, California. Savanna School District or its representative will have an opportunity to appear and be heard, and to contest the allegations in this Complaint and the imposition of civil liability by the Regional Board.
3. If a hearing is held on this matter, the Regional Board will consider whether to affirm, reject, or modify the proposed administrative civil liability or whether to refer the matter to the Attorney General for recovery of judicial civil liability. If this matter proceeds to hearing, the Prosecution Team reserves the right to seek an increase in the civil liability amount to cover the costs of enforcement incurred subsequent to the issuance of this Complaint through hearing. The enforcement costs may be recovered pursuant to CWC Section 13399.33(d).

THIS COMPLAINT IS BASED ON THE FOLLOWING FACTS:

4. Most industrial facilities that discharge storm water associated with industrial activities are required to get coverage under the General Permit. The facilities that are required to get permit coverage are listed by industrial category and by

Standard Industrial Classification (SIC) codes in 40 CFR Section 122.26(b)(14) and in Attachment 1 of the General Permit.

5. Savanna School District operates school buses from a facility located at 1330 S. Knott Avenue in Anaheim. School bus operation and maintenance activities are described by SIC code 4151. Coverage under the General Permit is mandatory for school bus maintenance operations and coverage must be obtained prior to the start of operations. The school district obtained General Permit coverage for this activity on March 11, 2003.
6. General Permit Section B.14, Monitoring Program and Reporting Requirements – Annual Report, requires that an Annual Report be submitted by July 1 each year.
7. Savanna School District did not submit an Annual Report by July 1, 2009.
8. Pursuant to the notice requirements set forth in CWC Section 13399.31, Regional Board staff issued a Notice of Non-Compliance (NNC) on July 30, 2009, via certified mail addressed to the Savanna School District requiring it to submit an Annual Report. The return receipt showed that the NNC was received by A. Lambert of the Savanna School District on July 31, 2009. When Regional Board staff received no response from Savanna School District within 30 days of the first NNC, a second NNC was issued on August 28, 2009 by certified mail addressed to the Savanna School District. The return receipt showed that the second NNC was received by Dawna Chapman of the Savanna School District on August 31, 2009. In both NNCs, Regional Board staff requested submittal of the Annual Report and identified the Savanna School District's potential civil liability pursuant to CWC Section 13399.33(c) for failure to submit the Annual Report. The second NNC requested the school district to submit the Annual Report by September 28, 2009. Regional Board staff called Savanna School District and left a voice mail message for James Harris on September 24, 2009, and left a message with Eric Fanno for James Harris on September 28, 2009, reminding him of the deadline to submit the Annual Report. On October 5, 2009, the Annual Report for the Savanna School District was received at the Regional Board office.
9. Pursuant to Section 13399.31(d) of the CWC, if a discharger fails to submit the required Annual Report to the Regional Board within 60 days from the date on which the original NNC was sent, the Regional Board shall impose the penalties described in subdivision (c) of Section 13399.33 of the CWC.
10. Pursuant to Section 13399.33(c) of the CWC, the Regional Board shall administratively impose civil liability in an amount that is not less than one thousand dollars (\$1,000) if a discharger fails to submit an Annual Report after receiving two NNCs, as described in CWC Section 13399.31.
11. CWC Section 13399.33(d) provides for staff cost recovery for enforcement actions under Section 13399.33(c) of the CWC. Regional Board staff spent approximately

13.5 hours for this enforcement action and the total Regional Board staff costs are \$2,025 (13.5 hrs @ \$150/hr = \$2,025).

Pursuant to CWC Section 13399.33(c), and CWC Section 13399.33(d), the Assistant Executive Officer recommends that the Regional Board impose administrative civil liability in the amount of three thousand twenty-five dollars (mandatory penalty of \$1,000+staff costs of \$2,025=\$3,025) on Savanna School District for civil penalties and to cover the costs of enforcement.

WAIVER OF HEARING

Savanna School District may waive its right to a hearing. If Savanna School District chooses to do so, please sign the attached Waiver Form and mail it, together with a check or money order payable to the State Water Resources Control Board-WDPF, for the amount of three thousand twenty-five dollars (\$3,025). These documents should be mailed to the Regional Board office in the enclosed pre-printed envelope.

