



Linda S. Adams
Secretary for
Environmental
Protection

California Regional Water Quality Control Board

Central Coast Region



Arnold Schwarzenegger
Governor

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

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

CENTRAL COAST REGION

In the matter of:

Paul Trucking Company and
Destiny Transportation, Inc. (dba as Paul
Trucking Company)
144 West Lake Avenue
Watsonville, CA 95076
WDID# 3 44 I 013 408

Complaint No. R3-2007-0089

Administrative Civil Liability

For

Violations of California Water Code

Sections 13399.31 and 13385

Industrial Storm Water General Permit
Violations

PAUL TRUCKING COMPANY IS HEREBY GIVEN NOTICE THAT:

1. Paul Trucking Company, located at 144 West Lake Avenue, Watsonville, in Santa Cruz County, is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board), may impose civil liability pursuant to Sections 13399.33 and 13385 of the California Water Code. Paul Trucking Company is a fictitious business name. The Santa Cruz County Recorder's office lists Amar Transportation, Inc., as the corporation registered to do business as Paul Trucking Company. Amar Transportation, Inc., however, has been dissolved and is not an active corporation. Prior to being dissolved, Amar Transportation, Inc., was owned by Amarjit S. Tut (President) and family.
2. Destiny Transportation Inc., an Arizona corporation, has paid the annual Industrial Storm Water General Permit fees for WDID# 3 44 I 013 408 as required by Water Code section 13260. Destiny Transportation Inc. is also owned by Amarjit S. Tut (principle shareholder) and family and appears to be the corporation currently doing business as Paul Trucking Company. Destiny Transportation Inc., therefore, is jointly and severally liable for Dischargers alleged violations. Paul Trucking Company and Destiny Transportation Inc. are collectively referred to herein as the "Discharger."
3. Unless the Discharger waives the right to a hearing and pays the civil liability as described in this complaint, a hearing on this matter will be held before the Central Coast Water Board during a public meeting on December 7, 2007, in San Luis Obispo,

California Environmental Protection Agency



Item No. 11 Attachment No. 2
December 7, 2007 Meeting
Paul Trucking

- California. The Discharger and/or its 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 Central Coast Water Board. The Central Coast Water Board will mail the Discharger an agenda for the hearing not less than ten days before the hearing date.
4. At the hearing, the Central Coast Water Board will consider whether to affirm, decrease, or increase the proposed civil liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability, or to take any other action appropriate as a result of the hearing.
 5. The State of California has adopted the *General Permit for Storm Water Discharges Associated with Industrial Activity, Water Quality Order No. 97-03-DWQ, NPDES No. CA000001* (General Permit). The General Permit requires industrial facilities to submit a Notice of Intent to comply with the General Permit if the facility presents a threat of waste discharge to waters of the state because of contact between a facility's industrial process and storm water runoff, or through non-stormwater discharges, as prescribed by the General Permit.
 6. On August 15, 1997, the City of Watsonville reported that the Discharger routinely washed down the truck repair shop, allegedly discharging oil, anti-freeze, and other contaminants to the storm drain and the Pajaro River, located approximately one mile away. Multiple agencies then met with the Discharger requiring it to clean up hazardous material and waste stored at the facility, and to implement best management practices to mitigate and prevent further environmental impacts.
 7. 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 agreed to comply with all terms and conditions of the General Permit, which requires the submittal of an annual report to the Central Coast Water Board by July 1st of each year.
 8. On June 20, 2007, the Central Coast Water Board mailed a reminder notice to the Discharger stating that the 2006-2007 annual report was due no later than July 1, 2007.
 9. The Discharger failed to submit its annual report on or before the July 1, 2007 due date, for the reporting period covering July 1, 2006, through June 30, 2007.
 10. As required by California Water Code Section 13399.31, on July 12, 2007, the Central Coast Water Board issued a Notice of Non-Compliance to the Discharger for failure to submit the annual report. As further required by Section 13399.31, on August 14, 2007, the Central Coast Water Board issued a second Notice of Non-Compliance to the Discharger. The Central Coast Water Board mailed all Notices of Non-Compliance by certified mail, and received return receipts confirming delivery to the Discharger. On August 21, 2007, staff telephoned Mr. Don Robinson, the Discharger's representative, informed him of the late report, and faxed him a blank copy of the annual reporting forms. More than 60 days have passed since the Central Coast Water Board sent the first Notice of Non-Compliance.
 11. Pursuant to California Water Code Sections 13399.31 and 13399.33, if a discharger fails to submit an annual report within 60 days of the first Notice of Non-Compliance [13399.31(d)], the Central Coast Water Board must impose administrative civil liability of no less than \$1,000 [13399.33(c)].

