



5. Storm water runoff and authorized non-storm water discharges from the Permittee's facility at 20500 Madrona Avenue in the City of Torrance are regulated under the General Permit. The Permittee's facility discharges these waters into a storm drain located at Torrance Boulevard which is approximately 5 miles from the Pacific Ocean, a navigable water of the United States. The General Permit requires the City to develop a Storm Water Pollution Prevention Plan (SWPPP) to identify potential source of pollutants and describe specific best management practices (BMPs) that will be implemented to eliminate or reduce storm water pollutants from the Permittee's facility.
6. The Permittee operates a service facility on a 24-acre site which discharges waters containing pollutants to navigable waters of the United States and is therefore subject to the requirements of the General Permit.
7. The Permittee's Notice of Intent (NOI), General Permit enrollment application form signed by Mr. LeRoy Jackson, City Manager on March 2, 1992, listed 4111, 4212 and 4173 as the Standard Industrial Classification (SIC) codes, which are identified as transportation facilities including chemical storage areas, vehicle maintenance, washing and fueling. The facility's WDID No. is 419 S 000130.
8. Under the General Permit, the Permittee is allowed to discharge storm water runoff associated with industrial activities into the Pacific Ocean, but only under specified conditions.
9. On December 16, 2005, Regional Board staff, Ivar Ridgeway, conducted an inspection of the Permittee's facility to determine compliance with the General Permit and LA County MS4 Permit.
  - a. As documented in the inspection report, the inspector observed that the Permittee was in violation of the General Permit. The SWPPP and Monitoring Plan (MP) were not on site (as required by Section A.10). The Permittee had not implemented appropriate BMPs (as required by Section A.8) as follows: non-storm water (vehicle wash water) was discharged to the storm drain (Section A.6.v.), and the outdoor storage area for designated hazardous waste chemicals lacked proper containment (A.8).
  - b. In addition, the Permittee's facility was in violation of the LA MS4 Permit for the discharge of non-storm water (Part 1) and lack of material storage controls and illicit discharge controls (Part 4.F.3.b(2) and(4)).
10. On January 6, 2006, the Regional Board Executive Officer (Executive Officer) issued a Notice of Violation (NOV) to the Permittee for failing to maintain a SWPPP and MP, for failing to implement appropriate BMPs for the storage of hazardous materials in the chemical storage area, and for failing to implement appropriate BMPs to prevent unauthorized non-storm water discharges (vehicle wash water). In the NOV, staff advised the Permittee of the penalties for violations of the General Permit and the LA MS4 Permit. The NOV required the Permittee to immediately cease all non-storm water discharges,

- implement appropriate BMPs, and by February 6, 2006 submit a copy of the SWPPP and a written certification that the SWPPP had been implemented and that BMPs were being monitored.
11. On January 31, 2006, the Permittee submitted a response to the January 6, 2006 NOV. The response included a copy of a SWPPP and a written description of BMPs to be implemented.
  12. In a letter dated June 23, 2006, Mr. Kelvin Kasai, Environmental Health Specialist, County of Los Angeles Department of Health Services (Solid Waste Management Program), referred the Permittee to the Regional Board for investigation and possible enforcement action due to the storage and transfer of street sweeping debris. On June 22, 2006 Mr. Kelvin Kasai observed dumping of street sweeping water onto soil to allow liquid to drain from the waste before transferring it to the dumpsters.
  13. On August 29, 2006, Regional Board staff, Ivar Ridgeway, re-inspected the Permittee's facility to determine compliance with the General Permit and LA MS4 Permit. The inspection was conducted jointly with Department of Health inspectors, Mr. Kelvin Kasai and Mr. Pete Oda. As documented in the inspection report and in the pictures, the inspector observed the Permittee's failure to implement containment BMPs specified in the SWPPP, and an unauthorized non-storm water discharge. The Permittee was directed at the time of inspection to submit a letter documenting the proposed layout and BMPs for the street sweeping transfer and storage area. The Permittee was directed to submit with the response, an implementation schedule for BMP implementation and the corresponding SWPPP revisions. The Permittee was again instructed to store all waste containers as specified in the SWPPP.
  14. On September 21, 2006, the Permittee submitted a response letter addressing the BMP violations observed during the Regional Board staff inspection on August 29, 2006. The response letter specified corrective actions taken to address the violations, including installation of secondary containment at the hazardous waste area and preventive actions to eliminate unauthorized non-storm water discharges.
  15. On September 26, 2006, Regional Board staff, Ivar Ridgeway, re-inspected the Permittee's facility to determine compliance with the General Permit and LA MS4 Permit. As documented in the inspection report, the inspector observed that the Permittee was in violation of the General Permit and LA MS4 Permit. The Permittee failed to implement effective BMPs to prevent the discharge of non-storm water to the storm drain system and to provide secondary containment in the hazardous waste storage area.
  16. On October 6, 2006, the Executive Officer issued a second NOV to the Permittee for failure to effectively implement appropriate BMPs for the storage of chemical containers in the designated hazardous waste containment area and for failure to eliminate unauthorized non-storm water discharges. The Permittee violated requirements of the General Permit (Section A.8, A.6.v) and the LA MS4 Permit (Part 1, and Part 4.F.3.b(2) and (4)). The NOV required the Permittee to immediately eliminate all non-storm