If you have any questions, please contact Michelle Beckwith at (951) 782-4433, or Mark Smythe at (951) 782-4998. For legal questions, contact Ann Carroll, Staff Counsel, at (916) 322-3227.

11/18/09
Date

Kurt V. Berchtold
Kurt V. Berchtold
Assistant Executive Officer
Regional Board Prosecution Team



California Regional Water Quality Control Board

Santa Ana Region



Linda S. Adams
Secretary for
Environmental Protection

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Arnold Schwarzenegger
Governor

HEARING PROCEDURE
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT
NO. R8-2009-0065
ISSUED TO
Savanna School District
1330 S. Knott Avenue
Anaheim, CA 92804
Orange County

SCHEDULED FOR JANUARY 29, 2010

PLEASE READ THIS HEARING PROCEDURE CAREFULLY. FAILURE TO COMPLY WITH THE DEADLINES AND OTHER REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF YOUR DOCUMENTS AND/OR TESTIMONY.

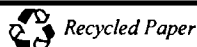
Background

The Assistant Executive Officer has issued an Administrative Civil Liability Complaint (hereinafter "Complaint") pursuant to California Water Code Section 13323 against Savanna School District (hereinafter "Discharger") alleging that it has violated the State's General Permit for Storm Water Discharges Associated with Industrial Activity, Order No. 97-03-DWQ, NPDES No. CAS000001 (hereinafter "General Permit") by failing to submit the 2008-2009 Annual Report by July 1, 2009, the date specified in the General Permit. The Complaint proposes that administrative civil liability in the amount of three thousand twenty-five dollars (\$3,025) be imposed as authorized by Water Code Sections 13399.33(c) and 13399.33(d). A hearing is currently scheduled to be held before the Regional Board during its January 29, 2009 meeting.

Purpose of Hearing

The purpose of the hearing is to consider relevant evidence and testimony regarding the Complaint. At the hearing, the Regional Board will consider whether to issue an administrative civil liability order assessing the proposed liability, or a higher or lower amount, or reject the proposed liability. The public hearing on January 29, 2010 will commence at 9:00 a.m. or as soon thereafter as practicable, or as announced in the Regional Board meeting agenda. The meeting will be held at the City Council Chambers, 25541 Barton Road, City of Loma Linda, California. An agenda for the meeting will be issued at least ten days before the meeting and posted on the Regional Board's web page at:

California Environmental Protection Agency



http://www.waterboards.ca.gov/santaana/board_info/agendas/index.shtml.

The agenda will include the final hearing date and location, and the estimated start time for the meeting. Since the start time for this item is uncertain, all interested parties are urged to be present from the start of the Board meeting.

Hearing Procedures

The hearing will be conducted in accordance with this hearing procedure. This hearing procedure has been pre-approved by the Regional Board's Advisory Team in model format. A copy of the general procedures governing adjudicatory hearings before the Regional Board may be found at Title 23 of the California Code of Regulations, Section 648 et seq., and is available at <http://www.waterboards.ca.gov> or upon request. In accordance with Section 648, subdivision (d), any procedure not provided by this Hearing Procedure is deemed waived. Except as provided in Section 648 and herein, subdivision (b), Chapter 5 of the Administrative Procedures Act (commencing with Section 11500 of the Government Code) does not apply to this hearing.

THE PROCEDURES AND DEADLINES HEREIN MAY BE AMENDED BY THE ADVISORY TEAM AT ITS DISCRETION. ANY OBJECTIONS TO THE HEARING PROCEDURE MUST BE RECEIVED BY THE REGIONAL BOARD'S ADVISORY TEAM BY DECEMBER 1, 2009 OR THEY WILL BE WAIVED. FAILURE TO COMPLY WITH THE DEADLINES AND REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF DOCUMENTS AND/OR TESTIMONY.

Hearing Participants

Participants in this proceeding are designated as either "parties" or "interested persons." Designated parties to the hearing may present evidence and cross-examine witnesses and are subject to cross-examination. Interested persons generally may not submit evidence, cross-examine witnesses, or be subject to cross examination, but may present policy statements. Policy statements may include comments on any aspect of the proceeding, but may not include evidence (e.g., photographs, eye-witness testimony, monitoring data). Interested persons who would like to submit evidence may do so if the evidence is submitted in accordance with the procedures and deadlines for submitting evidence described below. Interested persons who present evidence may be subject to cross-examination. Both designated parties and interested persons may be asked to respond to clarifying questions from the Regional Board, staff or others, at the discretion of the Regional Board.

