

1 Storybook Mountain Vineyards
2 Colleen Williams
3 3835 Hwy 128
4 Calistoga, CA 94515
5 (707) 942-5310
6 colleed@storybookwines.com

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PETITIONER

BEFORE THE CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In Re San Francisco Bay Regional Water
Quality Control Board Order No. R2-2008-
0088 (October 8, 2008)

PETITION FOR REVIEW

INTRODUCTION

Storybook Mountain Vineyards (“Storybook Mountain”), pursuant to Section 13320 of the California Water Code and Title 23, Section 2050 of the California Code of Regulations petitions the State Water Resources Control Board (“State Board”) for review of San Francisco Bay Regional Water Quality Control Board (“Regional Board”) Order No. R2-2008-0088, issued October 8, 2008.

Regional Board Order No. R2-2008-0088 imposes an administrative civil liability (“ACL”) fine of \$10,000 for an alleged failure to submit the 2006/2007 Annual Stormwater Report by July 1, 2007. As described in this Petition, Storybook Mountain believes the Action taken by the Regional Board was inappropriate given Storybook Mountain’s good faith efforts to comply with the stormwater reporting requirements. Storybook Mountain respectfully requests that the State Board rescind Order No. R2-2008-0088 in its entirety, or reduce the administrative civil liability to a level appropriate for the circumstances.

1 Title 23, Section 2050, subdivision (a), of the California Code of Regulations sets forth
2 the following elements required for this Petition for Review:

3 **(1) Name, address, telephone number and email address (if available) of the petitioner.**

4 Storybook Mountain Vineyards
5 Colleen Williams
6 3835 Hwy 128
7 Calistoga, CA 94515
8 (707) 942-5310
9 colleen@storybookwines.com

10 **(2) The specific action or inaction of the Regional Board which the State Board is
11 requested to review and a copy of any order or resolution of the Regional Board
12 which is referred to in the Petition, if available. If the Order or resolution of the
13 Regional Board is not available, a statement shall be included giving the reason(s) for
14 not including the order or resolution.**

15 Storybook Mountain seeks State Board review of Order No. R2-2008-0088, adopted by
16 the Regional Board on October 8, 2008. The final Order, signed by the Regional Board
17 Executive Officer, is not yet available. A copy of the Staff Summary Report for the October 8,
18 2008, Regional Board hearing, is attached hereto as Exhibit 1. A copy of the Tentative Order is
19 included as Appendix A to the Staff Summary Report. A copy of the final Order is attached
20 hereto as Exhibit 2.

21 **(3) The date on which the Regional Board acted or refused to act or on which the
22 Regional Board was requested to act.**

23 The Regional Board adopted Order R2-2008-0088 on October 8, 2008.

24 **(4) A full and complete statement of the reasons the action or failure to act was
25 inappropriate or improper.**

26 **a. The scope of the enforcement action is unreasonable given the severity of the
27 alleged violation**

28 Under the State's Water Quality Enforcement Policy, it is clear that the main priority of
the water boards is to protect the groundwater and surface waters of the state. In doing so, the
boards shall "strive to be fair, firm and consistent in taking enforcement actions throughout the
state, while recognizing the individual facts of each case." ... and take "enforcement actions [that]
are appropriate in relation to the nature and severity of the violation." It is stated that "monetary

1 remedies...provide a measure of compensation for the damage that pollution causes to the
2 environment and ensure that polluters do not gain an economic advantage for violations of water
3 quality laws.”

4 Storybook Mountain believes that the enforcement action is not appropriate in relation to
5 the severity of the alleged violation. Although the annual report was not received by the
6 Regional Board by July 1, 2007, it was not out of intentional withholding of information or an
7 attempt to hide any discharge. Instead, after a brief and inadvertent delay, Storybook Mountain
8 submitted the 2006/2007 stormwater report on August 21, 2007. The original report and cover
9 letter are included as Appendix D in Exhibit 2 attached to this Petition.

10 Unfortunately, Storybook Mountain sent the report to the incorrect addresses, something
11 the Regional Board admits happens often. However it is clear from the Regional Board’s Staff
12 Report that all necessary inspections and lab reports were done in the time frame required. The
13 Regional Board, having been in possession on the stormwater report prior to the October 8
14 hearing, could see that there was no discharge and no economic benefit to any withholding of
15 such information.

16 **b. The amount of the ACL is not appropriate to the severity of the violation.**

17 Storybook Mountain also believes that the amount of the civil liability is inappropriate.
18 While the Regional Board has the authority to impose such a fine, the intent of the fines is to
19 punish those who have intentionally withheld stormwater reports or actually polluted waters of
20 the State, and to remedy such situations. As described above, Storybook Mountain did not
21 intentionally withhold the stormwater report, nor did it fail to perform any necessary tests or
22 reports. The Regional Board concedes that there was no unlawful stormwater discharge, nor any
23 other pollution, and certainly no need for any clean up.

24 Storybook Mountain has reviewed the State Board’s report of enforcement actions for
25 2008, and it appears that very few are for failure to file a report, and the few that are charge far
26 less, including a \$3000 fine to Southern California Edison, a company many times the size of our
27 winery. The ACLs that are close to the amount imposed in Order R2-2008-0088 appear to
28 involve actual pollution, including a proposed fine of \$18,000 for “chronic and serious violations

1 of Copper and E. Coli effluent limits.” It is unfair for the Regional Board to impose an ACL of
2 \$10,000 for failure to submit a report when there is no evidence or allegation of pollution.

3 Storybook Mountain has never had any unauthorized discharge, and in fact, has very little
4 exposure for that to ever happen. We do have a natural spring next to our winery, and so have
5 been told by Regional Board staff that we will never be able to file for a certificate of
6 nonexposure. However, Storybook Mountain takes very seriously its environment and any
7 impact on it. We are a very small winery, producing wine only from our own organically grown
8 grapes.

9 **c. The ACL is not appropriate given the procedural circumstances.**

10 Storybook Mountain believes that the Regional Board Order No. R2-2008-0088 is
11 inappropriate for the following reasons:

12 Date of Hearing:

13 The Regional Board acted unreasonably in scheduling the hearing on the complaint.

14 Notice was given in the original complaint #R2-2008-0043 that the board would hold a
15 hearing on this matter on September 10, 2008.

16 In my letter of August 5, 2008 I asked that the hearing be postponed to November as
17 September is the busiest time of year for us due to harvest.

18 In a discussion with Michelle Rembaum-Fox on or about August 13, 2008 she stated that
19 there was no way to delay the hearing because board members had already received notice of this
20 hearing. She then asked if we just wanted to pay the fine in that case.

21 In an email from Keith Lichten received September 8, 2008 I was offered a delay to
22 October, but that it could not be delayed to November.

23 I did not ask for the delay to October, but received notice from Dorothy Dickey on
24 September 10 that indeed our hearing had been postponed to October.

25 According to the Water Quality Enforcement Policy Section 7a, “The discharger may
26 agree in writing that the hearing can be held more that 60 days after the issuance of the
27 complaint.” The Regional Board should have postponed the hearing at least 60 days under this
28 provision.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Agenda:

According to the original complaint item 2, "You will be mailed an agenda no less than ten days before the hearing date".

According to the Water Boards' Meeting Regulations Article 1, section 647.2, "state agencies must provide notice at least one week in advance of any meeting to any person who requests such notice..."

I asked for an agenda in two messages to Michelle Rembaum-Fox (Sept. 2 & 3, 2008). After receiving no response from Ms. Fox, I left a message regarding the agenda for Keith Lichten. Mr. Lichten returned my call, leaving me a message to phone back regarding how to get an agenda. I finally received a message from Mr. Lichten on Sept. 5, 2008 with the web address where I could find the agenda. After complaining about this being well beyond the "no less than ten days", I received notice that the hearing had been delayed.

Staff Summary Report:

I never received a copy of this report until I arrived at the hearing on October 8, 2008. It is exceedingly difficult to prepare a proper response to a report in such a short time.

Paragraph 4 states "notified the discharger by telephone in June 2008." The order in part 6 states "confirmed business was still in business...via telephone on May 28, 2008." There is no mention of any message or an attempt to contact me. I received no message.

This report states that "The discharger also states past Annual Reports were submitted on time...a number of reports have been modestly late." The original complaint in part 7d states "The discharger has submitted its annual reports from previous years in a timely manner"

The staff report and final order completely contradict the original complaint that I had the opportunity to respond to. My response, quoting their complaint, was used against me in the hearing.

Order:

Several parts of this order are addressed in my response emailed to the board on Sept 23 and 25, 2008.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Part 13a - Nature, circumstances, extent and gravity of the violation

- The order states that “late submittal of the annual report is a significant violation”
- The SF Bay Region Water Board website states “failure to submit information or comply with schedules” is a “medium priority”, though “dischargers violating infrequently or for the first time with minor water quality impacts” is a “low priority”.
- The order states that “requirements of the General Permit...were not fully met.”
- The explanations that were with our annual report explained the circumstances of our not having observed the first hour of storms in each month.
- The General Permit requires inspections only during regular business hours.

Part 13c - Prior history of violations

- This statement changed three times
- The original complaint says there were no previous violations
- The staff report says some have been “modestly late”
- The final report says “annual reports from previous years late, including...”
- There is no mention that any of them have been on time.
- This statement seems to have gotten progressively worse, but regarding the same facts.

