

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

**In the matter of:**

**Mr. Chad Enniss  
Enniss Inc.  
12535 Vigilante Road  
Lakeside, CA 92040**

**WDID: 9 371019954**

**COMPLAINT NO. R9-2013-0051  
FOR  
ADMINISTRATIVE CIVIL LIABILITY**

**Violations of  
Order No. 97-03-DWQ, National  
Pollutant Discharge Elimination  
System General Permit No.  
CAS000001, Waste Discharge  
Requirements for Discharges of  
Storm Water Associated with  
Industrial Activities Excluding  
Construction Activities**

**June 14, 2013**

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**YOU ARE HEREBY GIVEN NOTICE THAT:**

1. Enniss Inc. (hereafter Discharger), located at 12535 Vigilante Road, Lakeside, California, 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 and Section 13385 of the California Water Code (CWC).
2. This Administrative Civil Liability Complaint is issued under authority of Water Code section 13323.
3. The Discharger operates a diversified construction company with areas of specialization including sand and material sales, construction material recycling and reclamation, steel design, fabrication, assembly and erection, earth moving, grading and site work, and demolition. The Discharger is identified with Standard Industrial Classification (SIC) number 3325 (Steel Foundries – NEC). This category of industrial facility is required to obtain coverage under Order No. 97-03-DWQ, National Pollutant Discharge Elimination System General Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities (General Permit).
4. On November 17, 2005, the Discharger submitted a Notice of Intent for coverage under the General Permit.

5. 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 the General Permit. Self-reporting is accomplished by the submission of an annual report as outlined in General Permit Sections B 8-14. Section B 14 requires all facility operators to submit an annual monitoring report by July 1<sup>st</sup> of each year. 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.
6. Pursuant to Water Code section 13399.31, the San Diego Water Board issued a Notice of Violation dated September 29, 2011 for failure to submit the FY 2010/2011 annual storm water monitoring report. On December 20, 2011, San Diego Water Board Staff conducted a site inspection of the facility, and requested submittal of the missing report. This inspection constituted the 2nd notification of failure to submit the annual monitoring report.
7. Water Code sections 13399.31(d) and 13399.33 direct the San Diego Water Board to impose administrative civil liability in an amount that is not less than one thousand dollars (\$1,000) and recover the costs incurred if a discharger fails to submit the required annual report within 60 days after the San Diego Water Board issues the initial notice of noncompliance.

#### **VIOLATION SUBJECT TO THIS COMPLAINT**

8. The Discharger violated Monitoring and Reporting Requirements in Section 14 of the General Permit by failing to submit the required monitoring report for Fiscal Year (FY) 2010-2011 by the July 1, 2011 due date. The San Diego Water Board did not receive the report until March 7, 2012. The report was 249 days late.
9. The details of this violation are set forth in full in the accompanying Technical Analysis, which is incorporated herein by this reference as if set forth in full.

#### **MAXIMUM LIABILITY**

10. CWC section 13385(a)(2) 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 of violation.

11. Based on the late submittal of the FY 2010-2011 annual report, the Discharger is alleged to have violated the General Permit for 249 days (from July 2, 2011 to March 7, 2012). The total maximum liability for this violation is \$2,490,000.

### **MINIMUM LIABILITY**

12. CWC section 13399.33(c-d) **requires** that the Regional Board impose a mandatory minimum penalty of not less than \$1,000 **and** recover staff costs associated with this enforcement action for any person who fails to submit an annual report after being given appropriate notice in accordance with CWC section 13399.31.

### **PROPOSED LIABILITY**

13. It is recommended that the San Diego Water Board impose civil liability against the Discharger in the amount of five thousand nine hundred fifty dollars (\$5,950), which includes staff costs of \$4,950 to date, for failure to submit the FY 2010-2011 annual report on time. If the Discharger elects to contest this matter, the recommended liability may increase to recover additional necessary staff costs.
14. The State Water Boards 2009 Enforcement Policy penalty calculation methodology is not required to be used in determining the amount of civil liability when assessing a mandatory minimum penalty pursuant to CWC section 13399.33(c).

Dated this 14th day of June, 2013,



JAMES G. SMITH

Assistant Executive Officer

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

SMARTS:

Application ID: 291369  
Violation ID: 947974  
Regulatory Measure ID: 390384



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

**TECHNICAL ANALYSIS**

**Proposed Administrative Civil Liability Contained in  
Complaint No. R9-2013-0051  
Enniss Inc.**

**Noncompliance with**

**State Water Resources Control Board 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**

**June 14, 2013**

**Prepared by**

**Christopher Means  
Compliance Assurance Unit  
San Diego Water Board**

## **A. INTRODUCTION**

This technical analysis provides a summary of factual and analytical evidence that support the findings, allegations and proposed liability in Complaint No. R9-2013-0051 for an Administrative Civil Liability (Complaint) in the amount of \$5,950 against Ennis, Inc. for violations of State Water Resources Control Board, Order No. 97-03-DWQ, National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000001, Waste Discharge Requirements (WDRs) for Discharges of Storm Water Associated With Industrial Activities Excluding Construction Activities (hereafter General Permit).

The Complaint alleges the acts or failures to act that constitute violations of law, the provision of law authorizing civil liability to be imposed, and the proposed civil liability. The recommended liability of \$5,950 includes a mandatory penalty of \$1,000 for the late submittal of the Fiscal Year (FY) 2010/2011 annual report and combined staff costs of \$4,950 associated with the late annual report.

The State Water Board 2009 Enforcement Policy penalty calculation methodology was not used in the determination of the proposed liability amount due to the fact that the proposed liability is a mandatory minimum penalty pursuant to CWC section 13399.33(c).

## **B. BACKGROUND**

Enniss Inc. (hereafter, the Discharger) is a diversified construction company located in Lakeside, San Diego County. According to its company website,<sup>1</sup> its areas of specialization include sand and material sales, construction material recycling and reclamation, steel design, fabrication, assembly and erection, earth moving, grading and site work, and demolition, and has identified its operations with Standard Industrial Classification (SIC) number 3325 (Steel Foundries – NEC).<sup>2</sup> This category of industrial facility is required to obtain coverage under the General Permit.

On November 29, 2005 the State Water Resources Control Board processed a Notice of Intent (NOI) (Exhibit A) submitted by the Discharger for coverage under the General Permit, and issued Waste Discharge Identification Number (WDID) 9371019954. The NOI was submitted by, and prepared under the direction of Mr. Chad Enniss, the owner and operator.

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<sup>1</sup> <http://www.enniss.net/>

<sup>2</sup> Facilities that discharge stormwater associated with industrial activity requiring coverage under the General Permit are listed by category in 40 Code of Federal Regulations Section 122.26(b)(14) and Attachment 1 of the General Permit.



Section B of the General Permit contains Monitoring and Reporting Requirements. Item 14 of Section B requires all facility operators to submit an annual report to the Executive Officer of the San Diego Water Board by July 1 of each year. The annual report must include, but is not limited to, a summary of visual observations and sampling results, an evaluation of the visual observations and sampling and analysis results, laboratory reports, an annual comprehensive site compliance evaluation report, and if necessary, an explanation of why the facility did not implement any activities required by the General Permit.

The Discharger complied with the annual report submittal requirements of the General Permit for the first three years of coverage. However in 2009 the Discharger failed to submit the 2008/2009 Annual Report in a timely fashion. After receiving two Notices of Violation from the San Diego Water Board the report was ultimately submitted 173 days late.

On September 29, 2011, in accordance with Water Code section 13399.31, the San Diego Water Board issued Notice of Violation R9-2011-0093 to the Discharger for failure to submit its 2010/2011 Annual Report. On December 20, 2011, the San Diego Water Board conducted a site inspection of the facility and requested submittal of the missing annual report. This inspection constituted the second notification of failure to submit the annual report. Mr. Enniss stated during inspection that a copy of the report would be submitted by December 22, 2011. There is no record of this report being submitted on or around that date.

#### Issuance of Expedited Payment Letter (EPL)

By letter, on February 23, 2012, the San Diego Water Board offered the Discharger the opportunity to participate in the Expedited Payment Program to resolve the violation associated with the failure to submit the 2010/2011 Annual Report (see attached Exhibit B). The EPL outlined a conditional offer to the Discharger to pay the mandatory \$1,000 administrative civil liability, submit the outstanding annual report, and waive its right to a hearing. In return the San Diego Water Board agreed to forgo any additional liability that may have been assessed pursuant to Water Code Section 13385, and to consider the matter settled.

On March 7, 2012, the Discharger responded to the San Diego Water Board with a letter rejecting the Expedited Payment Program offer (see attached Exhibit C). The Discharger asserted that its consultant Highfill Group Engineering submitted the report in a timely fashion "on or before July 1, 2011". However, a thorough review of the San Diego Water Board records did not find the report in question. The rejection letter further asserted that a copy of the report was hand delivered to the San Diego Water Board "sometime in late December 2011". However, no documentation supporting this claim has been found in the Water Board files, nor has the discharger provided any documentation supporting this claim. And lastly,

the rejection letter asserted that a representative for the Discharger (Melisa Morehead) spoke to multiple San Diego Water Board staff (Whitney Ghoram and Tony Felix) who acknowledged receipt of the annual report prior to the actual date the report was received. However, both Ms. Ghoram and Mr. Felix dispute this claim.

The March 7, 2013 correspondence from the Discharger contained a copy of the delinquent FY 2010/2011 Annual Report. The report was a total of 249 days late. The submitted report was unsigned by the Owner of the Facility, as required by the General Permit.

On March 30, 2012, the San Diego Water Board informed the Discharger by letter that the offer to participate in the Expedited Payment Program had been withdrawn (see attached Exhibit D). The letter informed the Discharger that by declining the EPL offer, it should expect a formal enforcement action would be pursued by the San Diego Water Board and that the liability amount of this action would exceed the \$1,000 mandatory minimum penalty required by law.

### **C. VIOLATIONS**

#### **Failure to Submit FY 2010-2011 Annual Report**

As described above, the Monitoring and Reporting Requirements in Section 14 of the General Permit require the submittal of an annual monitoring report by July 1st of each year. The Discharger violated Monitoring and Reporting Requirements in Section 14 of the General Permit by failing to submit the FY 2010/2011 annual monitoring report by July 1, 2011. The Report was not submitted to the San Diego Water Board until March 7, 2012. The report was 249 days late.