- water discharges and implement appropriate storage BMPs for chemical containers in the hazardous waste storage area. By November 6, 2006, the Permittee was required to submit a written response to the Regional Board staff addressing all violations and corrective actions taken and a schedule for implementing any BMPs that were not fully implemented.
17. On November 2, 2006, the Permittee submitted a response to the NOV dated October 6, 2006. The response documented implementation of BMPs and elimination of non-storm water discharges.
  18. On April 26, 2007 Regional Board staff (Ann Zaszkodna and Ivar Ridgeway) re-inspected the facility to determine compliance with the General Permit and LA MS4 Permit. As documented in the inspection report, the inspectors observed lack of proper containment in the facility's hazardous waste area, poor housekeeping practices including the storage of rusted metal parts directly on the ground without appropriate BMPs, and oily discharges to the ground next to the storm drain inlet.
  19. On May 11, 2007, the Executive Officer issued a third NOV to the Permittee for failure to effectively implement appropriate BMPs for the storage of chemical containers in the designated hazardous waste containment area, poor housekeeping practices including rusted metal parts stored directly on the ground and oily discharges to the ground. The Permittee violated requirements of the General Permit and the Los Angeles MS4 Permit. The NOV required the Permittee to immediately improve material handling and storage to minimize the potential for spills, leaks and exposure of significant materials to storm water. By June 11, 2007 the Permittee was required to submit a written response to the Regional Board staff addressing all violations and to certify in the SWPPP that all BMPs had been implemented, and were monitored.
  20. On May 29, 2007, the Permittee submitted via fax, a letter requesting a meeting with the Regional Board staff to discuss the third NOV. Regional Board staff stated to the Permittee that a meeting would be scheduled after the Permittee's response was reviewed and after a subsequent site inspection.
  21. On June 11, 2007, the Permittee submitted a response to the NOV dated May 11, 2007. The response specified corrective actions taken to address the violations.
  22. On June 21, 2007 Regional Board staff (Ann Zaszkodna) re-inspected the facility to determine compliance with the General Permit and LA MS4 Permit. As documented in the inspection report all previously identified BMP violations were corrected and the site was in compliance at the time of inspection.
  23. On November 14, 2008, Regional Board staff (Ivar Ridgeway) re-inspected the facility in response to concerns with the operation of the street sweeping transfer area noted during a November 12, 2008 site inspection by LA County Department of Health inspectors. During the inspection, Regional Board staff observed a standing pool of odiferous, dark colored water within the street sweeping transfer area that was discharging to an area on the site approximately 50 feet from the designated street sweeping containment area.

### CONCLUSION

24. From December 16, 2005 to April 26, 2007, the Permittee failed to effectively implement water quality management programs including prohibition of non-storm water discharges into a storm drain system, illicit discharge control, and implement appropriate BMPs for the designated hazardous waste storage area. These are violations of the General Permit and LA MS4 Permit.

### POTENTIAL CIVIL LIABILITY

25. Section 13385 of the California Water Code (CWC) provides that any person who violates waste discharge requirements issued pursuant to the Federal Clean Water Act shall be civilly liable. CWC 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) per violation for each day the violation occurs.
26. The Permittee is alleged to have violated the General Permit and LA MS4 Permit by failing to implement adequate and effective BMPs for the storage of chemicals in the designated hazardous waste containment area and for failure to prevent unauthorized non-storm water discharges from December 16, 2005 until April 26, 2007. Therefore, the maximum liability under section 13385 (a)(1) of the CWC is:

**POTENTIAL MAXIMUM PENALTY**

PENALTY CATEGORY	CALCULATION	TOTAL
CWC section 13385 failure to comply with waste discharge requirements		
General Permit (CAS000001) (A.6.v.) Non-storm water discharges	1 violation per day x \$10,000	\$10,000
(A.8.a) Non-structural BMPs	1 violation per day x \$10,000	\$10,000
(A.8.b) Structural BMPs	7 Days x 1 violation per day x \$10,000	\$70,000
And Los Angeles Municipal Permit (CAS004001) Part 1, Part 4, F.3.b(2) and (4) Material Storage Control	4 Days x 1 violation per day x \$10,000	\$40,000
Illicit Discharge Control	1 violation per day x \$10,000	\$10,000
<b>POTENTIAL PENALTY</b>	<b>\$ 140,000</b>	

**RECOMMENDED CIVIL LIABILITY**

27. Pursuant to CWC section 13385(e), the Regional Board has considered the following factors in determining the amount of civil liability to be imposed:

- a) Nature, circumstances, extent, and gravity of the violations: The violations included are failure to implement appropriate BMPs to prevent non-storm water discharges (vehicle wash water) to the storm drain, lack of proper containment in the outdoor storage area for designated hazardous waste chemicals, poor housekeeping practices including the storage of rusted metal parts directly on the ground without appropriate BMPs, and oily discharges to the ground next to the storm inlet. The Permittee was enrolled in the General Permit on March 2, 1992. The Permittee is expected to comply with all the requirements of the General Permit and LA MS4 Permit. During site inspections on December 16, 2005, August 29, 2006, September 26, 2006 and April 26, 2007, Regional Board staff observed repeated BMP violations such as unauthorized non-storm water discharges to the storm drain and lack of secondary containment in the designated hazardous waste chemical storage area. Regional

Board staff issued the first NOV on January 6, 2006 and the second NOV on October 6, 2006 and the third NOV on May 11, 2007. Therefore, a reduction in the assessment of the penalty is not warranted.

- b) Susceptibility of the discharge to cleanup or abatement: The discharge of vehicle wash water pollutants (e.g. sediment, oil and grease) is not easily cleaned-up once released into the storm drain and the receiving water. The site is located approximately 5 miles from the receiving water (Pacific Ocean). However, evidence that the pollutants reached the receiving water or caused damage or injury is inconclusive, therefore, a reduction from the maximum civil liability is warranted.
- c) Degree of toxicity of the discharge: Pollutants such as sediment, hazardous waste and oil and grease are toxic to aquatic life if discharged to receiving waters. Because the evidence that pollutants have impacted receiving waters is inconclusive, a reduction in the assessment of the penalty is warranted.
- d) Violator's ability to pay: The Permittee is a municipality with a budget of over \$170 million for 2008-2009. According to its website, the City of Torrance ended its 2007 fiscal year with a net available carryover of approximately \$5 million.
- e) Effect on Permittee's ability to continue its business: Regional Board staff is not aware of the effect of the proposed civil liability on the Permittee's ability to continue business but given the publically available budget information, it would seem likely that this proposed civil liability would not severely impact the Permittee.
- f) Any voluntary cleanup efforts undertaken: The Permittee did not take sufficient timely and appropriate actions to come into compliance. There were continuous and new violations throughout the time period at issue here. Therefore, a reduction from the maximum civil liability is not warranted.
- g) Prior history of violations: The Permittee has no prior history of violations. Therefore, a reduction in the assessment of the civil liability is warranted.
- h) Degree of culpability: The Permittee violated the terms of the General Permit and LA MS4 Permit by failing to implement adequate BMPs for the storage of waste materials in the chemical storage area and for preventing non-storm water discharges. In addition, the Permittee should have been aware of the potential threat to water quality and the need for effective implementation of site specific BMPs. Therefore, a reduction in the assessment of the civil liability is not warranted.
- i) Economic benefit or savings: The Permittee's lack of adequate supervision of the hazardous waste storage area resulted in cost savings and contributed to chemical drums stored directly on the ground without appropriate BMPs. The Permittee purchased sufficient containment pallets for the hazardous waste storage area to

accommodate the liquid waste containers observed stored on the ground, but the pallets were not being utilized during several Regional Board staff site inspections. After the issuance of three NOVs, the Permittee reportedly spent \$6,200 to address compliance issues at the City's Yard, including the purchase of drum spill pallets. Therefore, a reduction in the assessment of the civil liability is warranted.

j) Other matters as justice may require:

An additional matter to consider includes time spent by staff of the Regional Board in evaluating the incidents of violation and preparing this Complaint and related documents. The Regional Board charges a rate of \$135 per hour for staff cost recovery. With total staff time of approximately 33 hours, staff costs incurred by the Regional Board are \$4,455.