Part 13d - Savings resulting from violation

- There were no savings since inspections and lab tests were completed in a timely manner.
- This is stated on my response submitted to the board.
- The independent lab (CalTest) report dated 4/12/2007 for samples received 3/28/07 is included in our annual report and falls within the required time period.
- The staff report (paragraph 7) states “we accept the discharger’s claim that no costs were avoided as alleged in the complaint...”
- They did not change the tentative order to reflect this.
- This was discussed at the hearing.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- The final order still has not been changed.

Part 13f - Discharger's ability to pay and ability to continue in business.

- The complaint states "the discharger has not demonstrated an inability to pay..."
- In my conversation with Michelle Rembaum-Fox on or about August 13, I asked her how we were to have demonstrated the inability to pay when we had never been asked. She stated that we could have shown financial information, but that it was too late to do so and they would not accept it.
- The tentative order was changed to state "there is no evidence that the discharger cannot pay"
- This evidence was submitted on Sept. 23 and 25.
- Dickey in her facsimile to me allowed further evidence to be submitted.
- Who makes the determination that there is "no evidence"?
- The final order states "The Water Board has considered the Discharger's financial submittals."
- While the Board did look over the financial report during the hearing, it became clear that they had not looked at it prior to the hearing and did not fully understand it.
- One member proposed a civil liability prior to looking at the financial report.
- One Board member stated that she had a hard time setting a fine at the nearly the same amount as our entire profit for 2007.
- If the financial statement is read correctly our net income for 2007 was actually a \$54000 loss, this after a \$5000 loss in 2006.
- Now that our harvest is finished for 2008, we know our production for this year is down more than 50%, and at the lowest level since 1983. (This information was not available at the time of the hearing.)

(5) The manner in which the petitioner is aggrieved.

Storybook Mountain is aggrieved by the size of the ACL, \$10,000, imposed under Order R2-2008-0088. This amount is well above the Regional Board's own estimate of costs for staff

1 time in preparing the complaint (\$2,500), and well above the alleged savings (\$1,000) to
2 Storybook Mountain. As described above, Storybook Mountain actually performed the necessary
3 tests and reports during the required timeframe, and therefore realized no savings.

4 **(6) The specific action by the State or Regional Board which Petition requests.**

5 Storybook Mountain requests that the State Board rescind Order No. R2-2008-0088 or, in
6 the alternative, reduce the ACL to an amount not to exceed \$2,500.

7 **(7) A Statement of Points and Authorities in support of legal issues raised in the**
8 **Petition.**

9 As described in Part (4) above, Storybook Mountain believes the ACL issued in Order R2-
10 2008-0088 is inequitable under the circumstances.

11 **(8) A statement that the petition has been sent to the appropriate Regional Board.**

12 A copy of this Petition has been sent to the Regional Board.

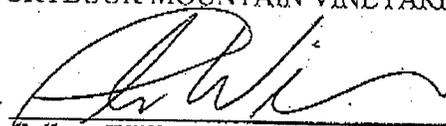
13 **(9) A statement that the substantive issues raised in the petition were raised before the**
14 **Regional Board, or an explanation of why the Petitioner was not required or was**
15 **unable to raise these substantive issues or objections before the Regional Board.**

16 Most of the issues raised in this petition were presented to the Regional Board either in
17 writing before the hearing or in statements at the hearing. Please see Storybook Mountain's
18 comments and submittals, which are included as Appendix D to Exhibit 2 attached hereto. Those
19 that were not, are issues that have been raised during my research and review of the Water Board
20 policies. Please see Part (4) above for additional discussion regarding why some of these issues
21 were not raised before the Regional Board. Had the hearing been delayed, as was requested, ~~this~~
22 research could have been completed before the hearing.

23 Dated: November 6, 2008

24 Respectfully submitted,

25 STORYBOOK MOUNTAIN VINEYARDS

26 By 
27 Colleen Williams

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

**STAFF SUMMARY REPORT
(Michelle Rembaum-Fox/Keith H. Lichten)
MEETING DATE: October 8, 2008**

ITEM: 5

SUBJECT: **Storybook Mountain, Calistoga, Napa County – Hearing to Consider Administrative Civil Liability for Late Submittal of Annual Monitoring Report Required Under the Statewide NPDES General Permit for Discharges of Storm Water Associated with Industrial Activities**

CHRONOLOGY: This item was continued from the September 10, 2008, Board meeting.

DISCUSSION: We have prepared a Tentative Order (Appendix A) for the Board's consideration that would impose an administrative civil liability (ACL) of \$24,200 on Storybook Mountain (the discharger) for late submittal of an annual report required by its NPDES permit to discharge industrial storm water.

The discharger operates a winery. The winery is an industrial activity that requires a federal Clean Water Act NPDES permit for discharge of storm water. Accordingly, the facility is covered by the state Industrial Storm Water General Permit (Permit). The Permit requires implementation of: a storm water pollution prevention plan to manage sources and activities at the facility that may pollute storm water discharges; a monitoring program; and an annual comprehensive site compliance evaluation that is part of an annual report.

The permit requires submittal of the annual report by July 1 of each year. The annual report is the primary means of ensuring that the facility is in compliance with permit requirements. The report must certify that the storm water pollution prevention plan has been implemented and summarize the compliance evaluation, monitoring observations, and sampling results. The annual report must be signed and certified by a responsible corporate officer who performs decision-making functions for the facility.

The discharger did not submit its 2006/07 annual report by July 1, 2007. Consequently, on July 11, 2008, the Assistant Executive Officer issued an ACL Complaint to the discharger in the amount of \$24,200 (Appendix B). This was after we issue two notice of noncompliance letters (Appendix C), one in August 2007 and one November 2007, and notified the discharger by telephone in June 2008. The discharger finally submitted its 2006/2007 annual report to us on August 11, 2008, 406 days after the due date and after the subject ACL Complaint was issued.

The discharger submitted a letter that included the Annual Report (Appendix D) in response to the Complaint requesting that we reverse our decision to issue the ACL complaint. The letter acknowledges the reporting delinquency and claims that after

receiving the first notice of noncompliance, the annual report was sent on August 21, 2007, to the State Water Board at its Sacramento address. The submittal states that the initial delay was due to a personnel issue—an employee who had left the winery with the information necessary to complete the Report. The discharger states that after receiving the second notice of noncompliance, they sent the annual report to the North Coast Santa Rosa Regional Water Board in Santa Rosa.

While a number of annual reports each year are misdirected to other Regional Water Boards or the State Water Board, standard practice is to forward them to the correct Region. We confirmed with staff that this standard practice is followed at the North Coast Regional Water Board and the State Water Board. We did not receive a copy of the discharger's annual report from the North Coast Regional Water Board or the State Water Board. The discharger's submittal did not include information beyond the comment letter demonstrating the report was misdirected. The Annual Report Form clearly states the report should be submitted to the discharger's Regional Water Board, as did the two letters we mailed to the discharger. Also, the discharger has correctly submitted past annual reports to our office.

The discharger submitted additional comment materials on September 25, 2008 (Appendix E), following a letter from the Board's advisory counsel allowing the additional submittal (Appendix F). However, much of this material is not relevant to this case. In particular, the submitted "screen shots" are from new website functions that were not available until April 2008. We accept the discharger's claim that no costs were avoided as alleged in the Complaint because the annual report was ultimately submitted, albeit late and after the Complaint was issued. The materials also include financial information that was not available when we issued the Complaint.