### **D. DETERMINATION OF ADMINISTRATIVE CIVIL LIABILITY**

#### **Maximum Liability**

Pursuant to Water Code section 13385, the maximum administrative civil liability which could be imposed by the San Diego Water Board for failing to submit the annual report is ten thousand dollars (\$10,000) for each day in which the violation occurs. The violation continued for 249 days (July 2, 2011 to March 7, 2012). Therefore, the maximum administrative civil liability for the non-submittal of the FY 2010/2011 annual report is two million four hundred ninety thousand dollars (\$2,490,000).

#### **Minimum Liability**

Pursuant to Water Code section 13399.33, subdivisions (c) and (d) require that the San Diego Water Board impose a 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. The San Diego Water Board staff costs for enforcement of this violation are \$4,950 (see Exhibit E for staff costs breakdown).

#### Proposed Liability

It is recommended that the San Diego Water Board impose civil liability against the Discharger in the amount of five thousand nine hundred fifty dollars (\$5,950), which includes staff costs of \$4,950 to date (as described in the complaint), for failure to submit the FY 2010/2011 annual report. If the Discharger elects to contest this matter, the recommended liability may increase to recover additional necessary staff costs.

#### **E. EXHIBITS**

- A. November 29, 2005 Notice of Intent
- B. February 23, 2012 Expedited Payment Letter (EPL)
- C. March 7, 2012 Discharger Response to EPL
- D. March 30, 2012 Withdrawal of EPL Offer Letter
- E. Staff Cost Estimation

**EXHIBIT A**

**ENNISS INC. Notice of Intent**  
**November 29, 2005**

State of California  
State Water Resources Control Board

019954

NOTICE OF INTENT

TO COMPLY WITH THE TERMS OF THE  
GENERAL PERMIT TO DISCHARGE STORM WATER  
ASSOCIATED WITH INDUSTRIAL ACTIVITY (WQ ORDER No. 97-03-DWQ)  
(Excluding Construction Activities)

SECTION I. NOI STATUS (please check only one box)

A.  New Permittee B.  Change of Information WDID # \_\_\_\_\_

SECTION II. FACILITY OPERATOR INFORMATION (See instructions)

A. NAME: FURNESS, JIM Phone: 619-541-1101  
Mailing Address: PO BOX 11769 LAKE  
City: LAKE SIDE State: CA Zip Code: 92040  
Contact Person: CHAR FURNESS  
B. OPERATOR TYPE: (check one)  Private 2.  City 3.  County 4.  State 5.  Federal 6.  Special District 7.  Gov. Combo

SECTION III. FACILITY SITE INFORMATION

A. FACILITY NAME: FURNESS JIM Phone: 619-541-1101  
Facility Location: 12535 Vigilante Rd County: SAN DIEGO  
City: LAKE SIDE State: CA Zip Code: 92040  
B. MAILING ADDRESS: SAME ABOVE  
City: SAME State: CA Zip Code: 92040  
Contact Person: CHAR FURNESS  
C. FACILITY INFORMATION (check one)  
Total Size of Site: ACRYL 85 Acres  Sq. Ft. ( ) Percent of Site Impervious (including rooftops) \_\_\_\_\_ %  
D. SIC CODE(S) OF REGULATED ACTIVITY: 1. 3325  
2. \_\_\_\_\_  
3. \_\_\_\_\_  
E. REGULATED ACTIVITY (describe each SIC code):  
STEEL FABRICATION  
SAND MINING  
EQUIPMENT STORAGE

FOR STATE USE ONLY:

WDID: 9 371019954  
Fee Paid: \$ 830  
Processing Date 11/29/05



**SECTION IV. ADDRESS FOR CORRESPONDENCE**

Facility Operator Mailing Address (Section II)       Facility Mailing Address (Section III, B.)       Both

**SECTION V. BILLING ADDRESS INFORMATION**

SEND BILL TO:     Facility Operator Mailing Address (Section II)     Facility Mailing Address (Section III, B.)     Other (enter information below)

Name: EMISS, INC      Phone: 619 561 1101

Mailing Address: PO Box 1769

City: LAKESIDE      State: CA      Zip Code: 92040

Contact Person: CHAD EMISS

**SECTION VI. RECEIVING WATER INFORMATION**

Your facility's storm water discharges flow: (check one)     Directly    OR     Indirectly to waters of the United States.

NEVER LEAVES THE PROPERTY

Name of receiving water: SAN VINCENTE CREEK  
(river, lake, stream, ocean, etc.)

**SECTION VII. IMPLEMENTATION OF PERMIT REQUIREMENTS**

**A. STORM WATER POLLUTION PREVENTION PLAN (SWPPP) (check one)**  
 A SWPPP has been prepared for this facility and is available for review.  
 A SWPPP will be prepared and ready for review by (enter date): 12/30/05

**B. MONITORING PROGRAM (check one)**  
 A Monitoring Program has been prepared for this facility and is available for review.  
 A Monitoring Program will be prepared and ready for review by (enter date): 12/30/05

**C. PERMIT COMPLIANCE RESPONSIBILITY**  
 Has a person been assigned responsibility for:

1. Inspecting the facility throughout the year to identify any potential pollution problems? .....	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
2. Collecting storm water samples and having them analyzed? .....	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
3. Preparing and submitting an annual report by July 1 of each year? .....	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
4. Eliminating discharges other than storm water (such as equipment or vehicle wash-water) into the storm drain? .....	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO

For State Use only. \_\_\_\_\_

**SECTION VIII. SITE MAP**

I HAVE ENCLOSED A SITE MAP    YES     A new NOI submitted without a site map will be rejected

**SECTION IX. CERTIFICATION**

"I certify under penalty of law that this document and all attachments were prepared under my direction and supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. In addition, I certify that the provisions of the permit, including the development and implementation of a Storm Water Pollution Prevention Plan and a Monitoring Program Plan, will be complied with."

Printed Name: CHAD EMISS

Signature: [Signature]      Date: 11/17/05

Title: MANAGING MEMBER

**EXHIBIT B**

**Expedited Payment Letter**

**February 23, 2012**



# California Regional Water Quality Control Board

## San Diego Region



Matthew Rodriguez  
Secretary for  
Environmental Protection

Over 50 Years Serving San Diego, Orange, and Riverside Counties  
Recipient of the 2004 Environmental Award for Outstanding Achievement from USEPA

Edmund G. Brown, Jr.  
Governor

9174 Sky Park Court, Suite 100, San Diego, California 92123-4353  
(858) 467-2952 • Fax (858) 571-6972  
[http:// www.waterboards.ca.gov/sandiego](http://www.waterboards.ca.gov/sandiego)

February 23, 2012

**Certified Mail-Return Receipt Requested**

7010 1060 0000 4952 9864

Mr. Chad Enniss  
Enniss, Inc.  
PO Box 1769  
Lakeside, CA 92040

**In reply refer to:**  
Application ID: 291369:wghoram  
WDID:9 371019954

**OFFER TO PARTICIPATE IN AN EXPEDITED PAYMENT PROGRAM FOR FAILURE TO SUBMIT THE 2010-2011 ANNUAL INDUSTRIAL STORM WATER REPORT, ORDER NO. 97-03-DWQ, NPDES NO. CAS000001**

**ENNISS, INC., PO BOX 1769, LAKESIDE, CA 92040**

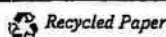
Mr. Enniss:

This letter is to notify Enniss, Inc. of an alleged violation of the California Water Code (Water Code) regarding the failure to submit the 2010-2011 Annual Industrial Storm Water Report (Annual Report) to the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board), as required by the State Water Resources Control Board (State Water Board) *General Permit for Storm Water Discharges Associated with Industrial Activities* (Industrial Storm Water Permit). This letter also notifies Enniss, Inc. of the opportunity to participate in the San Diego Water Board Expedited Payment Program for failure to submit the Annual Report. The Expedited Payment Program addresses liability that must be assessed pursuant to Water Code section 13399.33 and would forgo additional liability that may be assessed pursuant to Water Code section 13385. A plain language summary of the alleged violation and the offer to participate in the Expedited Payment Program is attached hereto as Exhibit A.

### NOTIFICATION

Based on San Diego Water Board Administrative Records, as of February 23, 2012, Enniss, Inc. still has not submitted the 2010-2011 Annual Report as required by the Industrial Storm Water Permit. Failure to submit the Annual Report violates the requirements of the Industrial Storm Water Permit, the Water Code, and the Federal Water Pollution Control Act (Clean Water Act (CWA)). The San Diego Water Board previously sent Enniss, Inc. a Notice of Violation (NOV) attached hereto as Exhibit B.

**California Environmental Protection Agency**





In addition to the NOV, San Diego Water Board staff conducted a site inspection on December 20, 2011 and requested the 2010-2011 Annual Report. Pursuant to Water Code Section 13399.31 (c), the December 20, 2011 inspection notification constitutes a second notice of failure to submit the Annual Report. On December 22, 2011, San Diego Water Board Staff contacted Enniss, Inc. by phone to follow up on the request for the Annual Report made during the December 20, 2011 inspection. The December 20, 2011 inspection report is attached hereto as Exhibit C.

### **STATUTORY LIABILITY**

#### Potential Discretionary Liability

Pursuant to Water Code section 13385(c)(1), Enniss, Inc. is subject to discretionary administrative civil liabilities of up to TEN THOUSAND DOLLARS (\$10,000) for each violation for each day in which a violation occurs (i.e., each day Enniss, Inc. fails to submit the Annual Report).<sup>1</sup> These discretionary administrative civil liabilities may be assessed by the San Diego Water Board, beginning with the date that the violation first occurred. In this matter, and as set forth above, the days of violation will be calculated from July 1, 2011, up to the date the 2010-2011 Annual Report is received.

#### Mandatory Minimum Penalty

In addition, pursuant to Water Code section 13399.33(c), Enniss, Inc. shall also be subject to a *minimum* penalty of *not less than* ONE THOUSAND DOLLARS (\$1,000) per year of noncompliance or fraction thereof to be assessed by the San Diego Water Board for failing to submit the Annual Report within sixty (60) days after the NOV (Exhibit B) was sent.

The formal enforcement action that the San Diego Water Board uses to assess such civil liabilities is an administrative civil liability complaint, although the San Diego Water Board may instead refer such matters to the Office of the Attorney General for prosecution. If referred to the Attorney General for prosecution, the Superior Court may assess civil liability up to TWENTY-FIVE THOUSAND DOLLARS (\$25,000) per violation per day, as set forth in Water Code section 13385(b)(1).

A copy of Water Code sections 13385 and 13399.33 is attached hereto as Exhibit D.