The following participants are hereby designated as parties in this proceeding:

- (1) Regional Board Prosecution Team
- (2) Savanna School District, also referred to as the Discharger

Requesting Designated Party Status

Persons who wish to participate in the hearing as a designated party must request party status by submitting a request in writing (with copies to the existing designated parties) so that it is received by 5 p.m. on December 1, 2009 by Advisory Team Attorney David Rice, Davidrice@waterboards.ca.gov. The request shall include an explanation of the basis for status as a designated party (e.g., how the issues to be addressed in the hearing and the potential actions by the Regional Board affect the person), the information required of designated parties as provided below, and a statement explaining why the party or parties designated above do not adequately represent the person's interest. Any opposition to the request must be received by the Advisory Team, the person requesting party status, and all parties by 5 p.m. on December 7, 2009. The parties will be notified by 5 p.m. on December 10, 2009 in writing whether the request has been granted or denied.

Primary Contacts

- Advisory Team:** **David Rice (email: Davidrice@waterboards.ca.gov)**
Phone: 916-341-5182
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100
- Prosecution Team:** **Ann Carroll (email: acarroll@waterboards.ca.gov)**
Phone: 916-322-3227
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100
- Discharger:** **James Harris**
Email: (currently not available)
Phone: 714-236-3826
Savanna School District
1330 S. Knott Avenue
Anaheim, CA 92804

Separation of Functions

To help ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the Regional Board (Prosecution Team) have been separated from those who will provide advice to the Regional Board (Advisory Team). Members of the Advisory Team are: David Rice, Staff Counsel, State Water Resources Control Board and Gerard Thibeault, Executive Officer, Santa Ana Regional Water Quality Control Board. Members of the Prosecution Team are: Ann Carroll, Office of Enforcement, State Water Resources Control Board; Kurt Berchtold, Assistant Executive Officer, Santa Ana Regional Water Quality Control Board; Michael Adackapara, Division Chief, Santa Ana Regional Water Quality Control Board; Mark Smythe, Section Chief, Santa Ana Regional Water Quality Control Board, and Michelle Beckwith, Environmental Scientist, Santa Ana Regional Water Quality Control Board. Any members of the Advisory Team who normally supervise any members of the Prosecution Team are not acting as their supervisors in this proceeding, and vice versa. Members of the Prosecution Team may have acted as advisors to the Regional Board in other, unrelated matters, but they are not advising the Regional Board in this proceeding. Members of the Prosecution Team have not had any ex parte communications with the members of the Regional Board or the Advisory Team regarding this proceeding.

Ex Parte Communications

The designated parties and interested persons are forbidden from engaging in ex parte communications regarding this matter with members of the Advisory Team or members of the Regional Board. An ex parte contact is any written or verbal communication pertaining to the investigation, preparation, or prosecution of the Complaint between a member of a designated party or interested person on the one hand, and a Regional Board member or an Advisory Team member on the other hand, unless the communication is copied to all other designated parties (if written) or made in a manner open to all other designated parties (if verbal). Communications regarding non-controversial procedural matters are not ex parte contacts and are not restricted. Communications among one or more designated parties and interested persons themselves are not ex parte contacts.

Hearing Time Limits

To ensure that all participants have an opportunity to participate in the hearing, the following time limits shall apply: Each designated party shall have a combined 20 minutes to present evidence, cross-examine witnesses (if warranted), and provide a closing statement; and each interested person shall have 3 minutes to present a non-evidentiary policy statement. Participants with similar interests or comments are requested to make joint presentations, and participants are requested to avoid

redundant comments. Participants who would like additional time must submit their request to the Advisory Team so that it is received no later than November 30, 2009. Additional time may be provided at the discretion of the Advisory Team (prior to the hearing) or the Regional Board Chair (at the hearing) upon a showing that additional time is necessary.