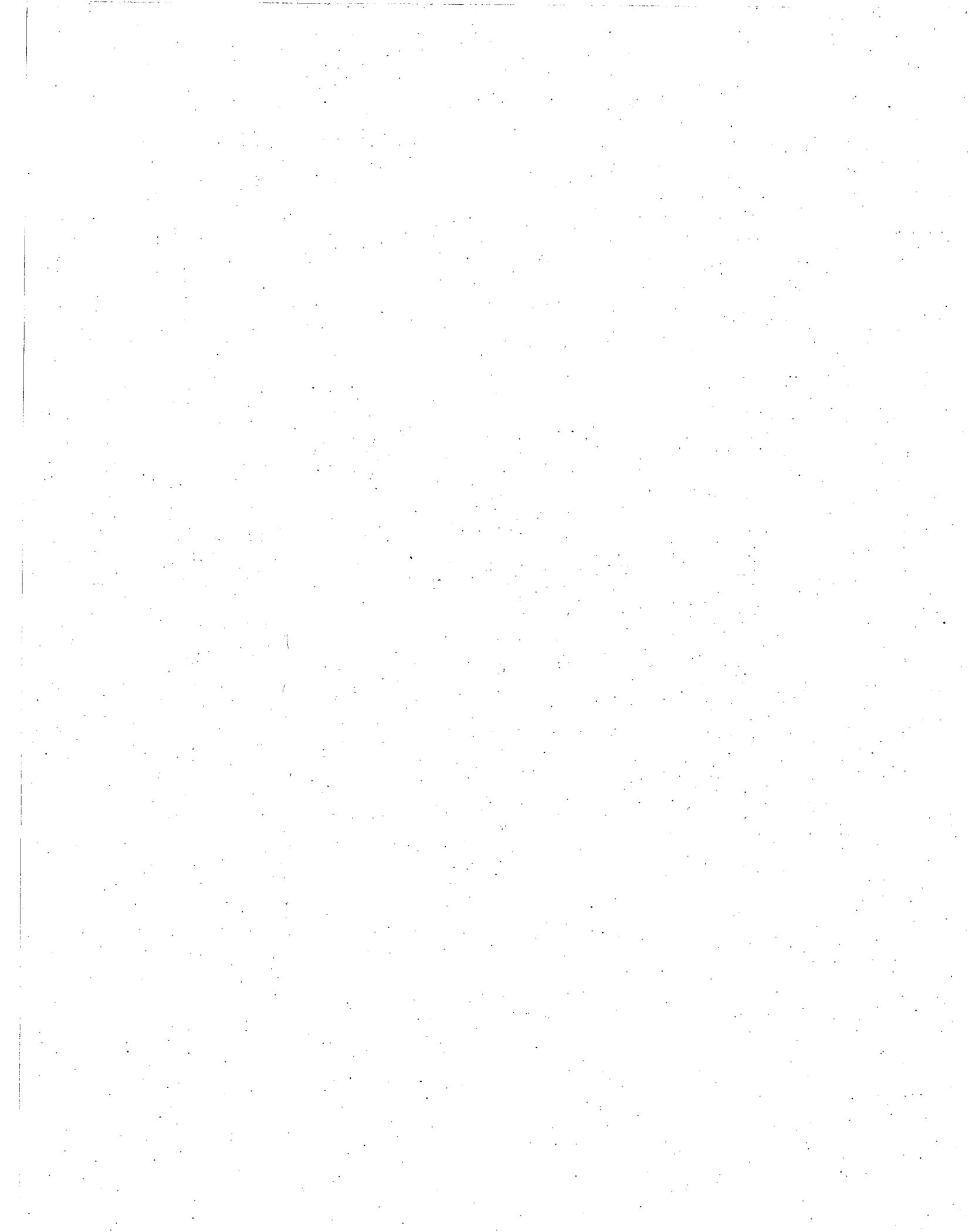
The discharger also states past Annual Reports were submitted on time. Although the most recent 2007-2008 Annual Report and some others have been submitted on time, a number of past reports have been modestly late. For example, the 2004-2005 Report was received 40 days late, the 2003-2004 Report was 69 days late, and the 2002-2003 Report was about two weeks late.

The proposed penalty is reasonable and is consistent with other recent ACL Complaints issued to and accepted by other dischargers for annual reports that were delinquent by more than a year. It also accounts for our staff costs to prepare the Complaint and supporting information, but it does not account for our staff costs associated with preparing documents and testimony for the hearing.

- ATTACHMENTS
- Appendix A - Tentative Order
 - Appendix B - Administrative Civil Liability Complaint
 - Appendix C - Water Board staff's letters to the Discharger of August 6, 2007, and November 13, 2007
 - Appendix D - Discharger's Comment Letter of August 11, 2008 (includes Discharger's 2007-2008 Annual Report)
 - Appendix E - Discharger's Comment Letter received via email September 25, 2008
 - Appendix F - Board Advisory Counsel's Letter of September 9, 2008

APPENDIX A

Tentative Order



**STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

TENTATIVE ORDER

ORDER SETTING ADMINISTRATIVE CIVIL LIABILITY FOR:

**Storybook Mountain
3835 Highway 128
Calistoga, Napa County, CA**

The California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter called the Water Board), finds with respect to Storybook Mountain (hereinafter called the Discharger), that:

1. The Discharger operates the facility, which discharges storm water associated with industrial activity. In 1998, the Discharger submitted a Notice of Intent (NOI) to obtain coverage under the State Water Resources Control Board's discharge permit for Storm Water Discharges Associated with Industrial Activities, Water Quality Order NO. 97-03-DWQ, NPDES No. CAS000001 (General Permit). The Discharger's Waste Discharge ID No. is 2 28I014091.
2. The General Permit states, in part:

“Section B. Monitoring Program and Reporting Requirements

“14. All facility operators shall submit an Annual Report by July 1 of each year to the Executive Officer of the Regional Water Board responsible for the area in which the facility is located and to the local agency (if requested).”
3. The Discharger violated Section B of the General Permit by failing to submit its 2006/2007 annual report by July 1, 2007.
4. On August 6, 2007, the Executive Officer issued a Notice of Noncompliance (NNC) letter to the Discharger. The Discharger was notified of its obligation to submit an annual report and to comply with the General Permit. The Discharger was required to respond by September 8, 2007, but failed to do so.
5. By certified mail dated November 13, 2007, the Executive Officer issued a second NNC letter to the Discharger. This letter was to inform the Discharger that it was in violation of the General Permit and that the Executive Officer would recommend enforcement actions if an annual report was not submitted. No written or verbal response to the letter was provided by the Discharger.

6. Board staff confirmed that the facility was still in business at the above address via telephone on May 28, 2008.
7. As of June 15, 2008, the Discharger has failed to submit its 2006/2007 annual report. The Discharger has been in violation of the General Permit for a total of 350 days (July 2, 2007 through June 15, 2008).
8. California Water Code (CWC) Section 13385 states, in part:
 - “(a) Any person who violates any of the following shall be liable civilly in accordance with this section:*
 - (2) Any waste discharge requirements or dredge and fill material permit.*
 - “(c) Civil liability may be imposed administratively by the state board or a regional board pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 in an amount not to exceed the sum of both of the following:*
 - (1) Ten thousand dollars (\$10,000) for each day in which the violation occurs.”*
 - (2) [subsection 2 is not pertinent to this ACL]*
9. CWC Section 13385 authorizes Administrative Civil Liability not exceeding \$10,000 for each day in which the violation occurs. The 2006/2007 annual report was ultimately submitted as part of the Complaint response on August 5, 2008.
10. The Discharger's late submittal of its Annual Report is a violation of CWC Section 13385 for which the Board may impose administrative civil liability.
11. On July 11, 2008, the Assistant Executive Officer issued a Complaint (R2-2008-0043) to the Discharger proposing a \$24,200 Administrative Civil Liability for the violation of the General Permit, and CWC Section 13385.
12. The Water Board, after hearing all testimony, determined the Discharger is subject to civil liabilities. In determining the amount of civil liability the following factors have been taken into consideration:

“...the nature, circumstance, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup and abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic savings, if any, resulting from the violation, and other matters of justice may require.”

13. The Board determined, with respect to the factors required in the Findings, the following:

a. Nature, circumstances, extent, and gravity of the violation

Late submittal of the annual report is a significant violation because the Water Board relies on the report to determine the Discharger's compliance with the General Permit.

The Discharger was given a number of warnings, including two Notices of Noncompliance and was contacted once by telephone. These annual reports are a key means of determining the quality of stormwater runoff from the Discharger's site and ensuring the Discharger is implementing appropriate control measures at its site. In addition, the annual report eventually submitted past the deadline indicated that requirements of the General Permit, including site monitoring, were not fully met.

b. Toxicity of Discharge and Susceptibility to Cleanup

The violation for which liability is proposed is late submittal of a required report. Civil liability is not proposed for a specific discharge.

c. Prior history of violations

The discharger has submitted annual reports from previous years late, including: the 2004-2005 report was received 40 days late, the 2003-2004 report was 69 days late, and the 2002-2003 report was about two weeks late.

d. Degree of culpability

The storm water regulations are applicable to all industrial sites on a nationwide basis. All dischargers are required to comply with the General Permit. The Discharger is fully culpable for violating the terms and conditions of the General Permit, which implements the Clean Water Act.

e. Savings resulting from the violation

The Discharger has realized cost savings by: failure to perform required sampling and analyses, and failure to fully implement and/or document its SWPPP. Assuming an average-sized site, the minimum economic savings for not submitting an annual report is approximately \$1000/year.

f. Discharger's ability to pay and ability to continue business

There is no evidence that the Discharger cannot pay the civil liability or that payment will prevent its ability to continue business.

g. Other matters that justice may require

Staff time to prepare a Complaint and supporting information is estimated to be 20 hours. Based on an average cost to the State of \$125 per hour, the total cost is \$2,500.

14. A \$24,200 Administrative Civil Liability is appropriate based on the determinations in the Findings. This amount includes staff costs of \$2,500 and estimated economic savings of \$1,000.
15. This action is an Order to enforce the laws and regulations administered by the Water Board. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.), in accordance with Section 15321(a) (2), Title 14, of the California Code of Regulations.
16. The Discharger may petition the State Board to review this action. The State Board must receive the petition within 30 days of the date this order was adopted by the Water Board. The petition will be limited to raising only the substantive issues or objections that were raised before the Water Board at the public hearing or in a timely submitted written correspondence delivered to the Water Board.