### **CONDITIONAL OFFER TO PARTICIPATE IN EXPEDITED PAYMENT PROGRAM**

Enniss, Inc. may avoid a formal enforcement action and settle the alleged failure to submit the report identified in the NOV attached hereto as Exhibit B by participating in the San Diego Water Board Expedited Payment Program. Details of the proposed settlement are described below, as well as in the "Acceptance of Conditional

<sup>1</sup> The California Water Code, including section 13385, can be accessed on-line at [http://www.waterboards.ca.gov/laws\\_regulations/docs/portercologne.pdf](http://www.waterboards.ca.gov/laws_regulations/docs/portercologne.pdf)

Resolution and Waiver of Right to Hearing, [Proposed] Order" (Acceptance and Waiver) attached hereto as Exhibit E.

To promote resolution of the alleged failure to submit the report, the San Diego Water Board enforcement staff makes the following conditional offer. Enniss, Inc. may accept this offer, waive its right to a hearing, submit its Annual Report on or before **March 23, 2012** and pay a ONE THOUSAND DOLLAR (\$1,000) administrative civil liability for the failure to submit the report identified in the NOV attached hereto as Exhibit B. If Enniss, Inc. elects to take advantage of this early settlement offer, subject to the conditions set forth herein, the San Diego Water Board will accept Enniss, Inc.'s Annual Report and payment of the administrative civil liability as settlement of any enforcement action that would otherwise arise out of the failure to submit the report identified in the NOV attached hereto as Exhibit B.

The Expedited Payment Program does not address liability for any violation that is not specifically identified in the NOV attached hereto as Exhibit B.

#### **ENNISS, INC.'S OPTIONS AND INSTRUCTIONS FOR RESPONDING TO OFFER**

##### **ACCEPTING OFFER:**

If Enniss, Inc. accepts this early settlement offer, please sign and submit the Acceptance and Waiver attached hereto as Exhibit E and the delinquent Annual Report on or before **March 23, 2012** to:

California Regional Water Quality Control Board, San Diego Region  
9174 Sky Park Court, Suite 100  
San Diego, CA 92123  
Attention: Application ID: 291369:wghoram, WDID:9 371019954

A blank copy of the 2010-2011 Annual Report forms can be downloaded from the State Water Board's web site:

[http://www.waterboards.ca.gov/water\\_issues/programs/stormwater/annual\\_reports/annrpt10\\_11.pdf](http://www.waterboards.ca.gov/water_issues/programs/stormwater/annual_reports/annrpt10_11.pdf)

If the Annual Report is determined to be complete by the San Diego Water Board, the Acceptance and Waiver (Exhibit E) will be held, pending a 30-day public notice period described below, and counter-signed by the San Diego Water Board Executive Officer and returned to you with an invoice for payment.

CONTESTING THE ALLEGED VIOLATION:

If Enniss, Inc. wishes to contest the failure to submit the Annual Report alleged in the NOV attached hereto as Exhibit B, the challenge must be received on or by **March 23, 2012**. Please identify, in writing to the San Diego Water Board, the basis for the challenge (factual error, affirmative defense, etc.). The San Diego Water Board enforcement staff will evaluate that basis and make one of the following determinations:

1. If it is determined that the alleged failure to submit the report is not supported, no further action will be taken for that violation, and you will be notified of that determination.
2. If it is determined that the contested violation as alleged is meritorious, Enniss, Inc. will be notified and should expect that a formal enforcement action will be pursued for which it will receive notice of any deadlines associated with that action. In a formal enforcement action, the liability amount sought and/or imposed may significantly exceed the liability amount set forth in this conditional offer. Moreover, the San Diego Water Board will also seek recovery of staff costs incurred with regard to the formal enforcement action pursuant to Water Code section 13399.33(d).

REJECTING OFFER:

If Enniss, Inc. chooses to reject the San Diego Water Board enforcement staff offer and/or chooses not to complete and return the Acceptance and Waiver (Exhibit E), you will receive notice of a formal enforcement action and any deadlines associated with that action. In such an action, the liability amount sought and/or imposed may significantly exceed the liability amount set forth in this conditional offer. Moreover, the San Diego Water Board staff costs incurred for enforcement are a factor which will be considered in assessing Enniss, Inc.'s liability amount.

Enniss, Inc. should also note that in the event the San Diego Water Board enforcement staff pursues a formal enforcement action for the failure to submit the report alleged in the NOV attached hereto as Exhibit B, the San Diego Water Board enforcement staff will review its records to determine whether Enniss, Inc. has previously failed to submit an Annual Report. The San Diego Water Board shall consider any such previous failures when assessing the liability amount. This consideration may result in the liability amount being sought and/or imposed to significantly exceed the amount set forth in this Conditional Offer.

### **CONDITIONS FOR SAN DIEGO WATER BOARD ACCEPTANCE OF RESOLUTION**

This offer to participate in the Expedited Payment Program is conditional upon the San Diego Water Board's receipt of confirmation that Enniss, Inc. has submitted the Annual Report to the San Diego Water Board on or before **March 23, 2012**. If Enniss, Inc. chooses not to or fails to submit the Annual Report on or before that date, this offer will be deemed withdrawn and a formal enforcement action will be pursued. After the offer is deemed withdrawn, the San Diego Water Board enforcement staff will notify Enniss, Inc. of the impending enforcement action and any associated deadlines.

Should Enniss, Inc. participate in the Expedited Payment Program, the settlement will be published in the following manner: Federal regulations require the San Diego Water Board to publish notice of and to provide at least thirty (30) days for public comment on any settlement of an enforcement action addressing NPDES permit violations (40 C.F.R. section 123.27(d)(2)(iii)). Upon the receipt of Enniss, Inc.'s Acceptance and Waiver (Exhibit E) and Annual Report on or before **March 23, 2012**, the San Diego Water Board enforcement staff will publish a notice of the proposed resolution of the failure to submit the report alleged in the NOV attached hereto as Exhibit B.

1. If no comments are received within the notice period, the San Diego Water Board Executive Officer will execute the Acceptance and Waiver (Exhibit E) as a stipulated order assessing the uncontested penalty amount pursuant to Water Code section 13399.33 as described under the heading "Statutory Liability" herein. You will then be notified that payment is due within 30 days. Failure to pay the penalty within that time frame may result in further liability, referral of the matter to the Attorney General, and/or may void the offer to participate in this Expedited Payment Program.
2. If, however, significant comments are received in opposition to the settlement, this offer may be withdrawn. If the San Diego Water Board enforcement staff's offer is withdrawn, Enniss, Inc. will be advised of that withdrawal, and its waiver pursuant to the Acceptance and Waiver (Exhibit E) will also be treated as withdrawn. After the San Diego Water Board enforcement staff's offer and Enniss, Inc.'s waiver are deemed withdrawn, the unresolved violations will be addressed in a formal enforcement action. An administrative civil liability complaint may be issued and the matter may be set for a hearing before the San Diego Water Board or the State Water Board.

Any questions about the NOV, this conditional offer, and/or the Acceptance and Waiver, should be directed to Ms. Whitney Ghoram at 858-467-2967 or [wghoram@waterboards.ca.gov](mailto:wghoram@waterboards.ca.gov).

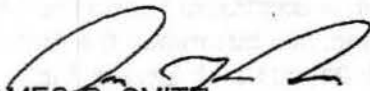


Mr. Chad Enniss  
Enniss, Inc.

Page 6 of 6

February 23, 2012

Respectfully,

  
JAMES G. SMITH  
Assistant Executive Officer

JGS:dtb:esb:wjg

Enclosures:

- Exhibit A - Plain Language Notice
- Exhibit B - Notice of Violation dated September 29, 2011
- Exhibit C - Inspection Record dated December 20, 2011
- Exhibit D - Water Code sections 13385 and 13399.33
- Exhibit E - Acceptance of Conditional Resolution and Waiver of Right to Hearing;  
(Proposed)

cc via email:

David Barker, Supervising WRC Engineer, Surface Water Basins Branch, San Diego Water Board,  
[dbarker@waterboards.ca.gov](mailto:dbarker@waterboards.ca.gov)

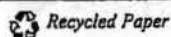
Jeremy Haas, Senior Environmental Scientist, CAU, San Diego Water Board, [jhaas@waterboards.ca.gov](mailto:jhaas@waterboards.ca.gov)

Laura Drabandt, Staff Counsel, Office of Enforcement, State Water Board,  
[ldrabandt@waterboards.ca.gov](mailto:ldrabandt@waterboards.ca.gov)

SMARTS:

Application ID: 291369  
Violation ID: 845539  
Enforcement ID: 406484  
Inspection ID: 2013572

**California Environmental Protection Agency**





# California Regional Water Quality Control Board

## San Diego Region



Matthew Rodriguez  
Secretary for  
Environmental Protection

Over 50 Years Serving San Diego, Orange, and Riverside Counties  
Recipient of the 2004 Environmental Award for Outstanding Achievement from USEPA

Edmund G. Brown, Jr.  
Governor

9174 Sky Park Court, Suite 100, San Diego, California 92123-4353  
(858) 467-2952 • Fax (858) 571-6972  
<http://www.waterboards.ca.gov/sandiego>

### EXHIBIT A

#### ***Enforcement for Failure to Submit an Annual Report***

You have until March 23, 2012, to act or face more penalties.  
Questions: Contact Ms. Whitney Ghoram (858) 467-2967 or  
[wghoram@waterboards.ca.gov](mailto:wghoram@waterboards.ca.gov)

This is a plain language summary of the attached **Notice of Violation and Enforcement Settlement Offer to Participate in an Expedited Payment Program for Failure to Submit the 2010-2011 Annual Industrial Storm Water Report, Order No. 97-03-DWQ, NPDES CAS000001.**

Enniss, Inc. is required to submit the Annual Report for coverage under Order No. 97-03-DWQ. The San Diego Water Board sent you a Notice of Violation on September 29, 2011 urging you to submit the Annual Report to avoid enforcement. To date, we have not received your Annual Report. Consequently, we are taking a monetary penalty enforcement action. However, instead of pursuing a formal enforcement complaint with higher penalties, we are offering you the opportunity to participate in an Expedited Payment Program to resolve the failure to submit the report.

**You have three options to respond:**

1. **Accept the Expedited Payment Program offer** by submitting your Annual Report and agreeing to pay a settlement of \$1,000. This is the fastest and most certain way to get closure on this enforcement action. If you choose this option, you must **submit your Annual Report by March 23, 2012**, and **sign and submit the Acceptance and Waiver form**, attached to the Enforcement Settlement Offer letter, by **March 23, 2012**. The form provides submittal instructions. Final closure on this action is only possible after ultimate submission of the settlement amount.
2. **Contest the failure to submit the report** by submitting in writing the basis of your challenge with supporting evidence. For example, you have evidence that you previously submitted your Annual Report. If you choose this option, you must **submit your challenge by March 23, 2012**.

