



Linda S. Adams
Secretary for
Environmental Protection

California Regional Water Quality Control Board
Santa Ana Region

3737 Main Street, Suite 500, Riverside, California
Phone (951) 782-4130 • FAX (951) 781-6288 •
www.waterboards.ca.gov/santaana

May 18, 2010

Friends Christian School
4231 Rose Drive
Yorba Linda, CA 92805

Attn: Mr. Rick Kempton

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Sent To: *Friends Christian School*
Street, Apt. No., or PO Box No. *4231 Rose Dr.*
City, State, ZIP+4 *Yorba Linda CA 92805*

PS Form 3800, August 2006
See Reverse for Instructions

TRANSMITTAL OF ADMINISTRATIVE CIVIL LIABILITY (ACL) COMPLAINT, FRIENDS CHRISTIAN SCHOOL, ACL COMPLAINT NO. R8-2010-0023

Dear Mr. Kempton:

Enclosed is a certified copy of Administrative Civil Liability Complaint No. R8-2010-0023 (hereinafter "Complaint"). The Complaint alleges that Friends Christian School has violated the General Permit for Storm Water Discharges Associated with Construction Activity, Order No. 99-08-DWQ by discharging pollutants to navigable waters of the United States from its construction site located at the northeast corner of Bastanchury Road and Casa Loma Road in Yorba Linda, California. The Complaint proposes that administrative civil liability in the amount of fifty-eight thousand dollars (\$58,000) be imposed as authorized by California Water Code, pursuant §13385(c). In addition to the Complaint, we are enclosing a Waiver Form and Hearing Procedures that set forth important requirements and deadlines for participation in the hearing. Additionally, a Fact Sheet describing the Complaint process is available at:

http://www.waterboards.ca.gov/santaana/public_notices/enforcement_actions.shtml

The Fact Sheet describes the Complaint process and explains what you can expect and your obligations as the process proceeds. If you prefer, you may obtain a hard copy of the Fact Sheet by contacting Mary Bartholomew at (951) 321-4586.

Please read each document carefully. This Complaint may result in the issuance of an order by the Regional Board requiring that you pay a penalty.

If necessary, a public hearing on this matter will be scheduled for the Regional Board meeting on July 23, 2010. The staff report regarding this Complaint and the meeting agenda will be mailed to you not less than 10 days prior to the hearing.

Pursuant to California Water Code Section 13323, Friends Christian School has the option to waive its right to a hearing. Should Friends Christian School waive its right to a hearing and pay the proposed assessment, the Regional Board may not hold a public hearing on this matter. If Friends Christian School chooses to waive its right to a hearing, please sign and submit the enclosed Waiver Form with a check for fifty-eight thousand dollars (\$58,000) made payable to the

California Environmental Protection Agency



May 18, 2010

State Water Pollution Cleanup and Abatement Account. The Waiver Form, the check, and any other correspondence regarding this Complaint should be sent to the Regional Board office in the enclosed pre-printed envelope.

If Friends Christian School does not wish to waive its right to a hearing, a pre-hearing meeting as set forth in the Hearing Procedure is recommended. Should you wish to schedule a pre-hearing meeting, please submit your request to Mary Bartholomew (951) 321-4586 or email: mbartholomew@waterboards.ca.gov prior to June 23, 2010.

If you have any questions about the Complaint or the enclosed documents, please contact Mary Bartholomew at (951) 321-4586 (email at mbartholomew@waterboards.ca.gov), Mark Smythe at (951) 782-4998 (email at msmythe@waterboards.ca.gov) or me at (951) 782-3238 (email at madackapara@waterboards.ca.gov). All legal questions should be directed to Reed Sato at (916) 341-5889 (rsato@waterboards.ca.gov), Director, Office of Enforcement.