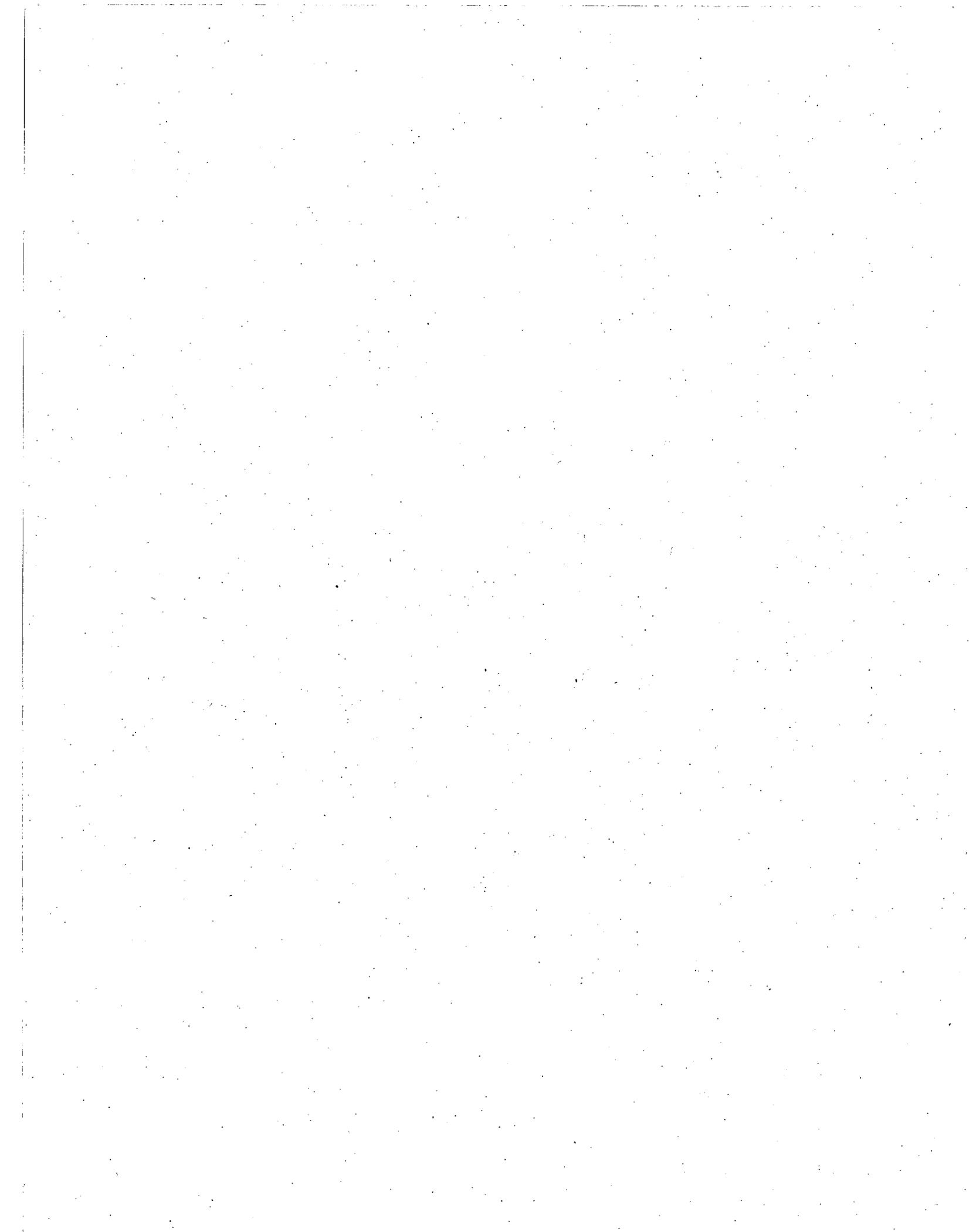
IT IS HEREBY ORDERED that Storybook Mountain is civilly liable for the violation of the General Permit cited in Complaint No. R2-2008-0043 and shall pay the administrative civil liability in the amount of \$24,200. The liability shall be paid to the State Water Pollution Cleanup and Abatement Account within 30 days of the date of this Order.

I, Bruce H. Wolfe, Executive Officer, do hereby certify that the foregoing is a full, complete, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on October 8, 2008.

Bruce H. Wolfe
Executive Officer

APPENDIX B

Administrative Civil Liability Complaint



STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

In the Matter of:

Storybook Mountain
3835 Highway 128
Calistoga, Napa County

COMPLAINT NO. R2-2008-0043
for
ADMINISTRATIVE
CIVIL LIABILITY

YOU ARE HEREBY GIVEN NOTICE THAT:

1. Storybook Mountain (hereinafter the Discharger) is alleged to have violated provisions of the law for which the California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter Water Board) may impose civil liability pursuant to Section 13385 of the California Water Code (CWC).
2. The Water Board will hold a hearing on this matter on September 10, 2008, in the Elihu M. Harris State Building, First Floor Auditorium, 1515 Clay Street, Oakland, California, 94612. You or your representatives(s) will have an opportunity to be heard and to contest the allegations in this complaint and the imposition of civil liability by the Water Board. You will be mailed an agenda no less than ten days before the hearing date. You must submit any written evidence concerning this complaint to the Water Board not later than 5 pm on August 11, 2008, so that such comments may be considered. Any written evidence submitted to the Water Board after this date and time will not be accepted or responded to in writing.
3. At the hearing the Water Board will consider whether to affirm, reject, or modify the proposed administrative civil liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.

ALLEGATIONS

4. The following facts are the basis of the alleged violations in this matter:
 - a. The Discharger submitted a Notice of Intent (NOI) to obtain coverage under the State Water Resources Control Board's discharge permit for Storm Water Discharges Associated with Industrial Activities, Water Quality Order NO. 97-03-DWQ, NPDES No. CAS000001 (General Permit). The Waste Discharge Identification Number is 2 28I014091.
 - b. The General Permit requires the Discharger to submit an annual report documenting its sampling and analyses, observations, and an annual comprehensive site compliance evaluation, by July 1 of each year.
 - c. The Discharger violated its waste discharger requirements by failing to submit its 2006-2007 annual report by the July 1, 2007, deadline. This is a violation of CWC Section 13385, for which administrative civil liability may be imposed.
 - d. On August 6, 2007, the Executive Officer issued a Notice of Noncompliance (NNC) letter to the Discharger. The Discharger was notified of its obligation to submit an annual report and to comply with the General Permit. The Discharger was required to respond by September 24, 2007, but failed to do so.

- e. By certified mail dated November 13, 2007, the Executive Officer issued a second NNC letter to the Discharger. This letter informed the Discharger that it was in violation of the General Permit and that the Executive Officer would recommend enforcement actions, including administrative civil liability up to \$10,000 per day, if an annual report was not submitted. No written or verbal response to the letter was provided by the Discharger.

Board staff confirmed that facility was still in business at the above address via telephone on May 28, 2008.

- f. As of June 15, 2008, the Discharger has failed to submit its 2006/2007 annual report. The Discharger has been in violation of the General Permit for a total of 350 days (July 2, 2007 through June 15, 2008).

PROPOSED CIVIL LIABILITY

5. Issuance of this Complaint is exempt from the provisions of the California Environmental Quality Act (Public Resources Code 21000 et seq.) in accordance with Section 15321 of Title 14, California Code of Regulations.
6. Under CWC Section 13385(c)(1), the Water Board can impose a maximum civil liability of \$10,000 per day of violation. This Complaint addresses violations for the 350 day period from July 2, 2007, through June 15, 2008.
7. Under Section 13385(e) of the CWC, the Water Board shall consider the following factors in determining the amount of civil liability to be imposed:

- a. The nature, circumstances, extent, and gravity of the violation:

These annual reports are a key means of determining the quality of stormwater runoff from the Discharger's site and ensuring the Discharger is implementing appropriate control measures at the site. Additionally, they are one of the Discharger's primary tools to self-evaluate site compliance with the permit and to identify any needed improvements.

The Discharger was sent two Notice of Noncompliance letters and was contacted once via telephone. Also, the Discharger, by submitting an NOI, indicated its intent to comply with all requirements of the General Permit, including the requirement to submit an annual report.

- b. Toxicity of Discharge and Susceptibility to Cleanup

The violation for which liability is proposed is a failure to submit a required report. The report is required to include quantitative and qualitative information on the amounts and/or presence of certain pollutants in discharges from the subject facility, as well as information on remedial actions taken by the Discharger to halt or minimize polluted discharges from its facility. In the absence of this information, it is not possible to make a more specific determination on this factor, and civil liability is not proposed for a specific discharge.

- c. Discharger's ability to pay:

The Discharger has not demonstrated an inability to pay the proposed amount.

- d. Prior history of violations:

The discharger has submitted its annual reports from the previous years in a timely manner.

- e. Degree of culpability:

The storm water regulations are applicable to all specified industrial sites on a nationwide basis. All dischargers are required to comply with the Clean Water Act. The Discharger is fully culpable for violating the terms and conditions of the General Permit, which implements the Clean Water Act.

f. Savings resulting from the violation:

The Discharger has realized cost savings by: failure to perform required sampling and analyses, late submittal of the annual report, and failure to implement and/or document its Stormwater Pollution Prevention Plan (SWPPP). Assuming an average-sized site, Board staff estimates the minimum economic savings for submitting a late and incomplete annual report to be \$1000/year.

g. Other matters that justice may require:

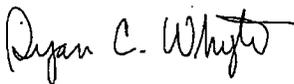
Staff time to prepare a Complaint and supporting information is estimated to be 20 hours. Based on an average cost to the State of \$125 per hour, the total cost is \$2,500.