Submission of Evidence and Policy Statements

The following information must be submitted in advance of the hearing:

1. All evidence (other than witness testimony to be presented orally at the hearing) that the Designated Party would like the Regional Board to consider. Evidence and exhibits already in the public files of the Regional Board may be submitted by reference as long as the exhibits and their location are clearly identified in accordance with Title 23, CCR, Section 648.3.
2. All legal and technical arguments or analysis.
3. The name of each witness, if any, whom the designated party intends to call at the hearing, the subject of each witness' proposed testimony, and the estimated time required by each witness to present direct testimony.
4. The qualifications of each expert witness, if any.
5. If the Discharger intends to argue an inability to pay the civil liability proposed in the Complaint (or an increased or decreased amount as may be imposed by the Regional Board), the Discharger should submit supporting evidence as set forth in the "ACL Fact Sheet" under "Factors that must be considered by the Board."

The Prosecution Team shall submit 15 hard copies of its information and one electronic copy of the information to Advisory Team Attorney David Rice so that it is received by 5 p.m. on December 10, 2009.

The remaining designated parties shall submit 15 hard copies of their information and one electronic copy of the information to Advisory Team Attorney David Rice so that they are received by 5 p.m. on December 10, 2009.

Any designated party that would like to submit information that rebuts the information previously submitted by other designated parties shall submit 15 hard copies of their rebuttal information and one electronic copy of the information to Advisory Team Attorney David Rice so that they are received by 5 p.m. on December 17, 2009. Rebuttal information shall be limited to the scope of the information previously submitted

by the other designated parties. Rebuttal information that is not responsive to information previously submitted by other designated parties may be excluded.

If the total amount of information submitted by any party is less than 15 pages, that party may submit the information by email, rather than in writing. In addition to the foregoing, each designated party shall submit (1) one copy of the above information to each of the other designated parties so that it is received by 5 p.m. on the deadline specified above.

Interested persons who would like to submit written non-evidentiary policy statements are encouraged to submit them to the Advisory Team as early as possible, but no later than December 1, 2009. Interested persons do not need to submit written non-evidentiary policy statements in order to speak at the hearing.

In accordance with Title 23, California Code of Regulations, Section 648.4, the Regional Board endeavors to avoid surprise testimony or evidence. Absent a showing of good cause and lack of prejudice to the parties, the Regional Board may exclude evidence and testimony that is not submitted in accordance with this hearing procedure. Excluded evidence and testimony will not be considered by the Regional Board and will not be included in the administrative record for this proceeding. Power Point and other visual presentations may be used at the hearing, but their content may not exceed the scope of other submitted written material. A copy of such material intended to be presented at the hearing must be submitted to the Advisory Team by January 14, 2010 for inclusion in the administrative record. Additionally, any witness who has submitted written testimony for the hearing shall appear at the hearing and affirm that the written testimony is true and correct, and shall be available for cross-examination.

Request for Pre-hearing Conference

A designated party may request that a pre-hearing conference be held before the hearing in accordance with Water Code Section 13228.15. A pre-hearing conference may address any of the matters described in subdivision (b) of Government Code Section 11511.5. Requests must contain a description of the issues proposed to be discussed during that conference, and must be submitted to the Advisory Team, with a copy to all other designated parties, as early as practicable.

Evidentiary Objections

Any designated party objecting to written evidence or exhibits submitted by another designated party must submit a written objection to the Advisory Team and all other designated parties so that it is received by 5 p.m. on December 17, 2009. The Advisory Team will notify the parties about further action to be taken on such objections and when that action will be taken.

Evidentiary Documents and File

The Complaint and related evidentiary documents are on file and may be inspected or copied at the Regional Board office at 3737 Main Street, Suite 500, Riverside, CA 92501 by contacting August Lucas (email: alucas@waterboards.ca.gov; phone: 951-782-7961). This file shall be considered part of the official administrative record for this hearing. Other submittals received for this proceeding will be added to this file and will become a part of the administrative record absent a contrary ruling by the Regional Board Chair. Many of these documents are also posted on-line at: http://www.waterboards.ca.gov/santaana/public_notices/enforcement_actions.shtml. Although the web page is updated regularly, to assure access to the latest information, you may contact Ann Carroll (acarroll@waterboards.ca.gov).

Questions

Questions concerning this proceeding may be addressed to the Advisory Team Attorney David Rice (Davidrice@waterboards.ca.gov).

