

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION

STAFF REPORT FOR REGULAR MEETING OF DECEMBER 7, 2007
Prepared on November 6, 2007

ITEM NUMBER: 11

SUBJECT: Administrative Civil Liability Order No. R3-2007-0089; Paul Trucking Company and Destiny Transportation, Inc. (dba Paul Trucking Company), Santa Cruz County

KEY INFORMATION

Discharger: Paul Trucking Company and Destiny Transportation, Inc. (dba Paul Trucking Company)
Location: 144 West Lake Avenue, Watsonville, Santa Cruz County
Discharge Type: Storm Water Associated with Industrial Activity (vehicle maintenance facility)
Existing Order: 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*, WDID No. 3 44 1 013 408
This Action: **Impose Administrative Civil Liability**

SUMMARY

The Industrial Stormwater General Permit (General Permit) requires Paul Trucking Company and Destiny Transportation, Inc. (dba Paul Trucking Company) (Discharger) to submit an annual report by July 1st of each year. After the Discharger failed to comply with the July 1, 2007 due date, Central Coast Water Board staff mailed two Notice of Non-Compliance letters reminding the Discharger of the annual reporting requirement and the possible enforcement actions for failing to comply.

California Water Code Section 13399.33(c) requires the Central Coast Water Board to impose administrative civil liability for no less than \$1,000 if a discharger fails to submit an annual report within 60 days of the first Notice of Non-Compliance. The Discharger failed to provide the 2006-2007 annual report within 60 days of staff's first Notice of Non-Compliance, and is subject to civil liability for no less than \$1,000.

California Water Code Section 13385 authorizes the Central Coast Water Board to impose administrative civil liability for up to \$10,000 for each day a violation occurs. The Discharger violated Section 13385 by failing to submit the 2006-2007 annual report by July 1, 2007. As of October 9, 2007, the Discharger's annual report was 100 days late, subjecting the Discharger to a maximum liability of \$1,000,000 (100 days multiplied by \$10,000). The Discharger's violation history warrants liability greater than the mandatory minimum liability of \$1,000, but less than the maximum of \$1,000,000.

DISCUSSION

On September 10, 1997, the Discharger filed a Notice of Intent to comply with the terms of the General Permit. By filing a Notice of Intent, the Discharger is required to comply with all terms and conditions of the General Permit, which include submitting an annual report to the Central Coast Water Board no later than July 1st of each year (see General Permit Provision E.3, and Monitoring Program and Reporting Requirement B.14).

The Discharger was subject to the General Permit during the July 2006 to June 2007 reporting period.

On June 20, 2007, staff sent a letter to the Discharger reminding them about the July 1, 2007 annual report due date.

Notices of Non-Compliance: On July 12, 2007 and August 14, 2007, Central Coast Water Board staff issued Notice of Non-Compliance letters to the Discharger for failing to submit the annual report by July 1, 2007. Each Notice of Non-Compliance letter required the Discharger to submit the annual report **no later than September 12, 2007**, to avoid the imposition of a mandatory penalty according to California Water Code Section 13399.33(c), or some greater amount depending on other factors pursuant to Water Code Section 13385.

Other Contact With Discharger: Staff telephoned the Discharger on August 21, 2007, and notified them that they must submit the annual report by September 12, 2007. Staff also sent blank annual report forms on the same day by facsimile.

Complaint Issuance: On November 2, 2007, staff mailed Administrative Civil Liability Complaint No. R3-2007-0089 to the Discharger by certified mail.

Status of Annual Report: As of November 6, 2007, the Discharger has not submitted its 2006-2007 annual report.

Violation History: Paragraphs No. 15, 16, 17, 18, and 19 of Administrative Civil Liability Complaint No. R3-2007-0089 (attached) document the Discharger's history of violating annual reporting requirements, and the Central Coast Water Board's associated enforcement actions. The Discharger has violated the General Permit's annual reporting requirements for seven of the previous nine years. The Discharger eventually submitted the late reports. The Discharger's actions indicate the need for a greater incentive to submit annual reports according to General Permit requirements. In response to the Discharger's violation history, and to provide additional incentive to comply, the imposition of civil liability for more than the mandatory minimum penalty of \$1,000 is warranted. Furthermore, the imposition of civil liability for more than \$5,000 is also warranted because the Central Coast Water Board has already assessed liability for that amount for a previous late-reporting violation, and the Discharger continues to violate annual reporting requirements.

Conclusion: The Discharger is in violation of California Water Code Section 13399.31 for failing to submit an annual report within 60 days of staff's first Notice of Non-Compliance. 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.

The Discharger is also in violation of California Water Code Section 13385 for failing to submit the 2006-2007 annual report and comply with waste discharge permit requirements, and is subject to a maximum civil liability of \$10,000 for each day the violation occurs.

The factors considered in Administrative Civil Liability Compliant No. R3-2007-0089, #15, #16, #17, #18, and #19, particularly the Discharger's history of violating the General Permit annual reporting requirements, justify assessing liability for an amount greater than the mandatory minimum penalty of \$1,000. Furthermore, the same consideration of factors justifies assessing civil liability for an amount greater than \$5,000.

RECOMMENDATION

Considering the Discharger's history of violating annual reporting requirements, and the Central Coast Water Board's previous enforcement actions, staff recommends that the Central Coast Water Board adopt Order No. R3-2007-0089 to impose Twenty Thousand Dollars (\$20,000) in civil liability against the Discharger.

ATTACHMENTS

1. Proposed Administrative Civil Liability Order No. R3-2007-0089
2. Administrative Civil Liability Complaint No. R3-2007-0089