Basis for Liability Amount

8. Per CWC Section 13385(e) the following factors in determining an appropriate civil liability amount were considered: the nature, circumstance, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and with respect to the violator, the ability to pay, the effect on the ability to continue in business, any voluntary cleanup efforts undertaken, and prior history of violations, the degree of culpability, economic benefit or saving, if any, resulting from the violation, and such other matters as justice may require. Using this section as a guide as well as the monetary assessment guidance set forth State Water Resources Control Board's Enforcement Policy, the proposed liability was derived.
9. The Assistant Executive Officer of the Water Board proposes that an administrative civil liability be imposed in the amount of \$24,200. Of this amount, \$2,500 is for recovery of staff costs.

Claims of inability to pay must be substantiated by adequate proof of financial hardship (e.g., two years of income tax returns or an audited financial statement).

10. Further failure to comply with the General Permit or amendments thereof beyond the date of this Complaint may subject the Discharger to further administrative civil liability, and/or other appropriate enforcement actions(s), including referral to the Attorney General.



Dyan C. Whyte
Assistant Executive Officer

July 11, 2008

Date

WAIVER OF HEARING

You may waive the right to a hearing. If you wish to waive the hearing, an authorized person must check and sign the waiver below and return it to the Regional Water Quality Control Board, San Francisco Bay Region, at 1515 Clay Street Suite 1400, Oakland, CA 94612. Payment of the civil liability must be made by August 11, 2008. Any waiver will not be effective until August 11, 2008, to allow other interested persons to comment on this action.

In the Matter of:)
)
)
Storybook Mountain)
3835 Highway 128)
Calistoga, Napa County)
_____)

COMPLAINT NO. R2-2008-0043
for
ADMINISTRATIVE
CIVIL LIABILITY

WAIVER OF HEARING

If you waive your right to a hearing, the matter will be included on the agenda of a Water Board meeting but there will be no hearing on the matter, unless a) the Water Board staff receives significant public comment during the comment period, or b) the Water Board determines it will hold a hearing because it finds that new and significant information has been presented at the meeting that could not have been submitted during the public comment period. If you waive your right to a hearing but the Water Board holds a hearing under either of the above circumstances, you will have a right to testify at the hearing notwithstanding your waiver. Your waiver is due no later than August 11, 2008.

- Waiver of the right to a hearing and agreement to make payment in full.
By checking the box, I agree to waive my right to a hearing before the Water Board with regard to the violations alleged in Complaint No. R2-2006-0043 and to remit the full penalty payment to the State Water Pollution Cleanup and Abatement Account, c/o Regional Water Quality Control Board at 1515 Clay Street, Oakland, CA 94612, within 30 days after the Water Board meeting for which this matter is placed on the agenda. I understand that I am giving up my right to be heard, and to argue against the allegations made by the Assistant Executive Officer in this Complaint, and against the imposition of, or the amount of, the civil liability proposed unless the Water Board holds a hearing under either of the circumstances described above. If the Water Board holds such a hearing and imposes a civil liability, such amount shall be due 30 days from the date the Water Board adopts the order imposing the liability.

- Waiver of right to a hearing and agree to make payment and undertake an SEP.
By checking the box, I agree to waive my right to a hearing before the Water Board with regard to the violations alleged in Complaint No. R2-2006-0043, and to complete a supplemental environmental project (SEP) in lieu of the suspended liability up to \$12,100 and paying the balance of the fine to the State Water Pollution Cleanup and Abatement Account (CAA) within 30 days after the Water Board meeting for which this matter is placed on the agenda. The SEP proposal shall be submitted no later than August 11, 2008. I understand that the SEP proposal shall conform to the requirements specified in Section IX of the Water Quality Enforcement Policy, which was adopted by the State Water Resources Control Board on February 19, 2002, and be subject to approval by the Assistant Executive Officer. If the SEP proposal, or its revised version, is not acceptable to the Assistant Executive Officer, I agree to pay the suspended penalty amount within 30 days of the date of the letter from the Assistant Executive Officer rejecting the proposed/revised SEP. I also understand that I am giving up my right to argue against the allegations made by the Assistant Executive Officer in the Complaint, and against the imposition of, or the amount of, the civil liability proposed unless the Water Board holds a hearing under either of the circumstances described above. If the Water Board holds such a hearing and imposes a civil liability, such amount shall be due 30 days from the date the Water Board adopts the order imposing the liability. I further agree to satisfactorily complete the approved SEP within a time schedule set by the Assistant Executive Officer. I understand failure to adequately complete the approved SEP will require immediate payment of the suspended liability to the CAA.

Name (print)

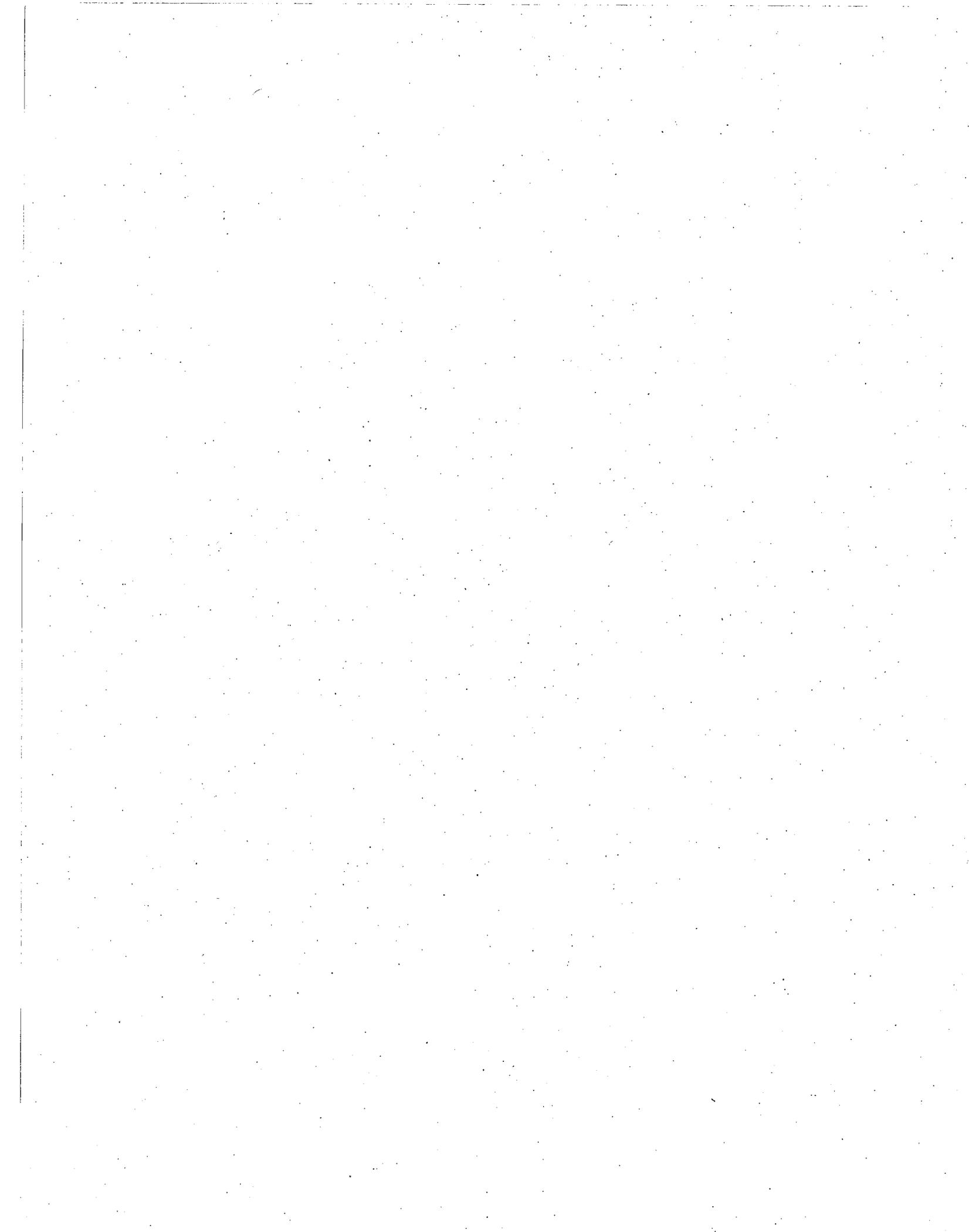
Signature

Date

Title/Organization

APPENDIX C

Water Board staff's letters to the Discharger of August 6, 2007, and
November 13, 2007





California Regional Water Quality Control Board

San Francisco Bay Region



Linda S. Adams
Secretary for
Environmental Protection

1515 Clay Street, Suite 1400, Oakland, California 94612
(510) 622-2300 • Fax (510) 622-2460
<http://www.waterboards.ca.gov/sanfranciscobay>

Arnold Schwarzenegger
Governor

Date: August 6, 2007
File No. 2158.11 (RAD)

Notice of Noncompliance

Storybook Mountain
Attn: Colleen Williams
3835 State Highway 128
Calistoga, CA 94515

Subject: Failure to Comply With the General Permit for Stormwater Discharges Associated With Industrial Activities, Order No. 97-DWQ, NPDES No. CAS000001 (General Permit)

For the facility located at:

**Storybook Mountain
3835 State Highway 128
Calistoga, Napa County**

WDID No. 2 28I014091

Dear Colleen Williams:

Your facility located at the above site is regulated under the General Permit. Section B.14 of the General Permit requires you to submit an annual report by July 1 of each year. According to our records, we have not received your 2006-2007 annual report due July 2, 2007.