Sincerely,



Michael J. Adackapara
Division Chief
Regional Board Prosecution Team

Enclosures: Complaint No. R8-2010-0023
Hearing Procedures
Waiver Form
Pre-printed envelope

cc: Board Members
Executive Officer (Regional Board Advisory Team)
State Water Resources Control Board, Office of Chief Counsel – David Rice
(Regional Board Advisory Team Attorney)
State Water Resources Control Board, Division of Water Quality – Bruce Fujimoto
State Water Resources Control Board, Office of Enforcement – Reed Sato
(Regional Board Prosecution Team Attorney)
U.S. Environmental Protection Agency, Region 9 (WTR-7) – Ken Greenberg
Orange County, Public Works – Richard Boon
City of Yorba Linda, NPDES Coordinator – Howard Weldon
FCHS Building Committee, Chairman – Michael Kairis
Friends Christian High School, 18615 Yorba Linda Boulevard, Yorba Linda, California 92886

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pollutants in storm water discharges from their construction sites to the BAT/BCT¹ performance standard.”

C) Section A.6:

“At a minimum, the discharger/operator must implement an effective combination of erosion and sediment control on all disturbed areas during the rainy season...”

5. THIS COMPLAINT IS BASED ON THE FOLLOWING FACTS:

- a. The General Permit regulates storm water discharges from construction activities of one acre or greater to waters of the United States. The Discharger is a private preschool through high school educational institution with headquarters located at 4231 Rose Drive in Yorba Linda, California. According to the Notice of Intent, filed by the Discharger, construction activity on the 32-acre site of Friends Christian High School, located at the northeast corner of Bastanchury Road and Casa Loma Avenue in Yorba Linda, California, began on April 1, 2008. Runoff from the site is regulated under the State's General Permit, WDID No. 8 30C351141. Runoff from the site drains via the City's municipal storm drain system to Carbon Creek, which confluences with Reach 2 of the Santa Ana River.
- b. On April 28, 2009, Board staff conducted a routine inspection of the construction site. Staff observed that the perimeter sediment controls were inadequate, were not maintained and the storm drain inlet adjacent to Bastanchury Road had not been adequately protected. This is a violation of Special Provision C.2. of the General Permit.
- c. On May 14, 2009, the Discharger was issued a Notice of Violation (NOV) via certified mail that cited its inadequate implementation of sediment control measures. The letter required that the Discharger submit a response to the Regional Board citing the actions that had been taken to come into compliance. The certified return receipt showed that the letter was received by the Discharger on May 19, 2009. A response date of May 26, 2009 was set in the NOV. The Discharger did not respond to the NOV by the date specified in the NOV.
- d. On June 11, 2009, Board staff conducted a follow-up inspection of the construction site. Staff observed that no changes had been made to improve site conditions since the previous inspection.
- e. On June 25, 2009, Board staff met with the Discharger representatives to discuss the May 14, 2009 NOV. At that meeting, school representatives presented a plan and compliance schedule that had been developed.
- f. On January 21, 2010, Board staff conducted a routine inspection of the construction site during a storm event. Staff observed a lack of erosion and sediment controls, resulting in the discharge of sediment-laden water from the site to the municipal separate storm sewer system. Soil stockpiles, without any erosion or sediment controls, were observed next to the main drainage channel within the facility. Mass graded areas did not have any erosion controls and the only sediment controls were a few sandbags along Bastanchury Road within the property boundary. Some of the sandbags had disintegrated and most of them were not properly installed. A few fiber-rolls were stockpiled at the site but none were properly

¹ BAT is the acronym for Best Available Technology; BCT is the acronym for Best Conventional Technology.

installed. There was one sediment basin that received run-on from the development east of the site, but was not properly designed, did not remove sediment from on-site runoff and had asphalt piles in and adjacent to it. These are violations of Provision A.3, Special Provision C.2 and Section A.6 of the General Permit.

