

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

In the matter of:)	Order No. R8-2008-0037
)	for
Steve Reich, Owner)	Administrative Civil Liability
Downtown Auto Wrecking)	
519 E. Mill Street)	
San Bernardino, CA 92408)	

The California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), held a hearing on February 29, 2008 to receive testimony and take evidence concerning the allegations contained in Complaint No. R8-2007-0090, dated December 21, 2007, and concerning the recommendation for the imposition of administrative civil liability pursuant to California Water Code sections 13385 and 13399.33 in the amount of \$10,000. The Board finds as follows:

1. On April 17, 1997, the State Water Resources Control Board (SWRCB) adopted Waste Discharge Requirements, Order No. 97-03-DWQ, (NPDES No. CAS000001), General Permit for Storm Water Discharges Associated with Industrial Activities (Permit). Downtown Auto Wrecking (Downtown Auto) is authorized to discharge storm water under the Permit, WDID 836I004480. The Permit requires Downtown Auto to submit an annual report by July 1 of each year. Downtown Auto did not submit the annual report by July 2, 2007 (July 1, 2007 was a Sunday). Subsequently, Board staff sent two certified Notices of Noncompliance (NNCs) to Downtown Auto. The first NNC was mailed on August 7, 2007 and was received by the facility on August 9, 2007. A second NNC was issued on September 10, 2007 again by certified mail. The facility received the second NNC on September 11, 2007.
2. In both NNCs, Board staff requested submittal of the completed annual report, a statement explaining why the annual report was not submitted by the July 2, deadline, and the measures that would be taken to ensure that future annual reports are submitted on time. Both NNCs also warned about the mandatory penalty for failure to submit the annual report. In the second NNC, Board staff requested submittal of the completed annual report by October 11, 2007.
3. On September 6, 2007 and October 4, 2007 Board staff contacted Mr. Reich to remind him to submit the annual report. Mr. Reich indicated that he submitted documents to the state to prove that the facility was no longer an auto wrecking yard and that coverage under the General Permit is no longer required. Board

staff has not received any documentation from Downtown to indicate that it has changed its operations and the facility has not submitted a Notice of Termination to terminate coverage under the General Permit. Mr. Reich stated that the facility only sells used auto parts. However, Mr. Reich admitted that the used auto parts are removed from vehicles within his facility (an auto wrecking yard). Based on what Mr. Reich indicated, the facility is still required to be covered under the General Permit.

4. On December 21, 2007, the Assistant Executive Officer issued Administrative Civil Liability (ACL) Complaint No. R8-2007-0090 to Downtown Auto proposing that the Board impose civil liability in the amount of \$10,000 on Downtown Auto for failure to submit the annual report by the due date. Because Mr. Reich refused to accept the certified mail, Board staff visited the facility on December 28, 2007 and hand delivered the ACL. Mr. Reich indicated that he wanted to terminate coverage under the General Permit.
5. On December 28, 2007, Board staff faxed Mr. Reich a copy of the Notice of Termination. As of February 14, 2008, Mr. Reich has neither filed a Notice of Termination nor submitted the annual report.
6. The facility violated the General permit, the Federal Clean Water act and the California Water Code by failing to submit the annual report by July 2, 2007.
7. Water Code Section 13399.33(c) of the California Water Code requires the Board to assess a mandatory penalty of one thousand (\$1000), and Section 13385 allows the Board to assess additional penalties for violations of Waste Discharge Requirements. During the last several years, Downtown Auto has submitted the annual report on time only twice.
8. Section 13385(e) specifies factors that the Board shall consider in establishing the amount of civil liability. These factors are discussed in detail in the Complaint (attached). The Board has considered the history of violations and other factors as discussed in the Complaint.
9. On December 12, 2007, the Assistant Executive Officer issued Administrative Civil Liability Complaint No. R8-2007-0090 to Downtown Auto, proposing that the Board impose civil liability in the amount of \$ 10,000 for the violations cited above
10. Issuance of this order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000 et seq) in accordance with Section 15321, Chapter 3, Title 14, California Code of Regulations.

IT IS HEREBY ORDERED that, pursuant to California Water Code Sections 13385 and 13399.33, administrative civil liability shall be imposed on Downtown Auto, in the

amount of \$10,000 for the violations cited in the Complaint No. R8-2007-0090, payable as set forth below.

1. Downtown Auto shall pay the entire amount of \$10,000 to the State Water Resources Control Board by March 31, 2008.

The Executive Officer is authorized to refer this matter to the Attorney General for enforcement.

Pursuant to Water Code Section 13320, you may petition the State Water Resources Control Board for a review of this Order. If you choose to do so, you must submit the petition to the State Board within 30 days of the Regional Board's adoption of this order.

I, Gerard J. Thibeault, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on February 29, 2008.



Gerard J. Thibeault
Executive Officer