You are in violation of the General Permit, the California Water Code, and the Federal Clean Water Act for failure to submit a complete 2006-2007 annual report. Please submit a complete 2006-07 annual report to this office by September 7, 2007. Along with the annual report, you must also provide a statement explaining why the annual report was not submitted by the July 1 deadline and the measures you have taken to insure timely submittals in the future. You may download a blank copy of the annual report from the State Water Resources Control Board web site at <http://www.waterboards.ca.gov/stormwtr/annualreport.html>.

Pursuant to California Water Code (CWC) Section 13385(c)(2), the Water Board can impose a maximum civil liability of \$10,000 per day of violation. Under CWC Section 13399.33(c), the Water Board must impose a minimum civil liability of \$1,000 for failure to submit an annual report. As of August 6, 2007, you are currently 34 days in violation.

We require your immediate attention to this matter. Please contact the Industrial Stormwater staff at (510) 622-2319 if you have any questions.

Sincerely,

Bruce H. Wolfe
Executive Officer



California Regional Water Quality Control Board San Francisco Bay Region



Linda S. Adams
Secretary for
Environmental Protection

1515 Clay Street, Suite 1400, Oakland, California 94612
510.622.2300 • Fax 510.622.2460
www.waterboards.ca.gov/sanfranciscobay

Arnold Schwarzenegger
Governor

Certified Mail No. 7003 3110 0002 6555 8448
Return Receipt Requested

November 13, 2007
File No. 2158.11 (CSF)

Second Notice of Noncompliance

Storybook Mountain
Attn: Colleen Williams
3835 State Highway 128
Calistoga, CA 94515

**Subject: Failure to Comply With the General Permit for Stormwater Discharges
Associated With Industrial Activities, Order No. 97-DWQ, NPDES No.
CAS000001 (General Permit)**

For the Facility:

Storybook Mountain
3835 State Highway 128
Calistoga, Napa County
WDID No. 2 28I014091

Dear Ms. Williams:

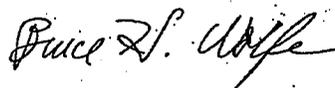
You are hereby notified that Storybook Mountain has violated the General Permit by failing to submit a complete 2006-2007 annual report by July 2, 2007 (as required by Section B.14 of the General Permit).

This is your second notice. The first notice was dated and sent on August 6, 2007. To date we have not received a response to that notice. **You are required to submit a complete 2006-2007 annual report to this office immediately, but in no case later than November 30, 2007.** You may download a blank copy of the annual report from the State Water Resources Control Board web site at <http://www.swrcb.ca.gov/stormwtr/industrial.html>. With the annual report, you must also provide a statement explaining why the annual report was not submitted by the July 1 deadline and the measures you have taken to insure timely submittals in the future.

Pursuant to California Water Code (CWC) Section 13385(c)(2), the Water Board can impose a maximum civil liability of \$10,000 per day of violation. Under CWC Section 13399.33(c), the Water Board must impose a minimum civil liability of \$1,000 if the annual report is not submitted by November 30, 2007. As of November 13, 2007, Storybook Mountain is 134 days in violation.

We require your immediate attention to the matter. Please contact the Industrial Storm Water Staff at (510)622-2319 if you have any questions.

Sincerely,



Bruce H. Wolfe
Executive Officer



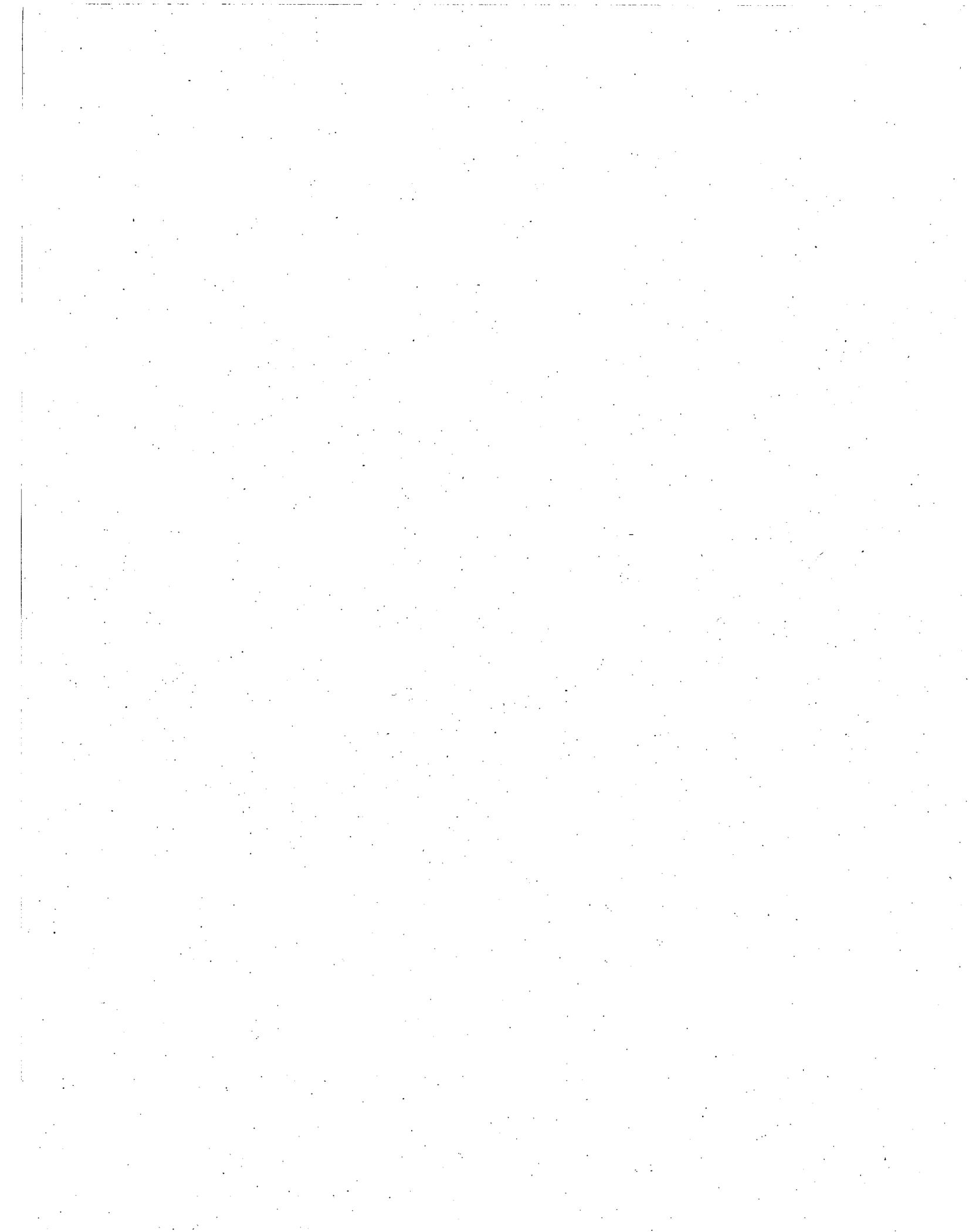
SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <u>Colleen Williams</u></p> <p>C. Date of Delivery <u>11-21-07</u></p>
<p>1. Article Addressed to:</p> <p>Storybook Mountain Attn: Colleen Williams 3835 State Highway 128 Calistoga, CA 94515</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type</p> <p><input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>
<p>2. Article Number (transfer from service label)</p>	<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>PS Form 3811, February 2004 Domestic Return Receipt 7003 3110 0002 6555 8448</p>	

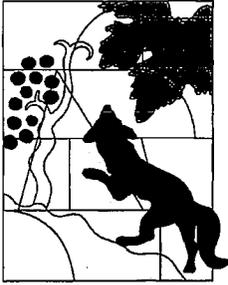
9448 5559 2000 DTTE E007

U.S. Postal Service™	
CERTIFIED MAIL™ RECEIPT	
(Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$
Postmark Here	
Sent To <u>STORY BOOK MOUNTAIN</u>	
Street, Apt. No., or PO Box No. <u>3835 STATE HIGHWAY 128</u>	
City, State, ZIP+4 <u>CALISTOGA, CA 94515</u>	
PS Form 3800, June 2002	See Reverse for Instructions

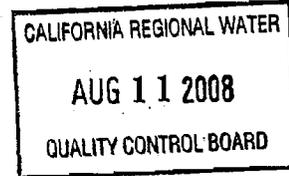
APPENDIX D

Discharger's Comment Letter dated August 5, 2008 (includes Discharger's
2007-2008 Annual Report)





STORIBOOK
MOUNTAIN
WINERY, INC



3835 HIGHWAY 128, CALISTOGA, NAPA VALLEY, CA 94515 · TEL 707.942.5310 · FAX 707.942.5334

August 5, 2008

California Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

RE: Complaint No. R2-2008-0043

I was quite surprised to receive the notice on complaint against our company for noncompliance and failure to file our 2006-07 Annual Report. Please find enclosed the report and copies of the letters that have gone with the reports that I have filed twice previously.

