

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401

ADMINISTRATIVE CIVIL LIABILITY
ORDER NO. R3-2007-0089
Waste Discharger Identification No. 3 44 | 013 408

Issued To

Paul Trucking Company and Destiny Transportation, Inc. (dba Paul Trucking Company)
144 West Lake Avenue, Watsonville, 95076
Santa Cruz County

The California Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board), finds that:

1. Paul Trucking Company and Destiny Transportation, Inc. (dba Paul Trucking Company) (Discharger) conducts industrial activities (vehicle maintenance facility) subject to National Pollutant Discharge Elimination System (NPDES) Permit No. CAS000001, State Water Board Order No. 97-03-DWQ, *Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities* (General Permit).
2. On September 10, 1997, the Discharger filed a Notice of Intent to comply with the terms of the General Permit.
3. The General Permit requires dischargers to submit an annual report no later than July 1st of each year (Provision E.3, and Monitoring Program and Reporting Requirement B.14).
4. The Discharger violated the General Permit by failing to submit the 2006-2007 annual report by July 1, 2007. The report covers the period from July 1, 2006, through June 30, 2007.
5. Pursuant to California Water Code (Water Code) Section 13399.31, Central Coast Water Board staff sent two Notice of Non-Compliance letters (dated July 12, 2007, and August 14, 2007) by certified mail to the Discharger for failing to submit the annual report.
6. Water Code Section 13399.31(d) provides that if a discharger fails to submit an annual report within 60 days of the first Notice of Non-Compliance, then the Water Board shall impose penalties described in Section 13399.33(c).
7. Central Coast Water Board staff mailed the first Notice of Non-Compliance on July 12, 2007. The Discharger failed to submit an annual report within 60 days, or by September 12, 2007.
8. Water Code Section 13399.33(c) requires the Central Coast Water Board to impose administrative civil liability for no less than \$1,000 upon any person that fails to submit an annual report in accordance with Section 13399.31.
9. In addition to violating the General Permit annual reporting requirements for the 2006-2007 reporting period, the Discharger also violated the same requirement for seven of the nine

previous reporting years. Staff issued thirteen Notice of Non-Compliance letters (see Complaint No. R3-2007-0089, #15, attached to the Staff Report) before the Discharger submitted the late reports.

10. On March 19, 2004, the Central Coast Water Board adopted Administrative Civil Liability Order No. R3-2004-0027, finding the Discharger in violation of the General Permit annual reporting requirements and the Water Code for the Discharger's failure to submit the 2002-2003 annual report by its due date, and imposing liability for the mandatory minimum amount of \$1,000.
11. On November 21, 2005, the Central Coast Water Board Executive Officer issued Administrative Civil Liability Complaint No. R3-2006-0009, alleging that the Discharger was in violation of the General Permit annual reporting requirements and the Water Code for the Discharger's failure to submit the 2004-2005 annual report by its due date, and recommending liability for \$5,000 (an increased amount from the previously assessed mandatory minimum amount of \$1,000). The Discharger waived its right to a hearing, and paid the recommended liability.
12. In concurrence with the *State Water Resources Control Board Water Quality Enforcement Policy*, water boards should quickly escalate enforcement actions to increasingly more serious actions until compliance is achieved.
13. The Discharger's history of violating General Permit annual reporting requirements, and the Central Coast Water Board's repeated enforcement actions, indicate that escalating the seriousness of this enforcement action is appropriate. Liability for more than the mandatory minimum penalty amount of \$1,000 is warranted, as is liability for more than \$5,000. The Water Board has already assessed liability for these amounts in previous enforcement actions, and the Discharger continues to violate annual reporting requirements.
14. Pursuant to California Water Code Section 13385, any person who violates a waste discharge requirements permit shall be civilly liable for up to ten thousand dollars (\$10,000) for each day in which the violation occurs.
15. The Discharger is in violation of California Water Code Section 13385(a)(2) for failure to submit an annual report as required by a waste discharge requirements permit (the General Permit), and is subject to the penalties prescribed in California Water Code Section 13385(c).
16. Pursuant to California Water Code Section 13385(e), in determining the amount of any liability under Section 13385, the Central Coast Water Board must consider a variety of factors. As discussed in Administrative Civil Liability Complaint No. R3-2007-0089, #23 (attached to the Staff Report for this item), the factors further justify assessing liability greater than the mandatory minimum liability of \$1,000 required by Water Code Section 13399, and greater than the previously assessed amount of \$5,000.
17. This enforcement action is taken for the protection of the environment and as such is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.) in accordance with sections 15307 and 15308, Title 14, California Code of Regulations.
18. A hearing on this matter was held before the Central Coast Water Board on December 7, 2007, at the Central Coast Water Board, 895 Aerovista Place, in San Luis Obispo. The

Discharger, or the Discharger's representative(s), had the opportunity to be heard and to contest the allegations in Complaint No. R3-2007-0089, which recommended the imposition of civil liability by the Central Coast Water Board.

19. At the hearing, the Central Coast Water Board considered whether to affirm, increase, decrease, or reject the proposed administrative civil liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.