- g. On February 11, 2010, the Discharger was issued another NOV via certified mail that cited their lack of implementation of an adequate Storm Water Pollution Prevention Plan (SWPPP). The NOV required immediate implementation of an adequate combination of erosion and sediment controls and a response to staff by February 18, 2010. The certified mail receipt showed that the Discharger received the NOV on February 12, 2010.
 - h. On February 17, 2010, Board staff conducted a follow-up inspection of the construction site. Again, staff observed a lack of an adequate combination of erosion and sediment controls. A basin had been constructed to address some of the flows from approximately eight acres of the northeast portion of the site. However, the basin had filled with sediment from the rain that occurred since the construction of the basin, due to a lack of adequate erosion controls up-gradient of the basin, as well as a lack of proper maintenance of the basin.
 - i. On February 22, 2010, Hunsaker & Associates, Civil Engineers for the Discharger, submitted a temporary basin drawing for three sediment control basins and for check dams within the main drainage channel within the site.
 - j. On February 27, 2010, Board staff conducted a routine inspection of the construction site during another storm event. Staff still observed inadequate erosion and sediment controls on the western portion of the site and a lack of adequately maintained sediment controls on the eastern portion of the site. The sediment basins at the site were not properly maintained. The inadequate controls resulted in the discharge of sediment-laden water from the site to the municipal separate storm sewer system in violation of the General Permit.
 - k. On March 1, 2010, Board staff conducted a follow-up inspection at the construction site and met with the Discharger representatives to discuss the violations observed during the February 27, 2010 inspection.
6. The Discharger violated the General Permit by discharging storm water containing pollutants to waters of the United States from the construction site and by causing or threatening to cause a condition of pollution or nuisance. The Discharger also violated the General Permit by failing to develop and properly implement an effective SWPPP and by failing to maintain adequate pollution control measures. Pursuant to Water Code Section 13385(a)(2), civil liability may be imposed for the preceding violations.
 7. Pursuant to CWC §13385(c), the Regional Board may impose civil liability administratively for the above violations on a daily basis at a maximum of ten thousand dollars (\$10,000) for each day in which the violation occurs in accordance with CWC §13385(c)(1); or where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons in accordance with CWC §13385(c)(2); or both.
 8. Pursuant to Section 13385(c), the total maximum assessment for which the Discharger is civilly liable is \$4,967,890 [\$30,000 for 3 days of violation that staff observed @ \$10,000/day; \$3,006,340 for the January 21, 2010 discharge [300,634 gallons @ \$10/gallon]; and \$1,931,550

for the February 27, 2010 discharge [193,155 gallons @ \$10/gallon]] for the violations cited in Paragraph 5, above.

9. CWC §13385(e) specifies factors that the Regional Board shall consider in establishing the amount of civil liability. Consideration of these factors is addressed in the following table.

Factor	Comment
A. Nature, Circumstances, Extent and Gravity of Violation	<p>The Discharger did not develop and implement adequate pollution control measures at its construction site. Storm water containing pollutants was discharged into tributaries of the Santa Ana River. Photos taken at the site indicated that the discharges contained high sediment loads. Staff also considered the fact that there was significant run-on to the site from the City's unfinished storm sewer system that emptied on to the site. The discharges were to a tributary of the Santa Ana River and could have potentially impacted the beneficial uses of the receiving waters.</p>
B. Culpability	<p>The Discharger did not implement adequate pollution control measures and discharged storm water containing pollutants to waters of the U.S. The Discharger violated the terms of the General Permit by failing to develop and implement an adequate site-specific Storm Water Pollution Prevention Plan. Despite several requests from Board staff, including two NOVs, the Discharger did not come into compliance in a timely manner. The delays in implementing adequate pollution control measures resulted in the discharge of polluted storm water from the site. The Discharger is fully culpable for these violations.</p>
C. Economic Benefit or Savings	<p>The Discharger saved approximately \$12,400 by delaying the installation of erosion and sediment control measures, including the installation of sediment basins. These savings are calculated based on the deferred maintenance costs. Section 13385(e) requires that at a minimum liability shall be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation. This assessment is adequate to recover these savings.</p>
D. Prior History of Violations	<p>During the 2008-2009 rainy season, the Discharger failed to adequately implement erosion and sediment controls at the site, resulting in an NOV and a meeting at the site to discuss the non-compliance. Further, the Discharger is in a joint venture with the Yorba Linda Friends Church and the Rose Drive Friends Church. Yorba Linda Friends Church (WDID No. 8 30C311295) received an NOV on April 19, 2000, and Rose Drive Friends Church (WDID No. 8 30C313697) received an NOV on April 16, 2001, both for similar violations at construction sites.</p>
E. Staff Costs	<p>Regional Board staff spent approximately 76 hours investigating and responding to this incident. The total cost for staff time is \$11,400 (76 hrs @ \$150/hr). Justice may require the consideration of the amount of staff costs incurred by staff in investigating and enforcing against the alleged violations.</p>