According to the allegations, we failed to file the report and did not respond to notices sent. While it is true that the original filing was late (see enclosed letter of explanation dated August 21, 2007) I did file the report at the time I received the first notice. I sent it to the office in Sacramento, apparently in error, as that is the address on the cover letter of the report. After receiving the second notice in November, I filed the report again. This time I looked up the address on the website, and apparently again chose the incorrect office to send it to, this time being Santa Rosa.

I must say that the website mapping is not very helpful. At this time, when I enter our address where prompted, it cannot find us. We are right on the Napa/Sonoma County line, so it is very difficult to decide which office to send forms to. This year I phoned the Santa Rosa office to find out which office I should file with, hopefully you have received our 2007-08 report.

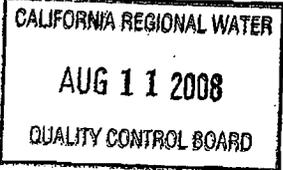
I am respectfully requesting an appeal of your decision to fine us for noncompliance. As stated in your own file, we have always filed our reports in a timely fashion. We are a very small company, with very little exposure, and we are trying to stay in compliance. If you decide that we still need to have a hearing, I would request that it be postponed to November as no one would be available to come to a hearing during our harvest season.

Thank you,

Colleen Williams
VP-Operations



STORMBOOK
MOUNTAIN
WINERY



August 21, 2007

Storm Water Resources Control Board
1001 I Street
Sacramento, CA 95814

RE: 2006-07 Annual Report
2281014091

I have received a notice that our annual report is past due. Please find enclosed our report. The reason for the delay in filing is that my employee, Karl Lehman, mistakenly removed the file with the data when he left our employ in May. I had contacted him to return the file in June when I originally tried to fill out the report. Unfortunately, at that point it was out of mind.

Please accept our filing at this time.

Sincerely,

Colleen Williams
VP-Operations



Linda S. Adams
Secretary for
Environmental Protection

State Water Resources Control Board

Division of Water Quality
1001 I Street • Sacramento, California 95814 • (916) 341-5538
Mailing Address: P.O. Box 1977 • Sacramento, California • 95812-1977
Fax (916) 341-5543 • <http://www.waterboards.ca.gov/stormwtr>



Arnold Schwarzenegger
Governor

CALIFORNIA REGIONAL WATER

AUG 11 2008

QUALITY CONTROL BOARD

To Interested Parties:

2006-2007 ANNUAL REPORT ANNUAL REPORT FOR STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITIES

This year we are pleased to announce the availability of the Storm Water Annual Reporting Module (SWARM). SWARM allows an individual discharger to file their Annual Report electronically using the California Integrated Water Quality System (CIWQS).

Currently SWARM is not a mandatory reporting method, but we encourage all dischargers to register and use SWARM as soon as possible.

To register to use SWARM please visit <http://www.waterboards.ca.gov/ciwqs/index.html> and download the SWARM registration form and instructions. Please fill out the form and mail it back to: CIWQS Registration, P.O. Box 671, Sacramento, CA 95812. Once a complete registration form is received, a login name and password will be emailed to you.

For SWARM registration questions or information please contact the CIWQS help center at 1-866-792-4977 or by email at ciwqs@waterboards.ca.gov.

To receive email updates on Storm Water Industrial permitting issues, please sign up at http://www.waterboards.ca.gov/tyris/forms/sarcb_subscribe.html. The Storm Water program currently maintains five email lists:

- CIWQS Storm Water Annual Reporting Module (SWARM)
- Storm Water Construction Permitting Issues
- Storm Water Industrial Permitting Issues
- Storm Water Municipal Permitting Issues
- Sustainable Development

For all other permitting questions please contact the Storm Water Section at (916) 341-5538 or by email at stormwater@waterboards.ca.gov.

Sincerely,

Storm Water Section

California Environmental Protection Agency

Recycled Paper

State of California
STATE WATER RESOURCES CONTROL BOARD

2006-2007
ANNUAL REPORT
FOR
STORM WATER DISCHARGES ASSOCIATED
WITH INDUSTRIAL ACTIVITIES

Reporting Period July 1, 2006 through June 30, 2007

An annual report is required to be submitted to your local Regional Water Quality Control Board (Regional Board) by July 1 of each year. This document must be certified and signed, under penalty of perjury, by the appropriate official of your company. Many of the Annual Report questions require an explanation. Please provide explanations on a separate sheet as an attachment. **Retain a copy of the completed Annual Report for your records.**

Please circle or highlight any information contained in Items A, B, and C below that is new or revised so we can update our records. Please remember that a Notice of Termination and new Notice of Intent are required whenever a facility operation is relocated or changes ownership.

If you have any questions, please contact your Regional Board Industrial Storm Water Permit Contact. The names, telephone numbers and e-mail addresses of the Regional Board contacts, as well as the Regional Board office addresses can be found at <http://www.swrcb.ca.gov/stormwtr/contact.html>. To find your Regional Board information, match the first digit of your WDID number with the corresponding number that appears in parenthesis on the first line of each Regional Board office.

GENERAL INFORMATION:

A. Facility Information:

Facility Business Name: STORYBOOK MOUNTAIN
Physical Address: 3825 HWY 128
City: CAUSTITA
Standard Industrial Classification (SIC) Code(s): 2084

Facility WDID No: 2281014091
Contact Person: COLEEN WILLIAMS
e-mail: COLSTDEY@aol.com
CA Zip: 94515 Phone: 707 9425310

B. Facility Operator Information: SAME AS ABOVE

Operator Name: _____
Mailing Address: _____
City: _____

Contact Person: _____
e-mail: _____
State: _____ Zip: _____ Phone: _____

C. Facility Billing Information: SAME AS ABOVE

Operator Name: _____
Mailing Address: _____
City: _____

Contact Person: _____
e-mail: _____
State: _____ Zip: _____ Phone: _____

2006-2007
ANNUAL REPORT
SPECIFIC INFORMATION

MONITORING AND REPORTING PROGRAM

D. SAMPLING AND ANALYSIS EXEMPTIONS AND REDUCTIONS

1. For the reporting period; was your facility exempt from collecting and analyzing samples from **two** storm events in accordance with sections B.12 or 15 of the General Permit?

YES Go to Item D.2 **NO** Go to Section E

2. Indicate the reason your facility is exempt from collecting and analyzing samples from **two** storm events. Attach a copy of the first page of the appropriate certification if you check boxes ii, iii, iv, or v.

i. Participating in an Approved Group Monitoring Plan **Group Name:** _____

ii. Submitted **No Exposure Certification (NEC)** **Date Submitted:** _____

Re-evaluation Date: _____

Does facility continue to satisfy NEC conditions? **YES** **NO**

iii. Submitted **Sampling Reduction Certification (SRC)** **Date Submitted:** _____

Re-evaluation Date: _____

Does facility continue to satisfy SRC conditions? **YES** **NO**

iv. Received Regional Board Certification **Certification Date:** _____

v. Received Local Agency Certification **Certification Date:** _____

3. If you checked boxes i or iii above, were you scheduled to sample **one** storm event during the reporting year?

YES Go to Section E **NO** Go to Section F

4. If you checked boxes ii, iv, or v, go to Section F.

E. SAMPLING AND ANALYSIS RESULTS

1. How many storm events did you sample? 1 If less than 2, **attach explanation** (if you checked item D.2.i or iii. above, only attach explanation if you answer "0").

2. Did you collect storm water samples from the first storm of the wet season that produced a discharge during scheduled facility operating hours? (Section B.5 of the General Permit)

YES **NO, attach explanation** (Please note that if you do not sample the first storm event, you are still required to sample 2 storm events)

3. How many storm water discharge locations are at your facility? 1

4. For each storm event sampled, did you collect and analyze a sample from each of the facility's storm water discharge locations? YES. go to Item E.6 NO
5. Was sample collection or analysis reduced in accordance with Section B.7.d of the General Permit? YES NO. attach explanation
- If "YES", attach documentation supporting your determination that two or more drainage areas are substantially identical.
- Date facility's drainage areas were last evaluated _____
6. Were all samples collected during the first hour of discharge? YES NO. attach explanation
7. Was all storm water sampling preceded by three (3) working days without a storm water discharge? YES NO. attach explanation
8. Were there any discharges of stormwater that had been temporarily stored or contained? (such as from a pond) YES NO. go to Item E.10
9. Did you collect and analyze samples of temporarily stored or contained storm water discharges from two storm events? (or one storm event if you checked item D.2.i or iii. above) YES NO. attach explanation
10. Section B.5. of the General Permit requires you to analyze storm water samples for pH, Total Suspended Solids (TSS), Specific Conductance (SC), Total Organic Carbon (TOC) or Oil and Grease (O&G), other pollutants likely to be present in storm water discharges in significant quantities, and analytical parameters listed in Table D of the General Permit:
- a. Does Table D contain any additional parameters related to your facility's SIC code(s)? YES NO, Go to Item E.11.
- b. Did you analyze all storm water samples for the applicable parameters listed in Table D? YES NO
- c. If you did not analyze all storm water samples for the applicable Table D parameters, check one of the following reasons:
- _____ In prior sampling years, the parameter(s) have not been detected in significant quantities from two consecutive sampling events. **Attach explanation**
- _____ The parameter(s) is not likely to be present in storm water discharges and authorized non-storm water discharges in significant quantities based upon the facility operator's evaluation. **Attach explanation**
- _____ Other. **Attach explanation**
11. For each storm event sampled, attach a copy of the laboratory analytical reports and report the sampling and analysis results using Form 1 or its equivalent. The following must be provided for each sample collected:
- Date and time of sample collection
 - Name and title of sampler.
 - Parameters tested.
 - Name of analytical testing laboratory.
 - Discharge location identification.
 - Testing results.
 - Test methods used.
 - Test detection limits.
 - Date of testing.
 - Copies of the laboratory analytical results.