California Environmental Protection Agency



12. The Discharger is in violation of the General Permit and California Water Code Section 13399.31 for failure to submit an annual report within 60 days of the first Notice of Non-Compliance, and is subject to penalties put forth in California Water Code Section 13399.33.
13. In accordance with Section 13399.33(c) of the California Water Code, the Discharger is civilly liable for no less than \$1,000.
14. To compel compliance from repeat violators, Section 1.D of the *State Water Resources Control Board Water Quality Enforcement Policy* states that water boards should quickly escalate enforcement actions to increasingly more formal and serious actions until compliance is achieved.
15. Central Coast Water Board records indicate that the Discharger has a history of violating the General Permit annual reporting requirements. The Central Coast Water Board Executive Officer issued past Notices of Non-Compliance to the Discharger for failing to submit timely annual reports as shown in the table below. This table does not include the two Notices of Non-Compliance sent for the 2006-2007 reporting period (the subject of this complaint). The Discharger eventually submitted these reports. The Discharger's history of repetitive annual reporting violations warrants civil liability in an amount greater than the \$1,000 minimum prescribed by California Water Code Section 13399.33(c).

Late Annual Report Notice of Non-Compliance History for Paul Trucking Company

Applicable Reporting Period July 1 st – June 30 th	Notice of Non-Compliance Date
1997 – 1998	July 20, 1998
1999 – 2000	September 1, 2000 (First Notice)
1999 – 2000	October 13, 2000 (Second Notice)
2000 – 2001	August 1, 2001 (First Notice)
2000 – 2001	September 4, 2001 (Second Notice)
2001 – 2002	August 1, 2002 (First Notice)
2001 – 2002	September 3, 2002 (Second Notice)
2002 – 2003	August 5, 2003 (First Notice)
2002 – 2003	September 9, 2003 (Second Notice)
2003 – 2004	September 10, 2004 (First Notice)
2003 – 2004	October 13, 2004 (Second Notice)
2004 – 2005	August 10, 2005 (First Notice)
2004 – 2005	September 14, 2005 (Second Notice)

16. On November 2, 2001, and after issuing two Notices of Non-Compliance to the Discharger for failing to submit its annual report, the Central Coast Water Board Executive Officer issued a Notice of Violation for the 2000-2001 annual report the Discharger eventually submitted, which staff found substantially incomplete.