F. Ability to pay	The Discharger operates a number of private schools in Orange County. These schools charge a tuition fee and are co-sponsored by the Rose Drive and Yorba Linda Friends Churches. These churches are incorporated as non-profit organizations. These organizations have not provided any information to indicate that it is unable to pay the proposed assessment.
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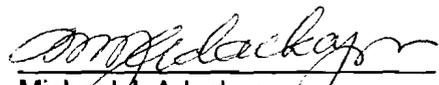
10. This penalty assessment is based on a consideration of the potential for harm from the excessive discharge of sediment-laden storm water and the repeated failure to implement adequate control measures in a timely manner. After consideration of the above factors, the Division Chief proposes that civil liability be imposed administratively on the Discharger in the amount of fifty-eight thousand dollars (\$58,000) for the violations cited above. This amount includes: (1) \$4,500 for three days of violations at \$1,500 per day (adjusted for culpability, cleanup cooperation and history of violations); (2) \$42,100 for the discharge of 493,789 gallons at \$0.085 per gallon (adjusted for culpability, cleanup cooperation and history of violations); and (3) staff costs of \$11,400.

WAIVER OF HEARING

The Discharger may waive its right to a hearing. If the Discharger chooses to do so, please sign the attached waiver form and return it, together with a check for \$58,000 payable to the State Water Pollution Cleanup and Abatement Account, in the enclosed preprinted envelope. If you waive your right to a hearing and pay the assessed amount, the Regional Board may not hold a hearing regarding this Complaint.

If you have any questions, please contact Mary Bartholomew at (951) 321-4586, Mark Smythe at (951) 782-4998, or me at (951) 782-3238. Legal questions should be directed to Reed Sato at (916) 341-5889.

May 18, 2010
Date


Michael J. Adackapara
Division Chief
Regional Board Prosecution Team



California Regional Water Quality Control Board

Santa Ana Region



Linda S. Adams
Secretary for
Environmental Protection

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Arnold Schwarzenegger
Governor

HEARING PROCEDURE
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT
NO. R8-2010-0023
ISSUED TO
Friends Christian School
4231 Rose Drive
Yorba Linda, CA 92805
Orange County

SCHEDULED FOR JULY 23, 2010

PLEASE READ THIS HEARING PROCEDURE CAREFULLY. FAILURE TO COMPLY WITH THE DEADLINES AND OTHER REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF YOUR DOCUMENTS AND/OR TESTIMONY.

Background

The Division Chief has issued an Administrative Civil Liability Complaint (hereinafter "Complaint") pursuant to California Water Code Section 13323 against Friends Christian School (hereinafter "Discharger") alleging that it has violated the General Permit for Storm Water Discharges Associated with Construction Activity, Order No. 99-08-DWQ by discharging pollutants to navigable waters of the United States associated with its construction activity. The Complaint proposes that administrative civil liability in the amount of \$58,000 be imposed as authorized by Water Code Section 13385(c). A hearing is currently scheduled to be held before the Regional Board during its July 23, 2010 meeting.