We will review your challenge, and if we agree with you, we will notify you in writing that you are no longer considered in violation of the permit and our enforcement action has been terminated. However, if we do not agree with you, we will prepare a formal enforcement complaint at a higher dollar amount than the settlement offer of \$1,000. To avoid the latter, we urge you to contact Whitney Ghoram (see above) as soon as possible so we can assist you if you have a valid challenge.

3. **Reject the Expedited Payment Program offer** by not responding or submitting your rejection in writing by **March 23, 2012**. In either case, we will prepare a formal enforcement complaint at a higher dollar amount than the settlement offer of \$1,000. You must also submit your Annual Report. The date of submittal or failure to submit the Annual Report will affect the recommended penalty amount.

***California Environmental Protection Agency***





**California Regional Water Quality Control Board**  
**-San Diego Region**

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Edmund G. Brown Jr.  
Governor

EXHIBIT B

September 29, 2011

CERTIFIED MAIL  
7010 1060 0000 4952 9260

In reply refer to:  
WDID #: 9 371019954  
NWU:tfelix

Chad Enniss  
Enniss Inc  
PO Box 1769  
Lakeside, CA 92040

**Subject: NOTICE OF VIOLATION: NPDES NO. CAS000001: ORDER NO. 97-03-DWQ: DISCHARGER NAME: WDID 9 371019954: FAILURE TO SUBMIT 2010-2011 INDUSTRIAL STORM WATER ANNUAL REPORT**

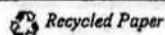
**Facility:** Enniss Inc  
12535 Vigilante Rd  
Lakeside, CA 92040

**YOU ARE HEREBY NOTIFIED THAT:**

You are in violation of the statewide General Industrial Storm Water Permit Order No. 97-03-DWQ (Order) for failure to submit the 2010-2011 Annual Report. The Annual Report was due to the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) by July 1, 2011 as required by Section B.14 of the Order.

Pursuant to California Water Code (CWC) Sections 13399.31-33, and 13385, your failure to submit the Annual Report subjects you to possible enforcement action by the San Diego Water Board. Civil liability could range from a minimum of \$1,000 and up to \$10,000 a day for each day of violation, or up to \$25,000 a day if the liability is assessed by a court. You may also be subject to criminal penalties under Section 13387 of the CWC. The number of days of violation would be counted from July 1, 2011, up to the date the 2010-2011 Annual Report is received. To minimize the potential liability assessed, please submit the Annual Report immediately. Submit online in SMARTS or mail the Annual Report to the address at the top of this page, attention Tony Felix.

*California Environmental Protection Agency*



Enniss Inc  
Notice of Violation

- 2 -

September 29, 2011

If you have any questions pertaining to the submission of the Annual Report, and or the issuance of this NOV, please contact Tony Felix at (858) 636-3134, or by email at [tfelix@waterboards.ca.gov](mailto:tfelix@waterboards.ca.gov). If you feel you have received this NOV in error, please contact our office immediately.

Respectfully,



David Barker, P.E.  
Supervising Water Resources Control Engineer  
Surface Water Basins Branch

DTB:esb:pab

SMARTS:

Violation ID	845539
Enforcement ID	406484

## EXHIBIT C

<b>Storm Water Industrial General Permit Inspection Record</b>
--

Insp. Date:	December 20, 2011	Inspected By:	Whitney Ghoram
WDID #	9 371019954	SMARTS Inspection #	2013572
Operator Name:	Eric Enniss, Owner, Enniss, Inc.		
Facility Name:	Enniss, Inc.		
Facility Address:	12535 Vigilante Road, Lakeside, CA 92040		
Facility Contact:	Chad Enniss, Owner		

## Inspection Summary / Comments:

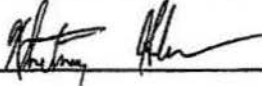
The Enniss Inc. facility was inspected as a follow-up on the failure to submit the 2010-11 Annual Industrial Storm Water (ISW) Report and the failure to respond to the Notice of Violation (NOV) dated 9/29/11 addressing the delinquent Annual ISW Report. During the inspection, I notified Eric Enniss, the facility owner, of his failure to submit the 2010-11 Annual ISW Report. Mr. Enniss indicated that a copy of the Annual ISW Report would be sent to the San Diego Water Board office by 12/22/11.

The industrial facility runs the length of a couple of blocks along Vigilante Road. The first entrance from Vigilante Road is to a lot containing Minshew Brothers trucks. During the inspection, I observed a flatbed truck with two gas tanks, gas pump hoses, and dispenser handles. This equipment was loose on the flatbed of the truck and I smelled gasoline. I advised Mr. Enniss to implement corrective actions to ensure that the gas tanks and related equipment are not exposed to storm water. Industrial activities conducted at the facility include truck maintenance and materials processing & sales of asphalt, top soil, sand, and gravel.

SMARTS Violation #845539.  
SMARTS Enforcement #406484

## Records:

No Records were reviewed during the inspection.

Signature  Date 2-23-12

Date Entered: 12/20/11  
Entered By: W Ghoram  
Senior Review: ESB

(E) Applicable water quality objectives and criteria established in accordance with the regional board basin plans, statewide plans, and federal regulations.

(F) Reports and studies regarding source contribution of pollutants in runoff not based on direct water quality measurements.

(d) The requirements prescribed pursuant to this section shall be included in all storm water permits for regulated municipalities and industries that are reissued following development of the requirements described in subdivision (c). Those permits shall include these provisions on or before July 1, 2008. In a year in which the Legislature appropriates sufficient funds for that purpose, the state board shall make available to the public via the Internet a summary of the results obtained from storm water monitoring conducted in accordance with this section.

(c) The state board and the regional boards shall refer to the guidance document developed pursuant to subdivision (a) when establishing requirements in municipal stormwater programs and permits.

(D) Public education programs.

(E) New development and redevelopment requirements.

(2) Reduction of pollutant loads from pollution sources.

(3) Reduction of pollutants or stream erosion due to stormwater discharge.

(4) Improvements in the quality of receiving water in accordance with water quality standards.

(c) The state board and the regional boards shall refer to the guidance document developed pursuant to subdivision (a) when establishing requirements in municipal stormwater programs and permits.

**§ 13383.6. School educational materials required by municipal stormwater permits**

On and after January 1, 2007, if a regional board or the state board issues a municipal stormwater permit pursuant to Section 402(p) of the Clean Water Act (33 U.S.C. Sec. 1342(p)) that includes a requirement to provide elementary and secondary public schools with educational materials on stormwater pollution, the permittee may satisfy the requirement, upon approval by the regional board or state board, by contributing an equivalent amount of funds to the Environmental Education Account established pursuant to subdivision (a) of Section 71305 of the Public Resources Code.

**§ 13383.7. Guidance on quantifiable effectiveness of municipal storm water programs**

(a) No later than July 1, 2009, and after holding public workshops and soliciting public comments, the state board shall develop a comprehensive guidance document for evaluating and measuring the effectiveness of municipal stormwater management programs undertaken, and permits issued, in accordance with Section 402(p) of the Clean Water Act (33 U.S.C. Sec. 1342(p)) and this division.

(b) For the purpose of implementing subdivision (a), the state board shall promote the use of quantifiable measures for evaluating the effectiveness of municipal stormwater management programs and provide for the evaluation of, at a minimum, all of the following:

(1) Compliance with stormwater permitting requirements, including all of the following:

(A) Inspection programs.

(B) Construction controls.

(C) Elimination of unlawful discharges.

**§ 13383.8. Stormwater management task force**

(a) The state board shall appoint a stormwater management task force comprised of public agencies, representatives of the regulated community, and nonprofit organizations with expertise in water quality and stormwater management. The task force shall provide advice to the state board on its stormwater management program that may include, but is not limited to, program priorities, funding criteria, project selection, and interagency coordination of state programs that address stormwater management.

(b) The state board shall submit a report, including, but not limited to, stormwater and other polluted runoff control information, to the Ocean Protection Council no later than January 1, 2009, on the way in which the state board is implementing the priority goals and objectives of the council's strategic plan.

**§ 13384. Hearings**

The state board or the regional boards shall ensure that the public, and that any other state, the waters of which may be affected by any discharge of pollutants or dredged or fill material to navigable waters within this state, shall receive notice of each application for requirements or report of waste discharge or application for a dredged or fill material permit or report of dredged or fill material discharge and are provided an opportunity for public hearing before adoption of such requirements or permit.

**§ 13385. Civil liability**

(a) ~~Any~~ person who violates any of the following shall be liable civilly in accordance with this section:

(1) Section 13375 or 13376.

(2) ~~Any~~ waste discharge ~~requirements~~ requiremen or dredged or fill material permit issued pursuant to this chapter or any water quality certification issued pursuant to Section 13160.



(3) ~~Any requirements~~ A requirement established pursuant to Section 13383.

(4) ~~Any~~ An order or prohibition issued pursuant to Section 13243 or Article I (commencing with Section 13300) of Chapter 5, if the activity subject to the order or prohibition is subject to regulation under this chapter.

(5) ~~Any requirements~~ A requirement of Section 301, 302, 306, 307, 308, 318, 401, or 405 of the Clean Water Act, as amended.

(6) ~~Any~~ A requirement imposed in a pretreatment program approved pursuant to waste discharge requirements issued under Section 13377 or approved pursuant to a permit issued by the administrator.

(b) Civil liability may be imposed by the superior court in an amount not to exceed the sum of both of the following:

(1) Twenty-five thousand dollars (\$25,000) 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 twenty-five dollars (\$25) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

The Attorney General, upon request of a regional board or the state board, shall petition the superior court to impose the liability.

(c) Civil liability may be imposed administratively by the state board or a regional board pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 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.

(d) For purposes of subdivisions (b) and (c), "discharge" includes any discharge to navigable waters of the United States, any introduction of pollutants into a publicly owned treatment works, or any use or disposal of sewage sludge.

(e) In determining the amount of any liability imposed under this section, the regional board, the state board, or the superior court, as the case may be, shall take into

Rev. 9-27-2010

account the nature, circumstances, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on its ability to continue its business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters that justice may require. At a minimum, liability shall be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation.

(f)(1) Except as provided in paragraph (2), for the purposes of this section, a single operational upset that leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

(2)(A) For the purposes of subdivisions (h) and (i), a single operational upset in a wastewater treatment unit that treats wastewater using a biological treatment process shall be treated as a single violation, even if the operational upset results in violations of more than one effluent limitation and the violations continue for a period of more than one day, if all of the following apply:

(i) The discharger demonstrates all of the following:

(I) The upset was not caused by wastewater treatment operator error and was not due to discharger negligence.