California Environmental Protection Agency



17. On May 9, 2003, and after issuing two Notices of Non-Compliance to the Discharger for failing to submit its annual report, the Central Coast Water Board Executive Officer issued a Notice of Violation for the 2001-2002 annual report the Discharger eventually submitted, which staff also found substantially incomplete.
18. On March 19, 2004, the Central Coast Water Board adopted Administrative Civil Liability Order No. R3-2004-0027, finding Paul Trucking Company in violation of the General Permit and California Water Code Section 13399.31 for failure to submit the 2002-2003 annual report within 60 days of the first Notice of Non-Compliance. The Central Coast Water Board assessed the mandatory minimum civil liability of \$1,000, which was paid with a check from a company named P.T. Logistics. The Discharger's history of previously being assessed the minimum civil liability for annual reporting violations warrants imposing a greater civil liability amount for subsequent annual report violations.
19. On November 21, 2005, the Central Coast Water Board issued Administrative Civil Liability Complaint No. R3-2006-0009, finding Paul Trucking Company in violation of the General Permit and California Water Code Section 13399.31 for failure to submit the 2004-2005 annual report within 60 days of the first Notice of Non-Compliance. In the Complaint, the Central Coast Water Board Executive Officer recommended assessing civil liability for \$5,000 because of the Discharger's history of chronic reporting violations, and the Central Coast Water Board's previous adoption of a civil liability order for the minimum penalty amount of \$1,000 (see paragraph No. 18 above). The Discharger waived its right to a hearing and paid the recommended liability. The \$5,000 liability was paid with a check from Destiny Transportation Inc. The Discharger's history of chronic and reoccurring annual reporting violations warrants civil liability in an amount greater than the previously assessed civil liability of \$5,000.
20. 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.
21. 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).
22. The 2006-2007 annual report was due no later than July 1, 2007. As of October 9, 2007, the Discharger's annual report was one hundred (100) days late, subjecting the Discharger to a maximum civil liability equal to one million dollars (\$1,000,000, or 100 multiplied by \$10,000). This maximum civil liability increases by \$10,000 for each additional day the Discharger's report is late.
23. 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 the nature, circumstances, extent, and gravity of the violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, the discharger's ability to pay, the effect on the discharger's ability to continue its business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, any economic benefit or savings resulting from the violation, and other matters that justice may require. At a minimum, the Water Board must assess liability at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation.

- a. Nature, Circumstances, Extent, and Gravity of Violations: These considerations are described in the above paragraphs. The reporting violations do not warrant the applicable maximum liability, but do warrant liability greater than the minimum \$1,000 required by Water Code Section 13399.33(c) described in paragraph No. 11 above.
- b. Discharge Susceptibility to Cleanup or Abatement: Cleanup or abatement does not apply to reporting violations.
- c. Degree of Toxicity of Discharge: Toxicity determinations do not apply to reporting violations.
- d. Discharger's Ability to Pay the Liability, and the Effect on the Discharger's Ability to Continue Business: Paul Trucking Company has the apparent ability to pay because it is a company with annual revenue of approximately \$17,600,000, and owns approximately 145 trucks and refrigerated trailers¹. Furthermore, Destiny Transportation Inc, the corporation doing business as Paul Trucking Company, owns 100 tractor trucks and 100 refrigerated trailers for long distance hauling to seven western states². Accordingly, this consideration does not warrant less than the maximum liability.
- e. Voluntary Cleanup Efforts Undertaken: Voluntary cleanup efforts do not apply to reporting violations.
- f. Prior History of Violations: The Discharger's prior history of reporting violations is described above in paragraph No. 15, 16, 17, 18, and 19. The repetition of annual reporting violations indicates a chronic failure to perform the General Permit's required monitoring and reporting duties. This consideration does not warrant less than the maximum liability.
- g. Degree of Culpability: As described in the above paragraphs, Central Coast Water Board staff notified the Discharger multiple times by certified letter, telephone, or facsimile about the annual reporting requirements. As the owner of the regulated facility, the Discharger has the highest degree of culpability. This consideration does not warrant less than the maximum liability.
- h. Economic Benefit or Savings Resulting from the Violations: Assuming that the Discharger performed all observations, monitoring, and other duties required throughout the 2006-2007 reporting year, which generate the data required in the annual report, the economic benefit or savings to the Discharger would be limited to the time and expense of preparing the report itself. With the appropriate information available, staff estimates the Discharger could complete the annual report in two hours or less. Assuming an hourly rate of \$75, the economic benefit equates to \$150.

The above assumption is very conservative. In staff's experience, dischargers that fail to submit annual reports frequently do not have the required information to enter into the report because they have not completed the monitoring requirements throughout the year (as exemplified by the Discharger's own history as described in

¹ www.bigrigjobs.com

² www.destinytransportation.net

paragraphs 16 and 17, above). Economic savings in time dedicated to implementing the General Permit requirements, analytical costs, and group monitoring program fees (where applicable) are higher than the cost of preparing the report for submittal. The Discharger's failure to submit the annual report prevents staff from evaluating the completeness of the report and the Discharger's activities over the reporting period. This consideration warrants less than the maximum liability, but warrants liability greater than the minimum \$1,000 required by Water Code Section 13399.33(c) described in paragraph No. 11 above.