Purpose of Hearing

The purpose of the hearing is to consider relevant evidence and testimony regarding the Complaint. At the hearing, the Regional Board will consider whether to issue an administrative civil liability order assessing the proposed liability, or a higher or lower amount, or reject the proposed liability. The public hearing on July 23, 2010 will commence at 9:00 a.m. or as soon thereafter as practicable, or as announced in the Regional Board meeting agenda. The meeting will be held at the Loma Linda City Council Chambers, 25541 Barton Road, City of Loma Linda, California. An agenda for the meeting will be issued at least ten days before the meeting and posted on the Regional Board's web page at:

http://www.waterboards.ca.gov/santaana/board_info/agendas/index.shtml.

The agenda will include the final hearing date and location, and the start time for the meeting. Since the exact start time for this item is unpredictable, all interested parties are urged to be present from the start of the Board meeting.

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Hearing Procedures

The hearing will be conducted in accordance with this hearing procedure. This hearing procedure has been pre-approved by the Regional Board's Advisory Team in model format. A copy of the general procedures governing adjudicatory hearings before the Regional Board may be found at Title 23 of the California Code of Regulations, Section 648 et seq., and is available at <http://www.waterboards.ca.gov> or upon request. In accordance with Section 648, subdivision (d), any procedure not provided by this Hearing Procedure is deemed waived. Except as provided in Section 648 and herein, subdivision (b), Chapter 5 of the Administrative Procedures Act (commencing with Section 11500 of the Government Code) does not apply to this hearing.

THE PROCEDURES AND DEADLINES HEREIN MAY BE AMENDED BY THE ADVISORY TEAM AT ITS DISCRETION. ANY OBJECTIONS TO THE HEARING PROCEDURE MUST BE RECEIVED BY THE REGIONAL BOARD'S ADVISORY TEAM BY JUNE 9, 2010 OR THEY WILL BE WAIVED. FAILURE TO COMPLY WITH THE DEADLINES AND REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF DOCUMENTS AND/OR TESTIMONY.

Hearing Participants

Participants in this proceeding are designated as either "parties" or "interested persons." Designated parties to the hearing may present evidence and cross-examine witnesses and are subject to cross-examination. Interested persons generally may not submit evidence, cross-examine witnesses, or be subject to cross-examination, but may present policy statements. Policy statements may include comments on any aspect of the proceeding, but may not include evidence (e.g., photographs, eye-witness testimony, monitoring data). Interested persons who would like to submit evidence may do so if the evidence is submitted in accordance with the procedures and deadlines for submitting evidence described below. Interested persons who present evidence may be subject to cross-examination. Both designated parties and interested persons may be asked to respond to clarifying questions from the Regional Board, staff or others, at the discretion of the Regional Board.

The following participants are hereby designated as parties in this proceeding:

- (1) Regional Board Prosecution Team
- (2) Friends Christian School, also referred to as the Discharger

Requesting Designated Party Status

Persons who wish to participate in the hearing as a designated party must request party status by submitting a request in writing (with copies to the existing designated parties) so that it is received by 5 p.m. on May 25, 2010 by Advisory Team Attorney David Rice, davidrice@waterboards.ca.gov. The request shall include an explanation of the basis for status as a designated party (e.g., how the issues to be addressed in the hearing and the potential actions by the Regional Board affect the person), the information required of designated parties as provided below, and a statement explaining why the party or parties designated above do not adequately represent the person's interest. Any opposition to the request must be received by the Advisory Team, the person requesting party status, and all parties by 5 p.m. on June 1, 2010. The parties will be notified by 5 p.m. on June 23, 2010 in writing whether the request has been granted or denied.

