



# California Regional Water Quality Control Board

## Central Coast Region



**Terry Tamminen**  
Secretary for  
Environmental  
Protection

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**Arnold Schwarzenegger**  
Governor

May 11, 2004

CERTIFIED MAIL: 7002 2410 0004 0509 0891

Mr. Joe Broderick  
Sonoma Pacific Company  
1180 Fremont Drive  
Sonoma, CA 95476

Dear Mr. Broderick:

**ADMINISTRATIVE CIVIL LIABILITY COMPLAINT FOR FAILURE TO SUBMIT GENERAL INDUSTRIAL STORM WATER PERMIT ANNUAL REPORT; SONOMA PACIFIC COMPANY, 261 RIANDA CIRCLE, SALINAS, MONTEREY COUNTY, WDID# 3 27I017509**

This letter rescinds Administrative Civil Liability Complaint No. R3-2004-0025.

Enclosed is an Administrative Civil Liability Complaint (Complaint No. R3-2004-0086) issued by the Executive Officer of the Regional Water Quality Control Board for failure to submit an Annual Report as required by the General Industrial Storm Water Permit.

Should Sonoma Pacific Company choose to waive their right to a public hearing, an authorized agent must sign the waiver form attached to the Complaint, and return it to the Regional Board by July 9, 2004. Should a hearing be necessary, it will occur on July 9, 2004, in the City of Watsonville. At that time the Regional Board will hear public testimony and decide whether to affirm, reject, or modify the action of the Executive Officer as described in the Complaint, or refer the matter for judicial civil action.

Should you have questions please contact Donette Dunaway at (805) 549-3698.

Sincerely,

Roger W. Briggs  
Executive Officer

Enclosure: Complaint No. R3-2004-0086

cc: Lori Okun, State Water Resources Control Board, Office of Chief Counsel

**California Environmental Protection Agency**



Item No. 18, Attachment No. 1  
July 9, 2004 Meeting  
Sonoma Pacific Company

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL COAST REGION**

	<b>Complaint No. R3-2004-0086</b>
<b>In the matter of:</b>	<b>Administrative Civil Liability</b>
)	<b>for</b>
)	
<b>Sonoma Pacific Company</b>	<b>Violations of the California Water Code</b>
<b>1180 Fremont Drive</b>	<b>Sections 13399.33 and 13385</b>
<b>Sonoma, CA 95476</b>	<b>Storm Water Permit Violations</b>
<b>WDID# 3 271017509</b>	

**YOU ARE HEREBY GIVEN NOTICE THAT:**

1. Sonoma Pacific Company (261 Rianda Circle, Salinas), is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Central Coast Region (hereinafter, Regional Board), may impose civil liability pursuant to Sections 13399.33 and 13385 of the California Water Code (CWC).
2. Unless waived, a hearing on this matter will be held before the Regional Board during a public meeting on July 9, 2004 that begins at 8:30 a.m., in Watsonville, California. You and/or your representative(s) will have an opportunity to be heard and to contest the allegations in this Complaint and the imposition of civil liability by the Regional Board. An agenda for the hearing will be mailed to you not less than ten days before the hearing date.
3. At the hearing, the Regional Board will consider whether to affirm, reject, or modify the proposed administrative liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability, or any other action appropriate as a result of the hearing.
4. The State of California has adopted a General Permit for Storm Water Discharges Associated with Industrial Activity, Water Quality Order No. 97-03-DWQ, NPDES No. CAS000001 (General Permit). The General Permit requires facilities to submit a Notice of Intent (NOI) to comply with the General Permit if the facility presents an exposure threat to storm water runoff as prescribed by the General Permit.
5. On September 25, 2002, Sonoma Pacific Company (hereinafter Discharger) filed an NOI to comply with the terms of the General Permit. By filing an NOI, the Discharger agrees to

comply with all terms and conditions of this General Permit, which includes submittal of an annual report to the Regional Board.

6. The General Permit requires the discharger to submit an annual report to the Regional Board by July 1 of each year. On August 5, 2003, the Regional Board issued a Notice of Violation for failure to submit this report as required by California Water Code (CWC) Section 13399.31. On September 9, 2003, the Regional Board issued a second Notice of Violation to the Discharger as required by CWC Section 13399.31. More than 30 days have passed since the second Notice of Violation.
7. The Discharger has failed to submit their annual report. The Discharger is in violation of the General Permit and California Water Code sections 13399.31 and 13383 and is subject to penalties put forth in California Water Code sections 13399.33 and 13385.
8. The Discharger has been in violation for 307 days (July 1, 2003 to May 3, 2004) and is civilly liable for 307 days of violation.
9. Section 13399.33(c) of the California Water Code provides that a person that fails to submit an annual report in accordance with Section 13399.31, shall be civilly liable in an amount that is not less than \$1,000. Section 13385 of the CWC provides that a person who violates Section 13383 may be civilly liable for up to \$10,000 for each day in which the violation occurs. The total maximum liability that may be assessed for this violation is \$3,070,000.
10. In determining any liability to be imposed, CWC Section 13385 requires the Regional Board to consider the following factors:

a. Nature, circumstances, extent, and gravity of the violations:

The Discharger is aware of the General Permit's monitoring and reporting requirements because the Discharger signed a Notice of Intent to Comply with the terms of the permit and a Notice of Termination form which requires the discharge to certify that they are still responsible for the submittal of the annual report. The Discharger violated the General Industrial Storm Water Permit, the Federal Clean Water Act, and the California Water Code by failing to submit the 2003-2004 Annual Report.