28. After consideration of the factors stated in section 13385(e) of the CWC, the Regional Board's Chief Deputy Executive Officer recommends that administrative civil liability be imposed by the Regional Board in the amount of \$87,455 which includes the following:

- An assessment of \$83,000 for non-compliance for not implementing effective BMPs, pursuant to CWC section 13385(e) (Unauthorized non-storm water discharges, inadequate BMPs in the designated hazardous waste storage area, poor housekeeping practices including lack of segregation of materials and oily discharge to the ground).
- An assessment of \$4,455 for staff cost recovery (33 hours at \$135 per hour).

**RECOMMENDED CIVIL LIABILITY**

PENALTY CATEGORY	CALCULATION	TOTAL
CWC section 13385(c)(1) Non-compliance with General Permit Associated with Industrial Activities (CAS000001)		
A.6.v. Non-storm water discharges	One (1) Violation x \$4,000/violation/day (December 16, 2005)	\$4,000
A.8.a.iv Non-structural BMPs	One (1) Violation x \$4,000/violation/day (December 16, 2005)	\$4,000
A.8.b.iv Structural BMPs	One (1) Violation x \$4,000/violation/day	\$4,000

	(December 16, 2005)	
	Two (2) Violations x \$6,000/violation/day (August 29, 2006)	\$12,000
	Two (2) Violations x \$7,000/violation/day (September 26, 2006)	\$14,000
	Two (2) Violations x \$8,000/violation/day (April 26, 2007)	\$16,000
Los Angeles Municipal Permit (CAS004001) Part 1, Part 4, F.3. B.2.4 Illicit Discharge Control	One (1) Violation x \$4,000/violation/day (December 16, 2005)	\$4,000
Material Storage Control	One (1) Violation x \$4,000/violation/day (December 16, 2005)	\$4,000
	One (1) Violation x \$6,000/violation/day (August 29, 2006)	\$6,000
	One (1) Violation x \$7,000/violation/day (September 26, 2006)	\$7,000
	One (1) Violation x \$8,000/violation/day (April 26, 2007)	\$8,000
Subtotal		\$83,000
Recovery of Staff Costs	33 hours x \$135 per hour	\$4,455
Total Recommended Penalty		\$87,455

Violation Summary Table

Violation Type	Date of Occurrence as Observed by RB4	Date of Correction(s) as Certified	Date of Correction(s) as Observed
Illicit Discharge (MS4 Permit) <sup>1</sup>	December 16, 2005	January 31, 2006	August 29, 2006 (but discharge of potable water observed)
Illicit Discharge (GLASP Permit) <sup>2</sup>	December 16, 2005	January 31, 2006	August 29, 2006 (but discharge of potable water observed)
Failure to Implement BMPs for Materials Storage Control (MS4 Permit)	December 16, 2005	January 31, 2006	June 21, 2007
Failure to Implement BMPs for Hazardous Waste (GLASP Permit)	December 16, 2005	January 31, 2006	April 26, 2007
Failure to have SWPPP and other Storm Water Documents on Site (GLASP Permit)	December 16, 2005	January 31, 2006	January 31, 2006
Failure to Implement BMPs for materials Storage Control (MS4 Permit)	August 29, 2006	September 21, 2006	June 21, 2007
Failure to Implement BMPs for Hazardous Waste (GLASP Permit)	August 29, 2006	September 21, 2006	April 26, 2007
Failure to Implement BMPs for Street Sweepings Area (GLASP Permit)	August 29, 2006	September 21, 2006	April 26, 2007
Failure to Implement BMPs for materials	September 26, 2006	November 2, 2006	June 21, 2007

<sup>1</sup> Los Angeles Municipal NPDES Storm Water Discharge Permit (Order No. 01-182, NPDES No. CAS004001)

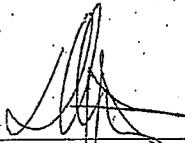
<sup>2</sup> General Permit for Discharges of Storm Water Associated with Industrial Activities, Excluding Construction Activities Order No. 97-03-DWQ, NPDES Permit No. CAS000001