(II) But for the operational upset of the biological treatment process, the violations would not have occurred nor would they have continued for more than one day.

(III) The discharger carried out all reasonable and immediately feasible actions to reduce noncompliance with the applicable effluent limitations.

(ii) The discharger is implementing an approved pretreatment program, if so required by federal or state law.

(B) Subparagraph (A) only applies to violations that occur during a period for which the regional board has determined that violations are unavoidable, but in no case may that period exceed 30 days.

(g) Remedies under this section are in addition to, and do not supersede or limit, any other remedies, civil or criminal, except that no liability shall be recoverable under Section 13261, 13265, 13268, or 13350 for violations for which liability is recovered under this section.

(h)(1) Notwithstanding any other provision of this division, and except as provided in subdivisions (j), (k), and (l), a mandatory minimum penalty of three thousand dollars (\$3,000) shall be assessed for each serious violation.

(2) For the purposes of this section, a "serious violation" means any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 20 percent or more or for a Group I pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 40 percent or more.

(i)(1) Notwithstanding any other provision of this division, and except as provided in subdivisions (j), (k), and (l), a mandatory minimum penalty of three thousand dollars (\$3,000) shall be assessed for each violation whenever the person does any of the following four or more times in any period of six consecutive months, except that the requirement to assess the mandatory minimum penalty shall not be applicable to the first three violations:

(A) Violates a waste discharge requirement effluent limitation.

(B) Fails to file a report pursuant to Section 13260.

(C) Files an incomplete report pursuant to Section 13260.

(D) Violates a toxicity effluent limitation contained in the applicable waste discharge requirements where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.

(2) For the purposes of this section, a "period of six consecutive months" means the period commencing on the date that one of the violations described in this subdivision occurs and ending 180 days after that date.

(j) Subdivisions (h) and (i) do not apply to any of the following:

(1) A violation caused by one or any combination of the following:

(A) An act of war.

(B) An unanticipated, grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight.

(C) An intentional act of a third party, the effects of which could not have been prevented or avoided by the exercise of due care or foresight.

(D)(i) The operation of a new or reconstructed wastewater treatment unit during a defined period of adjusting or testing, not to exceed 90 days for a wastewater treatment unit that relies on a biological treatment process and not

to exceed 30 days for any other wastewater treatment unit, if all of the following requirements are met:

(I) The discharger has submitted to the regional board, at least 30 days in advance of the operation, an operations plan that describes the actions the discharger will take during the period of adjusting and testing, including steps to prevent violations and identifies the shortest reasonable time required for the period of adjusting and testing, not to exceed 90 days for a wastewater treatment unit that relies on a biological treatment process and not to exceed 30 days for any other wastewater treatment unit.

(II) The regional board has not objected in writing to the operations plan.

(III) The discharger demonstrates that the violations resulted from the operation of the new or reconstructed wastewater treatment unit and that the violations could not have reasonably been avoided.

(IV) The discharger demonstrates compliance with the operations plan.

(V) In the case of a reconstructed wastewater treatment unit, the unit relies on a biological treatment process that is required to be out of operation for at least 14 days in order to perform the reconstruction, or the unit is required to be out of operation for at least 14 days and, at the time of the reconstruction, the cost of reconstructing the unit exceeds 50 percent of the cost of replacing the wastewater treatment unit.

(ii) For the purposes of this section, "wastewater treatment unit" means a component of a wastewater treatment plant that performs a designated treatment function.

(2)(A) Except as provided in subparagraph (B), a violation of an effluent limitation where the waste discharge is in compliance with either a cease and desist order issued pursuant to Section 13301 or a time schedule order issued pursuant to Section 13300, if all of the following requirements are met:

(i) The cease and desist order or time schedule order is issued after January 1, 1995, but not later than July 1, 2000, specifies the actions that the discharger is required to take in order to correct the violations that would otherwise be subject to subdivisions (h) and (i), and the date by which compliance is required to be achieved and, if the final date by which compliance is required to be achieved is later than one year from the effective date of the cease and desist order or time schedule order, specifies the interim requirements by which progress towards compliance will be measured and the date by which the discharger will be in compliance with each interim requirement.



(ii) The discharger has prepared and is implementing in a timely and proper manner, or is required by the regional board to prepare and implement, a pollution prevention plan that meets the requirements of Section 13263.3.

(iii) The discharger demonstrates that it has carried out all reasonable and immediately feasible actions to reduce noncompliance with the waste discharge requirements applicable to the waste discharge and the executive officer of the regional board concurs with the demonstration.

(B) Subdivisions (h) and (i) shall become applicable to a waste discharge on the date the waste discharge requirements applicable to the waste discharge are revised and reissued pursuant to Section 13380, unless the regional board does all of the following on or before that date:

(i) Modifies the requirements of the cease and desist order or time schedule order as may be necessary to make it fully consistent with the reissued waste discharge requirements.

(ii) Establishes in the modified cease and desist order or time schedule order a date by which full compliance with the reissued waste discharge requirements shall be achieved. For the purposes of this subdivision, the regional board may not establish this date later than five years from the date the waste discharge requirements were required to be reviewed pursuant to Section 13380. If the reissued waste discharge requirements do not add new effluent limitations or do not include effluent limitations that are more stringent than those in the original waste discharge requirements, the date shall be the same as the final date for compliance in the original cease and desist order or time schedule order or five years from the date that the waste discharge requirements were required to be reviewed pursuant to Section 13380, whichever is earlier.

(iii) Determines that the pollution prevention plan required by clause (ii) of subparagraph (A) is in compliance with the requirements of Section 13263.3 and that the discharger is implementing the pollution prevention plan in a timely and proper manner.

(3) A violation of an effluent limitation where the waste discharge is in compliance with either a cease and desist order issued pursuant to Section 13301 or a time schedule order issued pursuant to Section 13300 or 13308, if all of the following requirements are met:

(A) The cease and desist order or time schedule order is issued on or after July 1, 2000, and specifies the actions that the discharger is required to take in order to correct the violations that would otherwise be subject to subdivisions (h) and (i).

(B) The regional board finds that, for one of the following reasons, the discharger is not able to consistently comply

with one or more of the effluent limitations established in the waste discharge requirements applicable to the waste discharge:

(i) The effluent limitation is a new, more stringent, or modified regulatory requirement that has become applicable to the waste discharge after the effective date of the waste discharge requirements and after July 1, 2000, new or modified control measures are necessary in order to comply with the effluent limitation, and the new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.

(ii) New methods for detecting or measuring a pollutant in the waste discharge demonstrate that new or modified control measures are necessary in order to comply with the effluent limitation and the new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.

(iii) Unanticipated changes in the quality of the municipal or industrial water supply available to the discharger are the cause of unavoidable changes in the composition of the waste discharge, the changes in the composition of the waste discharge are the cause of the inability to comply with the effluent limitation, no alternative water supply is reasonably available to the discharger, and new or modified measures to control the composition of the waste discharge cannot be designed, installed, and put into operation within 30 calendar days.

(iv) The discharger is a publicly owned treatment works located in Orange County that is unable to meet effluent limitations for biological oxygen demand, suspended solids, or both, because the publicly owned treatment works meets all of the following criteria:

(I) Was previously operating under modified secondary treatment requirements pursuant to Section 301(h) of the Clean Water Act (33 U.S.C. Sec. 1311(h)).

(II) Did vote on July 17, 2002, not to apply for a renewal of the modified secondary treatment requirements.

(III) Is in the process of upgrading its treatment facilities to meet the secondary treatment standards required by Section 301(b)(1)(B) of the Clean Water Act (33 U.S.C. Sec. 1311(b)(1)(B)).

(C) (i) The regional board establishes a time schedule for bringing the waste discharge into compliance with the effluent limitation that is as short as possible, taking into account the technological, operational, and economic factors that affect the design, development, and implementation of the control measures that are necessary to comply with the effluent limitation. ~~For~~ Except as provided in clause (ii) for the purposes of this subdivision, the time schedule ~~may~~ shall not exceed five years in length, ~~except that the time schedule may not exceed 10 years in length for~~

(ii) (I) For purposes of the upgrade described in subclause (III) of clause (iv) of subparagraph (B), the time schedule shall not exceed 10 years in length.

(II) Following a public hearing, and upon a showing that the discharger is making diligent progress toward bringing the waste discharge into compliance with the effluent limitation, the regional board may extend the time schedule for an additional period not exceeding five years in length, if the discharger demonstrates that the additional time is necessary to comply with the effluent limitation. This subclause does not apply to a time schedule described in subclause (I).

(iii) If the time schedule exceeds one year from the effective date of the order, the schedule shall include interim requirements and the dates for their achievement. The interim requirements shall include both of the following:

(4) Effluent limitations for the pollutant or pollutants of concern.

(5) Actions and milestones leading to compliance with the effluent limitation.

(D) The discharger has prepared and is implementing in a timely and proper manner, or is required by the regional board to prepare and implement, a pollution prevention plan pursuant to Section 13263.3.

(k)(1) In lieu of assessing all or a portion of the mandatory minimum penalties pursuant to subdivisions (h) and (i) against a publicly owned treatment works serving a small community, the state board or the regional board may elect to require the publicly owned treatment works to spend an equivalent amount towards the completion of a compliance project proposed by the publicly owned treatment works, if the state board or the regional board finds all of the following:

(A) The compliance project is designed to correct the violations within five years.

(B) The compliance project is in accordance with the enforcement policy of the state board, excluding any provision in the policy that is inconsistent with this section.

(C) The publicly owned treatment works has prepared a financing plan to complete the compliance project.

(2) For the purposes of this subdivision, "a publicly owned treatment works serving a small community" means a publicly owned treatment works serving a population of 10,000 persons or fewer or a rural county, with a financial hardship as determined by the state board after considering such factors as median income of the residents, rate of unemployment, or low population

density in the service area of the publicly owned treatment works.

(l) (1) In lieu of assessing penalties pursuant to subdivision (h) or (i), the state board or the regional board, with the concurrence of the discharger, may direct a portion of the penalty amount to be expended on a supplemental environmental project in accordance with the enforcement policy of the state board. If the penalty amount exceeds fifteen thousand dollars (\$15,000), the portion of the penalty amount that may be directed to be expended on a supplemental environmental project may not exceed fifteen thousand dollars (\$15,000) plus 50 percent of the penalty amount that exceeds fifteen thousand dollars (\$15,000).

(2) For the purposes of this section, a "supplemental environmental project" means an environmentally beneficial project that a person agrees to undertake, with the approval of the regional board, that would not be undertaken in the absence of an enforcement action under this section.