Failure to submit Annual Reports impacts the Regional Water Quality Control Board's ability to effectively administer its water quality programs. These impacts include, but are not limited to, additional RWQCB staff costs beyond the normally required effort and the potential consequences of delayed clean-up, coordination, mitigation and enforcement response by the RWQCB due to late or omitted reports. Timely follow-up on these violations acts as a deterrent to the violator and others and

supports those dischargers who readily commit the resources necessary to comply with similar requirements.

For late or missing reports, the Regional Board may also consider impacts to water quality caused by the delay or failure. Regional Board staff does not have enough information without the Annual Report to know if storm water discharged from the site contained contaminants that require cleanup, if there were pollutant discharges and if so, the toxicity of any discharges.

Considering the lack of evidence of any water quality impacts, these factors support liability that is more than minimum but less than maximum.

b. Ability to pay;

The Discharger has not provided financial data to the Regional Board to show an inability to pay.

c. Any voluntary clean up efforts undertaken by the violator;

There is no evidence of voluntary clean up efforts having taken place, or the need for them. Therefore this factor does not affect consideration of the appropriate amount of penalty.

d. Prior history of violations;

There is no history of prior violations of the General Permit. Consideration of this factor does support liability less than maximum.

e. Degree of culpability;

As the permitted party, the Discharger is directly responsible for permit compliance, and was aware of permit requirements. During the period of violations, two Notice of Violation letters were sent to the Discharger for failure to submit the Annual Report.

The Discharger's level of culpability is high. However, the violations in question are reporting violations only; there is no evidence of impacts to water quality. Consideration of this factor does not support maximum liability.

f. Economic savings resulting from the violation; and,

Without the Annual Report, Regional Board staff does not have enough information to calculate economic benefit.

g. Other matters as justice may require.

Regional Board staff have spent time responding to the situation and preparing the

administrative civil liability complaint. Estimated staff costs for preparation of this complaint are \$1,125.

<b>A CONSERVATIVE ESTIMATE OF STAFF COSTS FOR THIS ENFORCEMENT ORDER</b>			
	Hours	Rate (\$/hr)	Amount (\$)
Regional Board Staff time	15	75	\$1,125

**Recommended Civil Liability:** The Executive Officer recommends civil liability be imposed in the amount of \$3,000.

**WAIVER OF A HEARING:** The Discharger may waive the right to a hearing. If the Discharger wishes to waive the right to a hearing, please sign the attached waiver and return it, along with a check in the amount of \$3,000 (payable to the State Water Resources Control Board, Cleanup and Abatement Account). If you have any questions please contact Ms. Donette Dunaway, at (805) 549-3698, or the Regional Board counsel, Ms. Lori Okun, at (916) 341-5165.



Roger W. Briggs  
Executive Officer

Dated: 5-11-04

**PROCEDURAL INFORMATION  
FOR  
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT  
HEARING AND PAYMENT**

HEARING

Unless you waive your right to a hearing, a hearing on this matter will be held before the Regional Board within 90 days of receipt of this administrative civil liability (ACL) complaint. You or your representatives will have the opportunity to be heard and to contest the allegations in the ACL complaint and the imposition of civil liability by the Regional Board. A hearing is tentatively scheduled for:

July 9, 2004 at 8:30 A.M.  
Watsonville City Council Chambers  
250 Main St.  
Watsonville, CA 95076

At the hearing, the Regional Board will consider whether to accept or reject the amount of the proposed administrative civil liability.

**WAIVER OF HEARING AND PAYMENT OF CIVIL LIABILITY**

You may waive your right to a hearing. If you wish to waive your right to the hearing, you or a duly authorized person must check and sign the attached WAIVER OF HEARING form and pay the civil liability amount specified on the ACL complaint. Make a check or money order payable to "State Water Resources Control Board" and write the ACL complaint number on your check to assure correct crediting of your account. Do not send cash. Send your PAYMENT and WAIVER OF HEARING form to the Regional Board office at the address above.

A duly authorized person is defined as a principal executive officer of at least the level of vice president in a corporation, a general partner or the proprietor in a partnership or sole proprietorship, a principal executive officer or ranking elected official in a public agency, or a duly authorized representative.

If full PAYMENT and a signed WAIVER OF HEARING form are received before the hearing, the hearing will not be held, and the violation will be settled. If full PAYMENT and a signed WAIVER OF HEARING form are not received, the matter will be placed on the Regional Board's agenda for a hearing as stated above.

## WAIVER OF HEARING

- By checking this box, I agree to waive my right for a hearing before the Regional Board with regard to the violations alleged in Administrative Civil Liability Complaint No. R3-2004-0086. Also, I agree to remit payment for the civil liability proposed. I understand that I am giving up my right to be heard, and to argue against the allegations made by the Executive Officer in this ACL complaint, and against the imposition of the amount of civil liability proposed.

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

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

Company: \_\_\_\_\_

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