

Durham Transportation, Inc./Durham School Services, L. P.

the mandatory minimum penalty for failure to submit the annual report by the July 1, 2010 deadline.

6. On September 27, 2010, Board staff spoke with Mr. Jim Elsinger, Durham's contact person at the Santa Ana facility, informing him of the mandatory minimum penalty if the annual report was not submitted by September 28, 2010. On September 27, 2010, Board staff also spoke with Mr. Mike Nolte, Durham's corporate contact, informing him of the mandatory minimum penalty for non-submittal of the 2009-2010 annual report. The annual report was received by Board staff on September 29, 2010. Durham violated the General Permit, the Federal Clean Water Act, and the California Water Code by failing to submit the 2009-2010 annual report by July 1, 2010.
7. Section 13385(a)(2) of the California Water Code provides that any person who violates waste discharge requirements issued pursuant to the Federal Clean Water Act shall be civilly liable. Section 13385(c) provides that civil liability may be administratively imposed by a regional board in an amount not to exceed ten thousand dollars (\$10,000) for each day the violation occurs.
8. Based on non-submittal of the 2009-2010 annual report, Durham is alleged to have violated the General Permit for 90 days (from July 2, 2010 to September 29, 2010). The total maximum liability for this violation pursuant to Section 13385 of the Water Code is \$900,000 (90 days of noncompliance x \$10,000/day).
9. Section 13399.33(c) of the California Water Code requires that the Regional Board impose a minimum penalty of \$1,000 for any person who fails to submit an annual report in accordance with Section 13399.31 of the Water Code. Section 13399.33(d) of the California Water Code further requires that the Regional Board recover the costs incurred by the Regional Board with regard to those persons.

PROPOSED MANDATORY MINIMUM PENALTY AND ASSESSMENT OF COSTS

1. Pursuant to Section 13399.33(c), the Division Chief proposes that the mandatory minimum penalty of \$1,000 be imposed on Durham for the violation cited above. In addition, the Division Chief proposes that staff costs in the amount of \$750 be recovered from Durham. The total proposed mandatory minimum penalty and staff costs amount is \$1,750.
2. Notwithstanding the issuance of this Complaint, the Regional Board retains the authority to assess additional penalties for violations of the requirements of Durham's waste discharge requirements for which penalties have not yet been assessed or for violations that may subsequently occur.
3. Issuance of this Complaint is an enforcement action and is therefore exempt from the provisions of the California Environmental Quality Act (Pub. Res. Code § 21000 et seq.) pursuant to Title 14, California Code of Regulations, Sections 15308 and 15321 subsection (a) (2).

12/15/2010
Date



Michael J. Adackapara, Division Chief



California Regional Water Quality Control Board Santa Ana Region



3737 Main Street, Suite 500, Riverside, California 92501-3348
Phone (951) 782-4130 • FAX (951) 781-6288 • TDD (951) 782-3221
www.waterboards.ca.gov/santaana

Linda S. Adams
Secretary for
Environmental Protection

Arnold Schwarzenegger
Governor

WAIVER FORM FOR MANDATORY MINIMUM PENALTY COMPLAINT NO. R8-2010-0066

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

I am duly authorized to represent Durham Transportation, Inc./Durham School Services, L. P. (hereinafter "Durham") in connection with Mandatory Minimum Penalty Complaint No. R8-2010-0066 (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."

Check here and sign below if Durham waives the hearing requirement and will pay the liability in full.

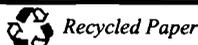
- a. I hereby waive any right Durham may have to a hearing before the Regional Board.
- b. I certify that Durham will remit payment for the proposed penalty in the full amount of one thousand seven hundred fifty dollars (\$1,750) by check that references "Complaint No. R8-2010-0066" made payable to the Waste Discharge Permit Fund. Payment must be received by the Regional Board office no later than **February 03, 2011** or the Regional Board may adopt an 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 Division Chief 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 Durham having waived the right to contest the allegations in the Complaint and the imposition of the penalty.
- 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 Durham to further enforcement, including additional penalties.