(3) This subdivision applies to the imposition of penalties pursuant to subdivision (h) or (i) on or after January 1, 2003, without regard to the date on which the violation occurs.

(m) The Attorney General, upon request of a regional board or the state board, shall petition the appropriate court to collect any liability or penalty imposed pursuant to this section. Any person who fails to pay on a timely basis any liability or penalty imposed under this section shall be required to pay, in addition to that liability or penalty, interest, attorney's fees, costs for collection proceedings, and a quarterly nonpayment penalty for each quarter during which the failure to pay persists. The nonpayment penalty shall be in an amount equal to 20 percent of the aggregate amount of the person's penalty and nonpayment penalties that are unpaid as of the beginning of the quarter.

(n) (1) Subject to paragraph (2), funds collected pursuant to this section shall be deposited in the State Water Pollution Cleanup and Abatement Account.

(2) (A) Notwithstanding any other provision of law, moneys collected for a violation of a water quality certification in accordance with paragraph (2) of subdivision (a) or for a violation of Section 401 of the Clean Water Act (33 U.S.C. Sec. 1341) in accordance with paragraph (5) of subdivision (a) shall be deposited in the Waste Discharge Permit Fund and separately accounted for in that fund.

(B) The funds described in subparagraph (A) shall be expended by the state board, upon appropriation by the Legislature, to assist regional boards, and other public agencies with authority to clean up waste or abate the effects of the waste, in cleaning up or abating the effects

of the waste on waters of the state or for the purposes authorized in Section 13443.

(o) The state board shall continuously report and update information on its Internet Web site, but at a minimum, annually on or before January 1, regarding its enforcement activities. The information shall include all of the following:

(1) A compilation of the number of violations of waste discharge requirements in the previous calendar year, including stormwater enforcement violations.

(2) A record of the formal and informal compliance and enforcement actions taken for each violation, including stormwater enforcement actions.

(3) An analysis of the effectiveness of current enforcement policies, including mandatory minimum penalties.

(p) The amendments made to subdivisions (f), (h), (i) and (j) during the second year of the 2001-02 Regular Session apply only to violations that occur on or after January 1, 2003.

§ 13385.1. Definitions of "serious violation" and "effluent limitation"

(a) (1) For the purposes of subdivision (h) of Section 13385, a "serious violation" also means a failure to file a discharge monitoring report required pursuant to Section 13383 for each complete period of 30 days following the deadline for submitting the report, if the report is designed to ensure compliance with limitations contained in waste discharge requirements that contain effluent limitations. ~~(2) Paragraph (1) This paragraph applies only to violations that occur on or after January 1, 2004.~~

(2) (A) Notwithstanding paragraph (1), a failure to file a discharge monitoring report is not a serious violation for purposes of subdivision (h) of Section 13385 at any time prior to the date a discharge monitoring report is required to be filed or within 30 days after receiving written notice from the state board or a regional board of the need to file a discharge monitoring report, if the discharger submits a written statement to the state board or the regional board that includes both of the following:

(i) A statement that there were no discharges to waters of the United States reportable under the applicable waste discharge requirements during the relevant monitoring period.

(ii) The reason or reasons the required report was not submitted to the regional board by the deadline for filing that report.

(B) Upon the request of the state board or regional board, the discharger may be required to support the statement with additional explanation or evidence.

(C) If, in a statement submitted pursuant to subparagraph (A), the discharger willfully states as true any material fact that he or she knows to be false, that person shall be subject to a civil penalty not exceeding ten thousand dollars (\$10,000). Any public prosecutor may bring an action for a civil penalty under this subparagraph in the name of the people of the State of California, and the penalty imposed shall be enforced as a civil judgment.

(D) Notwithstanding subparagraph (A), the failure to file a discharge monitoring report is subject to penalties in accordance with subdivisions (c) and (e) of Section 13385.

(b) (1) Notwithstanding paragraph (1) of subdivision (a), a mandatory minimum penalty shall continue to apply and shall be assessed pursuant to subdivision (h) of Section 13385, but only for each required report that is not timely filed, and shall not be separately assessed for each 30-day period following the deadline for submitting the report, if both of the following conditions are met:

(A) The discharger did not on any occasion previously receive, from the state board or a regional board, a complaint to impose liability pursuant to subdivision (b) or (c) of Section 13385 arising from a failure to timely file a discharge monitoring report, a notice of violation for failure to timely file a discharge monitoring report, or a notice of the obligation to file a discharge monitoring report required pursuant to Section 13383, in connection with its corresponding waste discharge requirements.

(B) The discharges during the period or periods covered by the report do not violate effluent limitations, as defined in subdivision (d), contained in waste discharge requirements.

(2) Paragraph (1) shall only apply to a discharger who does both of the following:

(A) Files a discharge monitoring report that had not previously been timely filed within 30 days after the discharger receives written notice, including notice transmitted by electronic mail, from the state board or regional board concerning the failure to timely file the report.

(B) Pays all penalties assessed by the state board or regional board in accordance with paragraph (1) within 30 days after an order is issued to pay these penalties pursuant to Section 13385.

(3) Notwithstanding paragraph (1), the failure to file a discharge monitoring report is subject to penalties in accordance with subdivisions (c) and (e) of Section 13385.



**§ 13399.27. Reports**

On or before February 1, 2000, and on each February 1 thereafter, the state board, after any necessary investigation, shall prepare, and make available to the public, a report that includes both of the following:

(a) A list of those persons that were notified of their duty to comply with applicable general storm water NPDES permits pursuant to Section 13399.30 and a description of the responses received to those notifications, including the filing of notices of intent to obtain coverage or notices of nonapplicability, returned mail and no response, appeals of filing or permitting requirements pursuant to this chapter, site inspections, enforcement actions taken, and penalties assessed therefor.

(b) A list of those dischargers identified pursuant to Section 13399.31 that, during the previous calendar year, failed to submit an annual report or construction certification required by a regional board, and any penalties assessed therefor.

**§ 13399.30. Identification of dischargers**

(a)(1) Each year the regional boards shall undertake reasonable efforts to identify dischargers of storm water that have not obtained coverage under an appropriate storm water NPDES permit.

(2) Any person, including a person subject to waste discharge requirements under Section 1342(p) of Title 33 of the United States Code, that discharges, proposes to discharge, or is suspected by a regional board or the state board of discharging storm water associated with industrial activity that has not obtained coverage under an appropriate storm water NPDES permit, shall submit to the regional board, within 30 days from the date on which a notice is sent by the regional board, the appropriate notice of intent to obtain coverage or a notice of nonapplicability that specifies the basis for not needing to obtain coverage under an NPDES permit.

(b) If a person to which a notice is sent pursuant to subdivision (a) fails to submit the appropriate notice of intent to obtain coverage or the required notice of nonapplicability to the regional board within 30 days from the date on which that notice is sent, the executive officer of the regional board shall send a second notice to that discharger.

(c)(1) If a person to which a notice is sent pursuant to subdivision (b) fails to submit the required notice of nonapplicability to the regional board within 60 days from the date on which the notice pursuant to subdivision (a) was sent, the regional board shall impose the penalties described in subdivision (b) of Section 13399.33.

(2) If a person to which a notice is sent pursuant to subdivision (b) fails to submit the required notice of intent to obtain coverage to the regional board within 60 days

from the date on which the notice pursuant to subdivision (a) was sent, the regional board shall impose the penalties described in subdivision (a) of Section 13399.33.

**§ 13399.31. Notice of noncompliance**

(a) Each year the regional board shall conduct a review of the annual reports and construction certifications submitted in accordance with the requirements of an applicable NPDES permit and Section 1342(p) of Title 33 of the United States Code and shall identify the dischargers that have failed to submit that annual report or construction certification required by the regional board.

(b) The regional board shall notify each discharger that is identified pursuant to subdivision (a) with regard to its noncompliance and the penalties therefor.

(c) If a discharger to which a notice is sent pursuant to subdivision (b) fails to submit the annual report or construction certification required by the regional board to the regional board within 30 days from the date on which that notice is sent, the executive officer of the regional board shall send a second notice to that discharger.

(d) If a discharger to which a notice is sent pursuant to subdivision (c) fails to submit the annual report or construction certification required by the regional board to the regional board within 60 days from the date on which the notice is sent pursuant to subdivision (b), the regional board shall impose the penalties described in subdivision (c) of Section 13399.33.

**§ 13399.33. Penalties**

Except as provided in Section 13399.35, the regional board shall do all of the following with regard to a discharger that is subject to the requirements prescribed in accordance with Section 1342(p) of Title 33 of the United States Code:

(a)(1) With regard to a discharger of storm water associated with industrial activity that fails to submit the required notice of intent to obtain coverage in accordance with Section 13399.30, impose civil liability administratively in an amount that is not less than five thousand dollars (\$5,000) per year of noncompliance or fraction thereof, unless the regional board makes express findings setting forth the reasons for its failure to do so, based on the specific factors required to be considered pursuant to paragraph (2).

(2) In determining the amount of the penalty imposed under this section, the regional board shall consider the nature, circumstances, extent, and gravity of the violation, and, with respect to the violator, the ability to pay, any prior history of violations, the degree of culpability, economic benefits or savings resulting from the violation, and other matters as justice may require. These considerations shall be balanced against the need for the

regulatory costs of environmental protection to be borne equally by dischargers throughout the state, and the need for predictability of enforcement when making business decisions.

(b) With regard to a person that fails to submit the required notice of nonapplicability in accordance with Section 13399.30, impose civil liability administratively in the amount of one thousand dollars (\$1,000).

(c) With regard to a person that fails to submit an annual report or construction certification in accordance with Section 13399.31, impose civil liability administratively in an amount that is not less than one thousand dollars (\$1,000).

(d) Recover from the persons described in subdivisions (a), (b), and (c) the costs incurred by the regional board with regard to those persons.

(e) It is an affirmative defense to the penalties imposed under this section for a person described in subdivision (a) or (b) to prove that he or she did not, in fact, receive the notices required under Section 13399.30 or 13399.31.

**§ 13399.35. Reduction of penalties**

(a) The regional board may allow a person to reduce the penalties described in subdivisions (a), (b), and (c) of Section 13399.33 by up to 50 percent by undertaking a supplemental environmental project in accordance with the enforcement policy of the state board and any applicable guidance document.

(b) For the purposes of this section, a "supplemental environmental project" means an environmentally beneficial project that a person agrees to undertake, with the approval of the regional board, which would not be undertaken in the absence of an enforcement action under Section 13399.33.