GENERAL OBSERVATIONS

Authorized Non-Storm Water Discharges

Section B.3.b of the General Permit requires quarterly visual observations of all authorized non-storm water discharges and their sources.

Do authorized non-storm water discharges occur at your facility?

YES NO Go to Item F.2

Indicate whether you visually observed all authorized non-storm water discharges and their sources during the quarters when they were discharged. **Attach an explanation for any "NO" answers.** Indicate "N/A" for quarters without any authorized non-storm water discharges.

July -September YES NO N/A October-December YES NO N/A

January-March YES NO N/A April-June YES NO N/A

c. Use **Form 2** to report quarterly visual observations of authorized non-storm water discharges or provide the following information.

- i. name of each authorized non-storm water discharge
- ii. date and time of observation
- iii. source and location of each authorized non-storm water discharge
- iv. characteristics of the discharge at its source and impacted drainage area/discharge location
- v. name, title, and signature of observer
- vi. any new or revised BMPs necessary to reduce or prevent pollutants in authorized non-storm water discharges. Provide new or revised BMP implementation date.

2. Unauthorized Non-Storm Water Discharges

Section B.3.a of the General Permit requires quarterly visual observations of all drainage areas to detect the presence of unauthorized non-storm water discharges and their sources.

a. Indicate whether you visually observed all drainage areas to detect the presence of unauthorized non-storm water discharges and their sources. **Attach an explanation for any "NO" answers.**

July -September YES NO October-December YES NO

January-March YES NO April-June YES NO

b. Based upon the quarterly visual observations, were any unauthorized non-storm water discharges detected?

YES NO Go to item F.2.d

c. Have each of the unauthorized non-storm water discharges been eliminated or permitted?

YES NO **Attach explanation**

d. Use **Form 3** to report quarterly unauthorized non-storm water discharge visual observations or provide the following information.

- i. name of each unauthorized non-storm water discharge.
- ii. date and time of observation.
- iii. source and location of each unauthorized non-storm water discharge.
- iv. characteristics of the discharge at its source and impacted drainage area/discharge location.
- v. name, title, and signature of observer.
- vi. any corrective actions necessary to eliminate the source of each unauthorized non-storm water discharge and to clean impacted drainage areas. Provide date unauthorized non-storm water discharge(s) was eliminated or scheduled to be eliminated.

G. MONTHLY WET SEASON VISUAL OBSERVATIONS

Section B.4.a of the General Permit requires you to conduct monthly visual observations of storm water discharges at all storm water discharge locations during the wet season. These observations shall occur during the first hour of discharge or, in the case of temporarily stored or contained storm water, at the time of discharge.

1. Indicate below whether monthly visual observations of storm water discharges occurred at all discharge locations. **Attach an explanation for any "NO" answers.** Include in this explanation whether any eligible storm events occurred during scheduled facility operating hours that did not result in a storm water discharge, and provide the date, time, name and title of the person who observed that there was no storm water discharge.

	YES	NO		YES	NO
October	<input type="checkbox"/>	<input checked="" type="checkbox"/>	February	<input checked="" type="checkbox"/>	<input type="checkbox"/>
November	<input checked="" type="checkbox"/>	<input type="checkbox"/>	March	<input checked="" type="checkbox"/>	<input type="checkbox"/>
December	<input checked="" type="checkbox"/>	<input type="checkbox"/>	April	<input type="checkbox"/>	<input checked="" type="checkbox"/>
January	<input type="checkbox"/>	<input checked="" type="checkbox"/>	May	<input type="checkbox"/>	<input checked="" type="checkbox"/>

2. Report monthly wet season visual observations using **Form 4** or provide the following information.
 - a. date, time, and location of observation
 - b. name and title of observer
 - c. characteristics of the discharge (i.e., odor, color, etc.) and source of any pollutants observed.
 - d. any new or revised BMPs necessary to reduce or prevent pollutants in storm water discharges. Provide new or revised BMP implementation date.

ANNUAL COMPREHENSIVE SITE COMPLIANCE EVALUATION (ACSCE)

H. ACSCE CHECKLIST

Section A.9 of the General Permit requires the facility operator to conduct one ACSCE in each reporting period (July 1-June 30). Evaluations must be conducted within 8-16 months of each other. The SWPPP and monitoring program shall be revised and implemented, as necessary, within 90 days of the evaluation. The checklist below includes the minimum steps necessary to complete a ACSCE. Indicate whether you have performed each step below. **Attach an explanation for any "NO" answers.**

1. Have you inspected all potential pollutant sources and industrial activities areas? YES NO
The following areas should be inspected:
 - areas where spills and leaks have occurred during the last year.
 - outdoor wash and rinse areas.
 - process/manufacturing areas.
 - loading, unloading, and transfer areas.
 - waste storage/disposal areas.
 - dust/particulate generating areas.
 - erosion areas.
 - building repair, remodeling, and construction
 - material storage areas
 - vehicle/equipment storage areas
 - truck parking and access areas
 - rooftop equipment areas
 - vehicle fueling/maintenance areas
 - non-storm water discharge generating areas
2. Have you reviewed your SWPPP to assure that its BMPs address existing potential pollutant sources and industrial activities areas? YES NO
3. Have you inspected the entire facility to verify that the SWPPP's site map, is up-to-date? The following site map items should be verified: YES NO
 - facility boundaries
 - outline of all storm water drainage areas
 - areas impacted by run-on
 - storm water discharges locations
 - storm water collection and conveyance system
 - structural control measures such as catch basins, berms, containment areas, oil/water separators, etc.

4. Have you reviewed all General Permit compliance records generated since the last annual evaluation?

YES NO

The following records should be reviewed:

- quarterly authorized non-storm water discharge visual observations
- quarterly unauthorized non-storm water discharge visual observations
- monthly storm water discharge visual observation
- Sampling and Analysis records
- records of spills/leaks and associated clean-up/response activities
- preventative maintenance inspection and maintenance records

5. Have you reviewed the major elements of the SWPPP to assure compliance with the General Permit?

YES NO

The following SWPPP items should be reviewed:

- pollution prevention team
- assessment of potential pollutant sources
- list of significant materials
- identification and description of the BMPs to be implemented for each potential pollutant source
- description of potential pollutant sources

6. Have you reviewed your SWPPP to assure that a) the BMPs are adequate in reducing or preventing pollutants in storm water discharges and authorized non-storm water discharges, and b) the BMPs are being implemented?

YES NO

The following BMP categories should be reviewed:

- good housekeeping practices
- preventative maintenance
- spill response
- material handling and storage practices
- employee training
- waste handling/storage
- erosion control
- structural BMPs
- quality assurance

7. Has all material handling equipment and equipment needed to implement the SWPPP been inspected?

YES NO

I. ACSCE EVALUATION REPORT

The facility operator is required to provide an evaluation report that includes:

- identification of personnel performing the evaluation
- schedule for implementing SWPPP revisions
- the date(s) of the evaluation
- any incidents of non-compliance and the corrective actions taken.
- necessary SWPPP revisions

Use **Form 5** to report the results of your evaluation or develop an equivalent form.

J. ACSCE CERTIFICATION

The facility operator is required to certify compliance with the Industrial Activities Storm Water General Permit. To certify compliance, both the SWPPP and Monitoring Program must be up to date and be fully implemented.

Based upon your ACSCE, do you certify compliance with the Industrial Activities Storm Water General Permit?

YES NO

If you answered "NO" **attach an explanation** to the ACSCE Evaluation Report why you are not in compliance with the Industrial Activities Storm Water General Permit.

ATTACHMENT SUMMARY

Answer the questions below to help you determine what should be attached to this annual report. Answer NA (Not Applicable) to questions 2-4 if you are not required to provide those attachments.

- 1. Have you attached Forms 1,2,3,4, and 5 or their equivalent? YES (Mandatory)

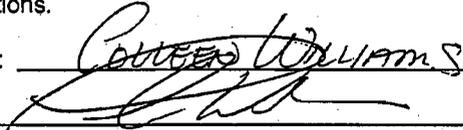
- 2. If you conducted sampling and analysis, have you attached the laboratory analytical reports? YES NO NA

- 3. If you checked box II, III, IV, or V in item D.2 of this Annual Report, have you attached the first page of the appropriate certifications? YES NO NA

- 4. Have you attached an explanation for each "NO" answer in items E.1, E.2, E.5-E.7, E.9, E.10.c, F.1.b, F.2.a, F.2.c, G.1, H.1-H.7, or J? YES NO NA

ANNUAL REPORT CERTIFICATION

I am duly authorized to sign reports required by the INDUSTRIAL ACTIVITIES STORM WATER GENERAL PERMIT (see Standard Provision C.9) and I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those person directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Printed Name: COLLEEN WILLIAMS
Signature:  Date: 8/21/07
Title: VP OPERATIONS