IT IS HEREBY ORDERED, pursuant to Sections 13399 and 13385 of the California Water Code, the Discharger is assessed a total civil liability of \$20,000, to be paid as follows:

1. The sum of Twenty Thousand Dollars (\$20,000) to be delivered to the Central Coast Regional Water Quality Control Board, 895 Aerovista Place, Suite 101, San Luis Obispo, CA 93401, **no later than January 7, 2008**. The Discharger shall make the cashier's check or money order payable to the *State Water Resources Control Board Waste Discharge Permit Fund*, with "Order No. R3-2007-0089" shown on the memo line.

I, **Roger W. Briggs, Executive Officer**, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the Central Coast Regional Water Quality Control Board on December 7, 2007.

Roger W. Briggs
Executive Officer

Date

S:\



California Regional Water Quality Control Board

Central Coast Region

Linda S. Adams
Secretary for
Environmental
Protection

Internet Address: <http://www.waterboards.ca.gov/centralcoast>
895 Aerovista Place, Suite 101, San Luis Obispo, California 93401-7906
Phone (805) 549-3147 • FAX (805) 543-0397



Arnold Schwarzenegger
Governor

November 2, 2007

Mr. Don Robinson
Paul Trucking Company
P.O. Box 1450
Watsonville, CA 95076

CERTIFIED MAIL 7004 1350 0003 9876 9118
RETURN RECEIPT REQUESTED

Mr. Surjit Tut
Destiny Transportation, Inc
1201 N 54th Ave, Suite 122
Phoenix, AZ 85043

CERTIFIED MAIL 7004 1350 0003 9876 9125
RETURN RECEIPT REQUESTED

NOTICE OF HEARING AND ISSUANCE OF ADMINISTRATIVE CIVIL LIABILITY COMPLAINT FOR FAILURE TO SUBMIT INDUSTRIAL STORM WATER GENERAL PERMIT ANNUAL REPORT; PAUL TRUCKING COMPANY AND DESTINY TRANSPORTATION, INC. (DBA PAUL TRUCKING COMPANY), WATSONVILLE, SANTA CRUZ COUNTY, WDD# 3 441 013 408

Dear Mr. Robinson and Mr. Tut:

In response to Paul Trucking's failure to submit the 2006-2007 annual report as required by the *General Permit for Storm Water Discharges Associated with Industrial Activity, Water Quality Order No. 97-03-DWQ, NPDES No. CA000001* (General Permit), the Assistant Executive Officer of the Central Coast Regional Water Quality Control Board (Central Coast Water Board) hereby issues the enclosed Administrative Civil Liability Complaint No. R3-2007-0089. You are still required to submit the late report, if you have not already done so, and failure to do so could result in further late-reporting penalties. Though you may have already submitted the report, it was not received by the due date and is subject to the penalty described in the Complaint.

If you choose to waive your right to a public hearing, then an authorized agent must sign the attached waiver form, and return it to the Central Coast Water Board **no later than December 6, 2007**. Alternatively, if you elect to allow a hearing, it will occur on December 7, 2007, at our offices in San Luis Obispo. At that time, the Central Coast Water Board will hear public testimony and decide whether to affirm the action of the Assistant Executive Officer as described in the complaint, or refer the matter for judicial civil action.

Please note that all written comments, other written submissions, legal objections to hearing process as set forth herein, and all other written legal argument that you want to provide to Water Board members for consideration at a hearing are **due no later than 5 pm on Thursday, November 29, 2007**. Written material received after the due date will not be provided to Water Board members or become part of the record, unless the Board Chair rules that exclusion would create a severe hardship and that no party (including Central Coast Water Board staff) will be prejudiced by the late submission. The Board Chair will make such a ruling at or before the hearing. Late submissions that consist of evidence (as opposed to policy statements or

California Environmental Protection Agency

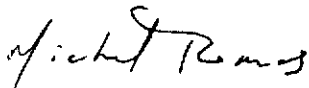


November 2, 2007

comments) will generally be deemed prejudicial unless all designated parties have time to consider the evidence before the meeting.

If you have questions, please contact Todd Stanley at (805) 542-4769, Harvey Packard at (805) 542-4639, or State Water Resources Control Board Office of Enforcement attorney, Yvonne West, as (916) 341-5445.

Sincerely,



Michael J. Thomas
Assistant Executive Officer

- Enclosures:
1. Complaint No. R3-2007-0089
 2. Waiver of Hearing Form
 3. Procedural Information for ACL Complaint Hearing and Payment

California Environmental Protection Agency



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

HEARING

Unless you waive your right to a hearing and pay the recommended liability, a hearing on this matter will be held before the Central Coast Water Board within 90 days after you have been served with 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 Water Board. A meeting is scheduled for:

December 7, 2007, at 8:30 a.m.
Central Coast Water Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401

At the hearing, the Water Board will consider the proposed administrative civil liability and may either accept or modify (increase or decrease) it consistent with applicable limits imposed by law, or direct other appropriate action. At this time, your hearing is not scheduled for a particular time during the meeting, and may occur at any time during the meeting.

WAIVER OF HEARING AND PAYMENT OF CIVIL LIABILITY

You may waive your right to a hearing. If you want to waive your right to the hearing, you or a duly authorized person must sign the attached WAIVER OF HEARING form and pay the civil liability amount specified on the ACL complaint. Make a cashier's check or money order payable to "State Water Resources Control Board, Waste Discharge Permit Fund" 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:

California Regional Water Quality Control Board
Central Coast Region
ATTENTION: Todd Stanley
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401-7906

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 not received in this office by December 6, 2007, the Water Board will conduct a hearing on this matter as stated above.