



## California Regional Water Quality Control Board, San Diego Region

October 16, 2014

Cesar Aguilera  
President  
A&L Tile, Inc.  
3722 Main Street  
San Diego, CA 92113

Certified Mail – Return Receipt Requested  
Article Number: 7011 0470 0002 8952 6840

Mr. Robinson Devadhasan  
Agent for Service of Process  
1251 3<sup>rd</sup> Ave., Ste. 103  
Chula Vista, CA 91911

Certified Mail – Return Receipt Requested  
Article Number: 7011 0470 0002 8952 6857

**SUBJECT: ADOPTION OF ADMINISTRATIVE CIVIL LIABILITY (ACL) ORDER NO. R9-2014-0112 AGAINST A&L TILE, INC.**

Dear Messrs. Aguilera and Devadhasan:

Order No. R9-2014-0112, *Administrative Assessment of Civil Liability Against A&L Tile, Inc., San Diego, California for Violation of Water Code Sections 13376, 13385, and 13399.30; Order No. 97-03-DWQ; and the Federal Clean Water Act Section 301* (enclosed) was adopted by the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) through its Executive Officer on October 15, 2014.

As required by the Order, your payment of \$6,194 is payable to the State Water Resources Control Board's Cleanup and Abatement Account and must be submitted to the State Water Resources Control Board at the following address within thirty (30) days of the date of adoption:

State Water Resources Control Board  
Accounting Office  
Attn: ACL Payment  
PO Box 1888  
Sacramento, CA 95812-1888

Please note that a copy of the check must be sent to the Designated Water Board Representative (Rebecca Stewart) at the address contained in the letterhead.

For questions pertaining to this matter, please feel free to contact me at (619) 521-5896 or [boutwinbeals@waterboards.ca.gov](mailto:boutwinbeals@waterboards.ca.gov).

Respectfully,



Brandi Outwin-Beals, P.E.  
Senior Water Resource Control Engineer

BOB:bob

Enclosure: ACL Order No. R9-2014-0112

cc via email (w/ enclosure):

David Gibson, San Diego Water Board, [dgibson@waterboards.ca.gov](mailto:dgibson@waterboards.ca.gov)  
Jeremy Haas, San Diego Water Board, [jhaas@waterboards.ca.gov](mailto:jhaas@waterboards.ca.gov)  
David Barker, San Diego Water Board, [dbarker@waterboards.ca.gov](mailto:dbarker@waterboards.ca.gov)  
Eric Becker, San Diego Water Board, [ebecker@waterboards.ca.gov](mailto:ebecker@waterboards.ca.gov)  
Chiara Clemente, San Diego Water Board, [cclemente@waterboards.ca.gov](mailto:cclemente@waterboards.ca.gov)  
Whitney Ghoram, San Diego Water Board, [wghoram@waterboards.ca.gov](mailto:wghoram@waterboards.ca.gov)  
Rebecca Stewart, San Diego Water Board, [rstewart@waterboards.ca.gov](mailto:rstewart@waterboards.ca.gov)  
Alex Cali, San Diego Water Board, [vrodriguez@waterboards.ca.gov](mailto:vrodriguez@waterboards.ca.gov)  
Catherine Hagan, SWRCB, Office of Chief Counsel, [chagen@waterboards.ca.gov](mailto:chagen@waterboards.ca.gov)  
James Ralph, State Water Resources Control Board, [jralph@waterboards.ca.gov](mailto:jralph@waterboards.ca.gov)

| Tech Staff Info & Use |  |
|-----------------------|--|
| Application ID        |  |
| WDID                  |  |

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

**ORDER NO. R9-2014-0112**

**ADMINISTRATIVE ASSESSMENT OF CIVIL LIABILITY  
AGAINST**

**A & L TILE  
3722 MAIN STREET  
SAN DIEGO, CALIFORNIA, 92113**

**FOR  
VIOLATION OF WATER CODE SECTIONS 13376, 13385, AND 13399.30;  
ORDER NO. 97-03-DWQ;  
AND FEDERAL CLEAN WATER ACT SECTION 301**

The California Regional Water Quality Control Board, San Diego Region (San Diego Water Board), through its Executive Officer, having held a public hearing on October 15, 2014, to receive evidence and comments on the allegations contained in Complaint No. R9-2014-0065 (Complaint), dated July 31, 2014, having considered all the evidence and public comment received, and on the recommendation for administrative assessment of civil liability in the amount of \$6,194, finds as follows:

1. Cesar Aguilera owns and operates A & L Tile.
2. A & L Tile (hereinafter Discharger) operates a cut stone and stone product facility at 3722 Main Street, San Diego, California 92113 within the County of San Diego (Site). Storm water discharges from the Site discharge to Chollas Creek prior to its entrance into San Diego Bay. San Diego Bay fulfills the legal definition of "waters of the state" and "navigable waters of the United States." The Site lies within the El Toyon Hydrologic Subarea.
3. Discharger's activities are characterized as "Cut Stone & Stone Products" (Standard Industrial Classification [SIC] 3281) under the federal regulations. Facilities classified as SIC 3281 must obtain coverage under the California State Water Resources Control Board (State Water Board) Water Quality Order No. 97-03-DWQ, *National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities* (Order No. 97-03-DWQ).

4. Discharger began stone cutting operations at the Site on or about January 1, 1998.
5. Discharger received Notices of Non-Compliance pursuant to Water Code section 13399.30 on December 31, 2013 and February 4, 2014.
6. As of July 31, 2014, the State Water Board has not received a Notice of Intent for Discharger's coverage under Order No. 97-03-DWQ.
7. As of July 9, 2014, the San Diego Water Board invested 23 staff hours to investigate, prepare enforcement documents, and consider this action for a cost of \$1,194.
8. On July 31, 2014, the Assistant Executive Officer issued Administrative Civil Liability Complaint No. R9-2014-0065 with attached Technical Analysis to A & L Tile, recommending the imposition of \$6,194 in liability for the failure to file a Notice of Intent for Coverage.

#### **Failure to File Notice of Intent Prior to Operation**

9. The Discharger failed to file a Notice of Intent for Coverage under Order No. 97-03-DWQ prior to the commencement of stone cutting operations at the Site on January 1, 1998, as required by Water Code section 13376, Order No. 97-03-DWQ section E.1., and Title 40 Code of Federal Regulations Parts 122, 123, and 124 as required under the federal Clean Water Act section 301. A & L Tile began operation on January 1, 1998, without coverage under the Industrial Storm Water Permit and continues to do so; Therefore, pursuant to Water Code section 13385 the days of violation from January 1, 1998 to July 31, 2014 are 6,056. Pursuant to Water Code section 13399.33, Discharger failed to respond to Notices of Non-Compliance from December 31, 2013 to July 31, 2014 for 213 days.
10. Pursuant to Water Code section 13385(a), a person that violates Water Code section 13376, a waste discharge requirement, or a requirement of section 301 of the federal Clean Water Act is subject to administrative civil liability pursuant to Water Code section 13385(c) "in an amount not to exceed the sum of both of the following: (1) ten thousand dollars (\$10,000) for each day in which the violation occurs. (2) where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons."

11. The maximum liability that the San Diego Water Board may assess pursuant to Water Code section 13385(c) for 6,056 days of violation is \$60,560,000.
12. The Storm Water Enforcement Act of 1998 (Act), specifically Water Code sections 13399.30(c)(2) and 13399.33(a)(1), require the imposition of an administrative civil liability in an amount that is not less than five thousand dollars (\$5,000) per year of noncompliance or portion thereof for failure to respond to a Notice of Non-Compliance by obtaining permit coverage. Furthermore, the Act requires the San Diego Water Board to recover its incurred costs. Therefore, the minimum liability amount for 213 days of violation (December 31, 2013 to July 31, 2013) is \$6,194 (\$5,000 for one year of noncompliance plus \$1,194 in staff costs).
13. 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.
14. Any person aggrieved by this action of the San Diego Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:  
[http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

**IT IS HEREBY ORDERED**, that pursuant to Water Code section 13399.33(a)(1) that:

1. Civil liability is imposed on A & L Tile in the amount of six thousand one hundred and ninety-four dollars (\$6,194).

2. A & L Tile shall remit payment for the administrative civil liability imposed in the amount of \$6,194 by check that references "ACL Order No. R9-2014-0112" made 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. The check shall be sent to ACL Payment, State Water Resources Control Board, P.O. Box 1888, Sacramento, CA 95812-1888. A copy of the check must also be received by the San Diego Water Board at 2375 Northside Drive, Suite 100, San Diego, California 92108-0002 within 30 days of adoption of this Order.
3. Fulfillment of A & L Tile's obligation under this Order constitutes full and final satisfaction of any and all liability for the allegation in Administrative Civil Liability Complaint No. R9-2014-0065.
4. If A & L Tile 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.



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DAVID W. GIBSON  
Executive Officer

Non-Filer WDID No. 9 37IN602526

Place ID: SM-827206