**§ 13399.37. Deposit of funds**

(a) The money generated from the imposition of liability and cost recovery pursuant to Section 13399.33 shall be deposited, and separately accounted for, in the Waste Discharge Permit Fund.

(b) The money described in subdivision (a) shall be available, upon appropriation by the Legislature, to the regional boards from which the revenues were generated for the purpose of carrying out storm water programs under this division.

**§ 13399.41. Agency cooperation**

Notwithstanding any other provision of law, appropriate state agencies, as requested by the executive director of the state board, shall provide the state board with the names, addresses, and standard industrial classifications or types of business facilities that are subject to storm

water programs under this division. The information obtained pursuant to this section shall be used by the state board solely to regulate the discharge of storm water associated with industrial activity under this division. The state shall reimburse state agencies for all reasonable expenses incurred in connection with complying with this section.

**§ 13399.43. Definition**

For the purposes of this chapter, "NPDES permit" means a permit issued under the national pollutant discharge elimination system program in accordance with the Clean Water Act (33 U.S.C.A. Sec. 1251 et seq.).

**CHAPTER 6. STATE FINANCIAL ASSISTANCE**

**ARTICLE 1. STATE WATER QUALITY CONTROL FUND**

**§ 13400. Definitions**

As used in this chapter, unless otherwise apparent from the context:

(a) "Fund" means the State Water Quality Control Fund.

(b) "Public agency" means any city, county, city and county, district, or other political subdivision of the state.

(c) "Facilities" means: (1) facilities for the collection, treatment, or export of waste when necessary to prevent water pollution, (2) facilities to recycle wastewater and to convey recycled water, (3) facilities or devices to conserve water, or (4) any combination of the foregoing.

**§ 13401. The State Water Quality Control Fund**

(a) The State Water Quality Control Fund is continued in existence. The following moneys in the fund are appropriated, without regard to fiscal years, for expenditure by the state board in making loans to public agencies in accordance with this chapter:

(1) The balance of the original moneys deposited in the fund.

(2) Any money repaid to the fund.

(3) Any remaining balance of the money in the fund deposited therein after the specific appropriations for loans to the South Tahoe Public Utility District, the North Tahoe Public Utility District, the Tahoe City Public Utility District, the Truckee Sanitary District, and to any other governmental entity in the areas served by such districts have been made.

(b) Notwithstanding subdivision (a), upon the order of the state board, the money in the State Water Quality



# California Regional Water Quality Control Board

## San Diego Region



Matthew Rodriguez  
Secretary for  
Environmental Protection

Over 50 Years Serving San Diego, Orange, and Riverside Counties  
Recipient of the 2004 Environmental Award for Outstanding Achievement from USEPA

Edmund G. Brown, Jr.  
Governor

9174 Sky Park Court, Suite 100, San Diego, California 92123-4353  
(858) 467-2952 • Fax (858) 571-6972  
<http://www.waterboards.ca.gov/sandiego>

### EXHIBIT E

#### ACCEPTANCE OF CONDITIONAL RESOLUTION AND WAIVER OF RIGHT TO HEARING; ORDER

Mr. Chad Enniss  
Enniss, Inc.  
PO Box 1769  
Lakeside, CA 92040  
WDID No. 9 371019954

By signing below and returning this Acceptance of Conditional Resolution and Waiver of Right to Hearing (Acceptance and Waiver) to the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board), Enniss, Inc. hereby accepts the "Offer to Participate in the San Diego Water Board's Expedited Payment Program for Failure to Submit the 2010-2011 Annual Industrial Storm Water Report" (Conditional Offer) and waives the right to a hearing before the San Diego Water Board to dispute the allegations of a violation described in the Notice of Violation (NOV) attached hereto as Exhibit A and incorporated herein by reference.

Enniss, Inc. agrees that the NOV attached hereto shall serve as a complaint pursuant to Article 2.5 of the California Water Code and that no separate complaint is required for the San Diego Water Board to assert jurisdiction over the alleged violation through its Executive Officer. Enniss, Inc. agrees to perform the following:

1. Submit the 2010-2011 Annual Industrial Storm Water Report on or before **March 23, 2012** to:

California Regional Water Quality Control Board, San Diego Region  
9174 Sky Park Court, Suite 100  
San Diego, CA 92123  
Attention: Application ID: 291369:wghoram, WDID:9 371019954

2. Pay administrative civil liability authorized by California Water Code section 13399.30, in the sum of ONE THOUSAND DOLLARS (\$1,000) (Expedited Payment Amount) by cashier's check or by certified check made payable to the State Water Resources Control Board, which shall be deemed payment in full of any administrative civil liability for the violation described in the NOV attached hereto as Exhibit A.

California Environmental Protection Agency



Mr. Chad Enniss  
Enniss, Inc.

- 2 -

February 23, 2012

Enniss, Inc. understands that this Acceptance and Waiver waives its right to contest the allegations in the NOV attached hereto as Exhibit A and the administrative civil liability amount for such violations.

Enniss, Inc. understands that the failure to submit the Annual Report, as identified and described above, shall cause the San Diego Water Board enforcement staff's Conditional Offer and Enniss, Inc.'s waiver pursuant to this Acceptance and Waiver to be withdrawn. After the San Diego Water Board enforcement staff's Conditional Offer and Enniss, Inc.'s waiver are deemed withdrawn, Enniss, Inc. will be advised of the withdrawals, an administrative civil liability complaint may be issued, and the matter may be set for a hearing before the San Diego Water Board or the State Water Board.

Enniss, Inc. understands that this Acceptance and Wavier does not address or resolve liability for any violation that is not specifically identified in the NOV attached hereto as Exhibit A.

Upon execution by Enniss, Inc., the Acceptance and Wavier shall be returned to:

California Regional Water Quality Control Board, San Diego Region  
9174 Sky Park Court, Suite 100  
San Diego, CA 92123  
Attention: Application ID: 291369:wghoram, WDID:9 371019954

Enniss, Inc. understands that federal regulations set forth at title 40, Code of Federal Regulations, section 123.27(d)(2)(iii) require the San Diego Water Board to publish notice of and provide at least thirty (30) days for public comment on any proposed resolution of an enforcement action. Accordingly, this Acceptance and Wavier, prior to being formally executed by the Executive Officer of the San Diego Water Board, will be published as required by law for public comment.

If no comments are received within the notice period that cause the Executive Officer of the San Diego Water Board to reconsider the Expedited Payment Amount, the Executive Officer will formally endorse this Acceptance and Waiver. Resolution of these violations will preclude formal enforcement action by the San Diego Water Board for the failure to submit the report alleged in the NOV attached as Exhibit A.

Enniss, Inc. understands that if significant comments are received in opposition to the Expedited Payment Amount, the offer on behalf of the San Diego Water Board enforcement staff to resolve the violation set forth in the NOV attached hereto as Exhibit A may be withdrawn. If the San Diego Water Board offer is withdrawn, Enniss, Inc. will be advised of that withdrawal, and Enniss, Inc.'s waiver pursuant to the Acceptance and Wavier will also be treated as withdrawn. After the San Diego Water Board enforcement staff's offer and Enniss, Inc.'s waiver are deemed withdrawn, the

Mr. Chad Enniss  
Enniss, Inc.

- 3 -

February 23, 2012

unresolved violation(s) is likely to be addressed in a formal enforcement action. An administrative civil liability complaint may be issued and the matter may be set for a hearing before the San Diego Water Board or the State Water Board. For such a liability hearing, Enniss, Inc. understands that this Acceptance and Waiver endorsed by Enniss, Inc. shall be treated as a settlement communication and shall not be used as evidence in that hearing.

Enniss, Inc. understands that once this Acceptance and Wavier is formally executed by the Executive Officer of the San Diego Water Board, the full payment required by the deadline set forth below is a condition of this Acceptance and Wavier. Enniss, Inc. shall pay the Expedited Payment Amount of ONE THOUSAND DOLLARS (\$1,000) by a cashier's check or certified check for the full amount made payable to the "State Water Resources Control Board". Enniss, Inc. shall submit the payment to the San Diego Water Board no later than ten (10) calendar days after the date Enniss, Inc. receives written notice that the Executive Officer of the San Diego Water Board has formally endorsed this Acceptance and Waiver.

I hereby affirm that I am duly authorized to act on behalf of and to bind Enniss, Inc. in the making and giving of this Acceptance and Waiver.

Enniss, Inc.  
(Company)

By: \_\_\_\_\_  
(Signed Name)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Printed or typed name)

\_\_\_\_\_  
(Title)

IT IS SO ORDERED PURSUANT TO CALIFORNIA WATER CODE SECTION 13399.30.

Date: \_\_\_\_\_

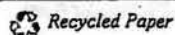
By: \_\_\_\_\_

David W. Gibson  
Executive Officer  
California Regional Water Quality Control Board, San Diego Region

Attachment:

Exhibit A - Notice of Violation dated September 29, 2011

California Environmental Protection Agency





## California Regional Water Quality Control Board San Diego Region

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Matthew Rodriguez  
Secretary for  
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<http://www.waterboards.ca.gov/sandiego>

Edmund G. Brown Jr.  
Governor

EXHIBIT A

September 29, 2011

Chad Enniss  
Enniss Inc  
PO Box 1769  
Lakeside, CA 92040

CERTIFIED MAIL  
7010 1060 0000 4952 9260

In reply refer to:  
WDID #: 9 371019954  
NWU:tfelix

**Subject:** NOTICE OF VIOLATION: NPDES NO. CAS000001: ORDER NO. 97-03-DWQ: DISCHARGER NAME: WDID 9 371019954: FAILURE TO SUBMIT 2010-2011 INDUSTRIAL STORM WATER ANNUAL REPORT

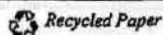
**Facility:** Enniss Inc  
12535 Vigilante Rd  
Lakeside, CA 92040

### YOU ARE HEREBY NOTIFIED THAT:

You are in violation of the statewide General Industrial Storm Water Permit Order No. 97-03-DWQ (Order) for failure to submit the 2010-2011 Annual Report. The Annual Report was due to the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) by July 1, 2011 as required by Section B.14 of the Order.

Pursuant to California Water Code (CWC) Sections 13399.31-33, and 13385, your failure to submit the Annual Report subjects you to possible enforcement action by the San Diego Water Board. Civil liability could range from a minimum of \$1,000 and up to \$10,000 a day for each day of violation, or up to \$25,000 a day if the liability is assessed by a court. You may also be subject to criminal penalties under Section 13387 of the CWC. The number of days of violation would be counted from July 1, 2011, up to the date the 2010-2011 Annual Report is received. To minimize the potential liability assessed, please submit the Annual Report immediately. Submit online in SMARTS or mail the Annual Report to the address at the top of this page, attention Tony Felix.