- i. Other Matters Justice May Require: Central Coast Water Board staff, including technical staff, administrative staff, management, and legal counsel, spent 40 hours informing the Discharger of its responsibilities and preparing civil liability documents. At \$75 per hour, staff costs resulting from the Discharger's violations equate to \$3,000. This consideration warrants less than the maximum liability, but warrants liability greater than the minimum \$1,000 required by Water Code Section 13399.33(c) described in paragraph No. 11 above, and greater than \$3,000.

24. Nothing in this complaint relieves the Discharger of any reporting obligation under the General Permit, including the obligation to submit the 2006-2007 annual report if the Discharger has not already done so. Failure to submit the annual report may subject the Discharger to additional enforcement action, including penalties accrued after the days of violation accounted for in this complaint. The Discharger's submittal of the annual report at any time after the 60-day period following the first Notice of Non-Compliance does not relieve the Central Coast Water Board's obligation to impose civil liability for at least \$1,000 on the Discharger.

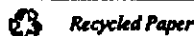
25. If the Discharger waives its right to a hearing and pays the civil liability recommended herein, this complaint only resolves liability that the Discharger incurred through the days of violation accounted for in this complaint, only for the violations specified herein, and does not relieve the Discharger from liability for any violations after the days of violation accounted for in this complaint or any violations not alleged in the complaint (such as deficiencies in the annual report itself).

RECOMMENDED CIVIL LIABILITY: Considering the factors described in paragraph No. 23 above, particularly the Discharger's history of violating the General Permit's annual reporting requirements, the Central Coast Water Board's history of imposing increasing amounts of civil liability upon the Discharger for failing to submit annual reports on time, and the need to compel compliance from repeat violators by escalating the seriousness of enforcement actions, the Assistant Executive Officer recommends imposing civil liability in the amount of \$20,000.

WAIVER OF A HEARING: The Discharger may waive the right to a hearing. If the Discharger wishes to waive the right to a hearing, the Discharger must sign the attached waiver and return it, along with a cashier's check or money order in the amount of \$20,000, to the Central Coast Water Board at 895 Aerovista Place, Suite 101, San Luis Obispo, CA 93401-7906. Make the cashier's check or money order payable to the State Water Resources Control Board, Waste Discharge Permit Fund, and write "Complaint No. R3-2007-0089" on the cashier's check or money order memo line.

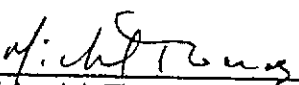
If the Discharger waives the hearing and pays the liability, the resulting settlement does not become effective until after the thirty-day public comment period on this complaint ends. If there

California Environmental Protection Agency



are significant public comments, the Assistant Executive Officer may withdraw the Complaint, issue a new complaint, or take other appropriate action.

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



Michael J. Thomas
Assistant Executive Officer

11-2-07
Date

WAIVER OF HEARING

By signing below, I hereby affirm and acknowledge the following in connection with Administrative Civil Liability Complaint No. R3-2007-0089 (hereafter "Complaint"):

1. I am the Discharger identified in the Complaint or a duly authorized representative of the Discharger;
2. I am informed of the right provided by Water Code Section 13323, Subdivision (b), to a hearing within ninety (90) days of issuance of an Administrative Civil Liability Complaint;
3. I waive the Discharger's right to a hearing before the California Regional Water Quality Control Board, Central Coast Region, with regard to the violations alleged in the Complaint.
4. I agree to the terms of the Complaint including, but not limited to, the requirement to remit payment for the civil liability proposed.
5. I understand that this settlement will not become effective until after a public comment period and the Executive Officer issues final written approval.
6. I understand that the Executive Officer has complete discretion to modify or terminate this settlement before finalizing it in writing.

Date

Signature

Printed Name and Title

Check Number