IMPORTANT DEADLINES

(Note: the Regional Board is required to provide a hearing within 90 days of issuance of the Complaint (Water Code Section 13323). The Advisory Team will generally adhere to this schedule unless the discharger waives that requirement.)

- | | |
|--------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------|
| November 18, 2009: | Prosecution Team issues ACL Complaint to Discharger and Advisory Team, sends Hearing Procedure to Discharger and Advisory Team, and publishes Public Notice. |
| December 1, 2009: | Deadline for objections, if any, to proposed Hearing Procedure. |
| December 1, 2009: | Deadline for requests for designated party status. |
| December 1, 2009: | Interested Persons' deadline for written non-evidentiary policy statements. |

- December 7, 2009: Deadline for oppositions to requests for designated party status.
- December 7, 2009: Deadline for hearing time extension.
- December 10, 2009: Advisory Team issues decision on requests for designated party status, if any.
- December 10, 2009: Prosecution Team's deadline for all information required under "Submission of Evidence and Policy Statements,"
- December 10, 2009: Remaining Designated Parties' Deadline for all information required under "Submission of Evidence and Policy Statements."
- December 17, 2009: All Designated Parties' deadline for rebuttal information, evidentiary objections, and requests for additional time at the hearing, if any.
- January 14, 2010: Deadline for submittal of visual presentations to be used at the Public Hearing.
- January 29, 2009: Public Hearing.

Kt v. Bltlp
Kurt V. Berchtold
Assistant Executive Officer
Regional Board Prosecution Team

11/18/09
Date



California Regional Water Quality Control Board

Santa Ana Region



Linda S. Adams
Secretary for
Environmental Protection

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Governor

WAIVER FORM FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT

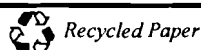
By signing this waiver, I affirm and acknowledge the following:

I am duly authorized to represent Savanna School District (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint No. R8-2009-0065 (hereinafter the "Complaint"). I am informed that California Water Code Section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served [with the complaint]. The person who has been issued a complaint may waive the right to a hearing."

(**OPTION 1: Check here if the Discharger waives the hearing requirement and will pay the liability in full.**)

- a. I hereby waive any right the Discharger may have to a hearing before the Regional Board.
- b. I certify that the Discharger will remit payment for the proposed civil liability in the full amount of three thousand twenty-five dollars (\$3,025) by check that references "Complaint No. R8-2009-0065" made payable to the State Water Resources Control Board -WDPF. Payment must be received by the Regional Board office by **December 3, 2009** or the Regional Board may adopt an Administrative Civil Liability Order requiring payment.
- c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after the 30-day public notice and comment period. Should the Regional Board receive significant new information or comments from any source (excluding the Regional Board's Prosecution Team) during this comment period, the Regional Board's Assistant Executive Officer may withdraw the Complaint, return payment, and issue a new Complaint. I understand that this proposed settlement is subject to approval by the Executive Officer of the Regional Board, and that the Regional Board may consider this proposed settlement in a public meeting or hearing. I also understand that approval of the settlement will result in the Discharger having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
- d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

California Environmental Protection Agency



(**OPTION 2: Check here if the Discharger waives the 90-day hearing requirement in order to engage in settlement discussions.**) I hereby waive any right the Discharger may have to a hearing before the Regional Board within 90 days after service of the Complaint, but I reserve the ability to request a hearing in the future. I certify that the Discharger will promptly engage the Regional Board Prosecution Team in settlement discussions to attempt to resolve the outstanding violation(s). By checking this box, the Discharger requests that the Regional Board delay the hearing so that the Discharger and the Prosecution Team can discuss settlement. It remains within the discretion of the Regional Board to agree to delay the hearing. Any proposed settlement is subject to the conditions described above under "Option 1."

(**OPTION 3: Check here if the Discharger waives the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines. Attach a separate sheet with the amount of additional time requested and the rationale.**) I hereby waive any right the Discharger may have to a hearing before the Regional Board within 90 days after service of the Complaint. By checking this box, the Discharger requests that the Regional Board delay the hearing and/or hearing deadlines so that the Discharger may have additional time to prepare for the hearing. It remains within the discretion of the Regional Board to approve the extension.

(Print Name and Title)

(Signature)

(Date)