Storage Control (MS4 Permit)			
Failure to Implement BMPs for Street Sweepings Area	September 26, 2006	November 2, 2006	April 26, 2007
Failure to Implement BMPs for Hazardous Waste	September 26, 2006	November 2, 2006	June 21, 2007
Failure to Implement BMPs for materials Storage Control (MS4 Permit)	April 26, 2007	June 11, 2007	June 21, 2007
Failure to Implement BMPs for Rusted & Oily Parts (GIASP Permit)	April 26, 2007	June 11, 2007	June 21, 2007
Failure to Implement BMPs for Hazardous Waste (GIASP Permit)	April 26, 2007	June 11, 2007	June 21, 2007

29. If the Permittee elects to pay the recommended civil liability, the administrative civil liability is due and payable and must be received by the Regional Board by the close of business on February 27, 2009.
30. The Permittee may waive the right to a hearing. Should the Permittee choose to waive the right to a hearing, an authorized agent must sign the waiver form attached to this complaint and return the executed waiver form to the Regional board at 320 West 4<sup>th</sup> Street, Suite 200, Los Angeles, CA 90013 to be received by the Regional Board by the close of business on February 27, 2009. If the hearing is waived, the following option is available to satisfy the civil liability:
  - a. A check in the amount of \$87,455 (payable to the State Water Resources Control Board Cleanup and Abatement Account shall accompany the signed waiver.
31. Unless waived, a hearing before the Regional Board or Regional Board Hearing panel (Hearing Panel) will be held within 90 days after service of this Complaint pursuant to California Water Code sections 13228.14 and 13323. Should the Permittee choose to waive its right to a hearing, an authorized agent must sign the waiver form attached to Complaint R4-2009-0001 and return it to the Regional Board by February 27, 2009. If we do not receive the waiver and payment by February 27, 2009, the matter will be heard before the Regional Board or Hearing panel.
32. The Permittee and/or the Permittee's representative(s) will have the opportunity to be heard and to contest the allegations in this Complaint and the imposition of civil liability by the Regional Board. A notice containing the date, time, and location of the hearing will be mailed to the Permittee not less than ten (10) days prior to the hearing

date. The Regional Board or a Hearing Panel may assess a penalty higher than the recommended civil liability in this complaint.

33. At the hearing, the Regional Board will consider whether to affirm, reject or modify the proposed administrative civil liability or whether to refer the matter to the Attorney General for recovery of judicial civil liability in a greater amount.
34. Regulations of the US Environmental Protection Agency require public notification of any proposed settlement of the civil liability occasioned by violation of the Clean Water Act, including NPDES permit violations. Accordingly, interested persons will be given 30 days to comment on any proposed settlement of this Complaint.
35. There are no statutes of limitations that apply to administrative proceedings. The statutes of limitations that refer to "actions" and "special proceedings" and are contained in the California Code of Civil Procedure apply to judicial proceedings, not administrative proceeding. See *City of Oakland v. Public Employees' Retirement System* (2002) 95 Cal. App 4<sup>th</sup> 29, 48; 3 Witkin, Cal. Procedure (4<sup>th</sup> ed. 1996) Actions, §405(2), p.510.
36. This enforcement action is exempt from the provisions of the California Environmental Quality Act, California Public Resources Code section 21000 et seq., in accordance with California Code of Regulations, title 14, section 15321.



Deborah Smith  
Chief Deputy Executive Officer  
Los Angeles Regional Water Quality Control Board

1-30-09  
Date

WAIVER OF THE RIGHT TO A HEARING

By signing below and returning this Waiver, I hereby waive the right of the City of Torrance to a hearing before the Regional Board to dispute the allegations and civil liability set forth in Administrative Civil Liability-Complaint No. R4-2009-0001 (Complaint) issued by the Regional Board Chief Deputy Executive Officer. The City of Torrance understands that this Waiver gives up the rights to contest the allegations of the Complaint and the amount of civil liability it imposes.

Enclosed herewith in full payment of the civil liability is a \$87,455 check payable to "State Water Resources Control Board Cleanup and Abatement Account."

The City of Torrance understands that this Waiver gives up the rights to argue against the allegations made by the Chief Deputy Executive Officer in this Complaint and imposition of, and the amount of, civil liability imposed. The City of Torrance also understands that if an Administrative Civil Liability Order is adopted by the Regional Board, payment in full will be due in thirty days after the date of the adoption of the Order.

I hereby affirm that I am duly authorized to act on behalf of and to bind the City of Torrance in the making and giving of this Waiver.

City of Torrance

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

By: \_\_\_\_\_  
(Signed name)

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

Position: \_\_\_\_\_