

California Regional Water Quality Control Board
North Coast Region

Administrative Civil Liability Complaint No. R1-2009-0061

In the Matter of

Laytonville Rock
WDID No. 123I018283

For

Failure to File an Annual Storm Water Report
For Fiscal Year 2007-2008

Mendocino County

The Assistant Executive Officer of the California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board), hereby gives notice that:

1. Laytonville Rock (hereinafter Discharger) sells crushed and broken stone at 1135 Dos Rios Road, Laytonville, California (hereinafter Facility).
2. The U.S. Environmental Protection Agency issued regulations for storm water discharges on November 16, 1990. Subsequently, the State Water Resources Control Board (State Water Board) adopted Water Quality Order No. 91-013-DWQ, National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities (hereinafter General Permit). On September 17, 1992, the State Water Board amended the General Permit, and on August 17, 1997, the State Water Board issued Order No. 97-03-DWQ, which revised and replaced the General Permit.
3. Provision E(1) of the General Permit requires that all facility operators seeking coverage under the General Permit file a Notice of Intent (NOI) for each of the facilities they operate. The Discharger filed a NOI for the Laytonville Rock site on July 25, 2003, and was assigned WDID No. 123I018283 for the Facility.
4. Section B(14) of the General Permit requires that all facility operators submit an Annual Report by July 1ST of each year to the Executive Officer of the Regional Water Board responsible for the area in which the facility is located.
5. The Discharger failed to submit its 2007-2008 Annual Report for the Facility by July 1, 2008.

6. California Water Code section 13399.31(b) requires a Regional Water Board to provide Notice of Noncompliance to a discharger who has failed to submit an Annual Report. Should a discharger who is so notified fail to submit an Annual Report within 30 days of notification, Water Code section 13399.31(c) requires that the Regional Water Board's Executive Officer send a second notice to that discharger. Subsection (d) requires the Regional Board to impose penalties if the Discharger fails to submit the annual report within 60 days from the first notice.
7. On August 8, 2008, the Executive Officer issued the first Notice of Noncompliance to the Discharger citing failure to submit the 2007-2008 Annual Report. On September 22, 2008, the Executive Officer issued the second Notice of Noncompliance letter to the Discharger.
8. The Discharger has failed to submit the 2007-08 Annual Report for the facility as of June 30, 2009. Under Water Code section 13399.31, subdivision (d), if the discharger fails to submit an annual report within 60 days from the date the first notice is sent, the Regional Water Board shall impose the penalties described in Water Code section 13399.33, subdivision (c). The minimum penalty under Water Code section 13399.33, subdivision (c) is \$1,000 in addition to the costs incurred by the Regional Water Board. Regional Water Board staff costs associated with the discharge violations are estimated to be \$1,620. The staff costs are based on \$135 per hour times 12 hours for various classifications (enforcement staff, senior, legal review, assistant executive officer and clerical).
9. The 2007/2008 Annual Storm Water Report was due July 1, 2008. As of June 30, 2009, the report has not been received.
10. The issuance of a Complaint for Administrative Civil Liability does not have the potential to result in a physical change in the environment and, therefore, is not a "project" subject to the provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.). It is also exempt from CEQA in accordance with title 14, California Code of Regulations, section 15321, subsection (a)(2).

LAYTONVILLE ROCK IS HEREBY GIVEN NOTICE THAT:

1. The Assistant Executive Officer proposes that the Discharger be assessed an administrative civil liability in the amount of \$2,620 in mandatory minimum penalties for failure to submit the 2007/2008 Annual Stormwater Report.
2. A hearing will be conducted on this Complaint by the Regional Water Board on December 10 2009, unless the Discharger waives the right to a hearing by signing and returning the waiver form attached to this Complaint by October 26, 2009. By doing so, the Discharger agrees to:

Submit the 2007/2008 Annual Storm Water Report and pay a penalty of \$2,626 to the State Water Resources Control Board, Waste Discharger Permit Fund by October 26, 2009.

3. If the Discharger waives the hearing and pays the liability, the resulting settlement may become effective on October 27, 2009. If there are significant public comments, the Assistant Executive Officer may withdraw the Complaint, reissue it as appropriate, or take other appropriate action.
4. If a hearing is held, the Regional Water Board may impose an administrative civil liability in the amount proposed or for a different amount, decline to seek civil liability, or refer the matter to the Attorney General to have a Superior Court consider enforcement.
5. Regulations of the United States Environmental Protection Agency require public notification of any proposed settlement of the civil liability that stem from violation of the Clean Water Act, including NPDES permit violations. Accordingly, interested persons will be given thirty days to comment on any proposed settlement of this Complaint.
6. Notwithstanding the issuance of this Complaint, the Regional Water Board shall retain the authority to assess additional penalties for violations of the Discharger's storm water permit.

Luis G. Rivera
Assistant Executive Officer

September 24, 2009