*California Environmental Protection Agency*



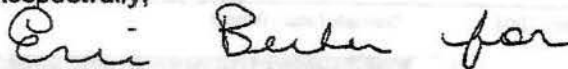
Enniss Inc  
Notice of Violation

- 2 -

September 29, 2011

If you have any questions pertaining to the submission of the Annual Report, and or the issuance of this NOV, please contact Tony Felix at (858) 636-3134, or by email at [tfelix@waterboards.ca.gov](mailto:tfelix@waterboards.ca.gov). If you feel you have received this NOV in error, please contact our office immediately.

Respectfully,



David Barker, P.E.  
Supervising Water Resources Control Engineer  
Surface Water Basins Branch

DTB:esb:pab

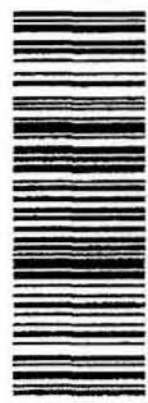
SMARTS:

Violation ID	845539
Enforcement ID	406484

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits.	A. Signature <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee
Article Addressed to: <b>CHAD ENNISS</b> <b>ENNISS INC</b> <b>P.O. Box 1769</b> <b>LAKE SIDE CA. 92040</b>	B. Received by (Printed Name) C. Date of Delivery
	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No
	3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.
	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes

Article Number (Transfer from service label) **7010 1060 0000 4952 9864**

S Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540



U.S. Postal Service <b>CERTIFIED MAIL™ RECEIPT</b> (Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at <a href="http://www.usps.com">www.usps.com</a>	
<b>OFFICIAL USE</b>	
Postage \$	
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	<b>\$5.40</b>
Sent To <b>MR. CHAD ENNISS ENNISS INC</b>	
Street, Apt. No. or PO Box No. <b>PO Box 1769</b>	
City, State, ZIP+4 <b>Lake Side, CA 92040</b>	
PS Form 3809, August 2006 See Reverse for Instructions	



**EXHIBIT C**

**Discharger Response to EPL Letter**

**March 7, 2012**



# ENNISS INC.

12535 Vigilante Road - Lakeside, CA 92040

P.O. Box 1769 - Lakeside, CA 92040  
Phone (619) 561-1101 - Fax (619) 443-9191

2012 MAR -9 P 4: 04

March 7, 2012

State Of California  
California Regional Water Quality Control Board  
San Diego Region  
9174 Sky Park Court, Suite 100  
San Diego, California 92123-4340

Certified Mail #7009 0820 0001 9902 5606

Attention: Mr. James G. Smith, Assistant Executive Officer

Reference: Application ID: 291369:wghoram  
WDID:9 371019954

Dear Mr. Smith:

We are in receipt of your letter dated February 23, 2012 "OFFER TO PARTICIPATE IN AN EXPEDITED PAYMENT PROGRAM FOR FAILURE TO SUBMIT THE 2010-2011 ANNUAL INDUSTRIAL STORM WATER REPORT ORDER NO. 07-03-DWQ, NPDES NO. CAS000001", a copy of which is enclosed.

Also enclosed please find a copy of the report in question, which was prepared and previously submitted by Highfill Group Engineering.

- Highfill Group Engineering asserts that the report was submitted to the Board in a timely fashion on or before July 1, 2011, at the same time that reports for other Highfill clients were submitted. Highfill Group tells us that all reports that they submitted for other clients were received by the Board.
- Highfill Group Engineering states that a copy of the report was hand-delivered to your offices sometime in late December 2011, after Ms.

Enniss Inc.  
State of California  
California Regional Water Quality Control Board  
March 6, 2012  
Reference: Application ID: 291369:wghoram  
WDID:9 371019954

Page 2

Ghoram's visit to our offices on December 20, 2011, and that a follow up call was placed to Ms. Ghoram to notify her of the delivery of the copy of the report.

- Melisa Moorehead from Highfill Group Engineering represents that she has spoken to both Ms. Ghoram and Tony Felix since the most recent submittal of the report and that both acknowledge receipt of the 2010-2011 Annual Report.
- Ms. Moorehead also tells us that Ms. Ghoram is looking into having the fine/fee related to the submittal of the report waived.

We submit this letter as a contest to the alleged violation, and based upon information provided to us by our consultant, Highfill Group Engineering, respectfully request that the Board cease further action on this matter.

Your kind consideration is appreciated.

Sincerely,



Carolyn Sandoval  
Controller

**EXHIBIT D**

**Withdrawal of EPL Offer**

**March 30, 2012**



# California Regional Water Quality Control Board San Diego Region



Matthew Rodriguez  
Secretary for  
Environmental Protection

Over 50 Years Serving San Diego, Orange, and Riverside Counties  
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Governor

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(858) 467-2952 • Fax (858) 571-6972  
<http://www.waterboards.ca.gov/sandiego>

March 30, 2012

**Certified Mail-Return Receipt Requested**  
7010 1060 0000 4952 9888

**In reply refer to:**

Application ID: 291369:wghoram  
WDID:9 371019954

Mr. Chad Enniss  
Enniss Inc.  
PO Box 1769  
Lakeside, California 92040

## **REJECTION OF EXPEDITED PAYMENT PROGRAM FOR FAILURE TO SUBMIT THE 2010-2011 ANNUAL INDUSTRIAL STORM WATER REPORT, ORDER NO. 97-03- DWQ, NPDES NO. CAS000001**

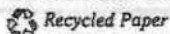
**ENNISS INC., 12535 VIGILANTE ROAD, LAKESIDE, CA 92040**

Mr. Enniss:

By letter dated March 7, 2012 you declined the offer to participate in the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) Expedited Payment Program for Enniss Inc.'s failure to submit the 2010-2011 Annual Report (Annual Report) by the July 1, 2011 due date. In your response letter, you reported that the Annual Report was submitted to the San Diego Water Board sometime in late December 2011 and provided an unsigned copy of the Annual Report. San Diego Water Board staff have reviewed the Administrative Records for Enniss Inc. and concluded that there is no record of the Annual Report being submitted in December 2011. Therefore, the San Diego Water Board cannot confirm Enniss' alleged submittal of the Annual Report. Furthermore, neither Enniss nor its consultant, Highfill Group Engineering, has provided documentation to support the alleged timely submittal.

The San Diego Water Board settlement offer for Enniss Inc. to participate in the Expedited Payment Program is now deemed withdrawn. This offer was an opportunity for Enniss Inc. to resolve the violation for failure to submit the report by paying the minimum penalty. By declining the San Diego Water Board's settlement offer, Enniss Inc. should now expect that a formal enforcement action will be pursued for which it will receive notice of any deadlines associated with that action. In such an action, the liability amount sought and/or imposed may significantly exceed the \$1,000 mandatory minimum penalty required by law. Moreover, the San Diego Water Board staff costs incurred for enforcement are an additional factor which will be considered in assessing Enniss, Inc.'s liability amount.

*California Environmental Protection Agency*







Mr. Chad Enniss  
Enniss Inc.

March 30, 2012

Any questions regarding this letter should be directed to Ms. Whitney Ghoram at 858-467-2967 or [wghoram@waterboards.ca.gov](mailto:wghoram@waterboards.ca.gov).

Respectfully,

  
JAMES G. SMITH  
Assistant Executive Officer

JS:dtb:esb:wjg

cc via email:

Jeremy Haas, Senior Environmental Scientist, CAU, San Diego Water Board, [jhaas@waterboards.ca.gov](mailto:jhaas@waterboards.ca.gov)

Laura Drabandt, Staff Counsel, Office of Enforcement, State Water Board,  
[ldrabandt@waterboards.ca.gov](mailto:ldrabandt@waterboards.ca.gov)

SMARTS:  
Application ID: 291369  
Violation ID: 845539  
Enforcement reference ID: 406484

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

CHAD ENNISS  
 ENNISS INC.  
 P.O. Box. 1769  
 Lakeside, CA 92040

2. Article Number  
(Transfer from service label)

7010 1060 0000 4952 9888

PS Form 3811, February 2004 3-3c

Domestic Return Receipt W. Cherram

102595-02-M-1540

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X

- Agent
- Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type

- Certified Mail
- Registered
- Insured Mail
- Express Mail
- Return Receipt for Merchandise
- C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes



7010 1060 0000 4952 9888  
 7010 1060 0000 4952 9888

**U.S. Postal Service**  
**CERTIFIED MAIL RECEIPT**

(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at [www.usps.com](http://www.usps.com).

**OFFICIAL USE**

Postage \$	
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
<b>Total Postage &amp; Fees</b>	<b>\$3.40</b>

Postmark Here

Sent To  
 CHAD ENNISS / ENNISS INC.  
 Street, Apt. No. or PO Box No. P.O. Box 1769  
 City, State, ZIP+4  
 LAKESIDE CA 92040

PS Form 3800, August 2005

See Reverse for Instructions

**EXHIBIT E**

**Staff Cost Estimation**

**ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R9-2013-0051**

**STAFF COSTS TO OBTAIN COMPLIANCE:**

Staff Position	Task	Estimated Hours	Estimated Cost
Student Assistant	Drafting and Issuance of 1 <sup>st</sup> NOV (9/29/2011)	1	\$150
Senior Eng	Review and sign NOV	0.5	\$75
Sanitary Eng Associate	Site Inspection (12/20/2011) and 2 <sup>nd</sup> request for submittal of Annual Report	3	\$450
Sanitary Eng Associate	Drafting and Issuance of Expedited Payment Letter (EPL) dated 02/23/2012	8	\$1200
Senior Eng	Review case, edit EPL	2	\$300
Branch Manager	Review case, edit EPL	1	\$150
Asst Exec Officer	Review and Sign EPL	0.5	\$75
Sanitary Eng Associate	Review EPL Rejection Letter, database research for "missing report"	1	\$150
Sanitary Eng Associate	Drafting and issuance of EPL rejection response letter (03/30/2012)	1	\$150
Senior Eng	Review response letter, edit	0.5	\$75
Asst Exec Officer	Review response letter sign	0.5	\$75
Env Scientist (CAU)	Review Case, Draft ACL Complaint & Tech Analysis	10	\$1500
Senior Env. Scientist (CAU)	Review and edit Draft ACL Complaint	2	\$300
Branch Manager	Review Draft ACL Complaint	1	\$150
Asst Exec Officer	Review and Sign ACL Complaint	1	\$150
<b>TOTAL</b>			<b>\$4,950</b>

**NOTE: Staff costs are based on an average rate of \$150 per hour, as directed by the State Water Board Office of Enforcement**