(Print Name and Title)

(Signature)

(Date)

California Environmental Protection Agency





California Regional Water Quality Control Board

Santa Ana Region



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Arnold Schwarzenegger
Governor

July 30, 2010

Durham Trans Inc
9011 Mountain Ridge Dr Ste 200
Austin, Texas 78759

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

NOTICE OF NONCOMPLIANCE: FAILURE TO COMPLY WITH THE GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITIES, ORDER NO. 97-03-DWQ, NPDES NO. CAS000001 (GENERAL PERMIT) WDID No. 8 301011540

Dear Mike Nolte:

Your facility located at 2818 W 5th St, in the city of Santa Ana, is regulated under the General Permit and is identified by WDID No. **8 301011540**. Section B.16 of the General Permit requires you to submit an annual report by July 1 of each year. According to our records, we have not received your 2009-2010 annual report.

Currently you are in violation of the General Permit, the California Water Code and the federal Clean Water Act for failure to submit a complete 2009-2010 annual report. We request that you submit a complete 2009-2010 annual report to this office no later than 30 days from the date of this letter. (A blank copy of the report form can be downloaded at http://www.waterboards.ca.gov/water_issues/programs/stormwater/annualreport.shtml). You can also submit your annual report electronically via SMARTS (Storm Water Multiple Application and Report Tracking System). To register for SMARTS, download the application form at https://smarts.waterboards.ca.gov/smarts/faces/help/lrp_registration.pdf.

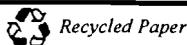
You must also provide a statement explaining why the annual report was not submitted by the July 1 deadline and the measures you have taken to insure timely submittals in the future. Failure to submit the requested information may result in enforcement action, including civil monetary penalties of up to \$10,000 for each day of violation. Please note that Section 13399.33 of the California Water Code stipulates a mandatory minimum penalty of \$1,000 to those permittees that do not submit their annual reports after notification.

If you need assistance in completing the annual report or if you have any questions, please contact Michelle Beckwith by phone at (951) 782-4433 or by e-mail at mbeckwith@waterboards.ca.gov.

Sincerely,

Michael J. Adackapara
Division Chief

California Environmental Protection Agency





California Regional Water Quality Control Board

Santa Ana Region



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Arnold Schwarzenegger
Governor

August 30, 2010

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Austin, Texas 78759

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

NOTICE OF NON-COMPLIANCE: FAILURE TO COMPLY WITH THE GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITIES, ORDER NO. 97-03-DWQ, NPDES NO. CAS000001 (GENERAL PERMIT) WDID NO. 8 30I011540 SECOND NOTICE

Dear Mike Nolte:

Your facility located at 2818 W 5th St, in the city of Santa Ana, is regulated under the General Permit and is identified by WDID No. **8 30I011540**. Section B.16 of the General Permit requires you to submit an annual report by July 1 of each year. According to our records, we have not received your July 1, 2010 annual report.

Currently you are in violation of the General Permit, the California Water Code and the federal Clean Water Act for failure to submit a complete 2009-2010 annual report. We request that you submit a complete 2009-2010 annual report to this office no later than 30 days from the date of this letter. (A blank copy of the report form can be downloaded at http://www.waterboards.ca.gov/water_issues/programs/stormwater/annualreport.shtml). You can also submit your annual report electronically via SMARTS (Storm Water Multiple Application and Report Tracking System). To register for SMARTS, download the application form at https://smarts.waterboards.ca.gov/smarts/faces/help/lrp_registration.pdf.

This is your second notice. The first notice was dated and sent on 7/30/10. To date, we have not received a response to that notice. Please note that Section 13399.31 of the California Water Code stipulates failure to submit the requested information by the September 28 due date will result in a mandatory minimum fine of \$1,000 to those permittees that do not submit their annual reports within 60 days of notification. Further enforcement action, including civil monetary penalties of up to \$10,000 for each day of violation, may result.

If you need assistance in completing the annual report or if you have any questions, please contact Michelle Beckwith by phone at (951) 782-4433 or by e-mail at mbeckwith@waterboards.ca.gov.

Sincerely,

Michael J. Adackapara
Division Chief

California Environmental Protection Agency