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Primary Contacts

Advisory Team: **David Rice (email: Davidrice@waterboards.ca.gov)**
Phone: 916-341-5182
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Prosecution Team: **Reed Sato (email: rsato@waterboards.ca.gov)**
Phone: 916-322-3227
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Discharger: **Rick Kempton**
Email: (currently not available)
Phone: 714-528-6608
Friends Christian School
4231 Rose Drive
Yorba Linda, CA 92805

Separation of Functions

To help ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the Regional Board (Prosecution Team) have been separated from those who will provide advice to the Regional Board (Advisory Team). Members of the Advisory Team are: David Rice, Staff Counsel, State Water Resources Control Board and Kurt Berchtold, Assistant Executive Officer, Santa Ana Regional Water Quality Control Board. Members of the Prosecution Team are: Reed Sato, Office of Enforcement, State Water Resources Control Board; Michael Adackapara, Division Chief, Santa Ana Regional Water Quality Control Board; Mark Smythe, Coastal Storm Water Unit Chief; Michael Kashak, Environmental Scientist, Santa Ana Regional Water Quality Control Board; and Mary Bartholomew, Environmental Scientist, Santa Ana Regional Water Quality Control Board. Any members of the Advisory Team who normally supervise any members of the Prosecution Team are not acting as their supervisors in this proceeding, and vice versa. Members of the Prosecution Team may have acted as advisors to the Regional Board in other, unrelated matters, but they are not advising the Regional Board in this proceeding. Members of the Prosecution Team have not had any ex parte communications with the members of the Regional Board or the Advisory Team regarding this proceeding.

Ex Parte Communications

The designated parties and interested persons are forbidden from engaging in ex parte communications regarding this matter with members of the Advisory Team or members of the Regional Board. An ex parte contact is any written or verbal communication pertaining to the investigation, preparation, or prosecution of the Complaint between a member of a designated party or interested person on the one hand, and a Regional Board member or an Advisory Team member on the other hand, unless the communication is copied to all other designated parties (if written) or made in a manner open to all other designated parties (if verbal).

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Communications regarding non-controversial procedural matters are not ex parte contacts and are not restricted. Communications among one or more designated parties and interested persons themselves are not ex parte contacts.

Hearing Time Limits

To ensure that all participants have an opportunity to participate in the hearing, the following time limits shall apply: Each designated party shall have a combined 20 minutes to present evidence, cross-examine witnesses (if warranted), and provide a closing statement; and each interested person shall have 3 minutes to present a non-evidentiary policy statement. Participants with similar interests or comments are requested to make joint presentations, and participants are requested to avoid redundant comments. Participants who would like additional time must submit their request to the Advisory Team so that it is received no later than July 12, 2010. Additional time may be provided at the discretion of the Advisory Team (prior to the hearing) or the Regional Board Chair (at the hearing) upon a showing that additional time is necessary.

Submission of Evidence and Policy Statements

The following information must be submitted in advance of the hearing:

1. All evidence (other than witness testimony to be presented orally at the hearing) that the Designated Party would like the Regional Board to consider. Evidence and exhibits already in the public files of the Regional Board may be submitted by reference as long as the exhibits and their location are clearly identified in accordance with Title 23, CCR, Section 648.3.
2. All legal and technical arguments or analysis.
3. The name of each witness, if any, whom the designated party intends to call at the hearing, the subject of each witness' proposed testimony, and the estimated time required by each witness to present direct testimony.
4. The qualifications of each expert witness, if any.
5. If the Discharger intends to argue an inability to pay the civil liability proposed in the Complaint (or an increased or decreased amount as may be imposed by the Regional Board), the Discharger should submit supporting evidence as set forth in the "ACL Fact Sheet" under "Factors that must be considered by the Board."

The Prosecution Team shall submit 15 hard copies of its information and one electronic copy of the information to Advisory Team Attorney David Rice so that it is received by 5 p.m. on June 23, 2010.

The remaining designated parties shall submit 15 hard copies of their information and one electronic copy of the information to Advisory Team Attorney David Rice so that they are received by 5 p.m. on July 1, 2010.

Any designated party that would like to submit information that rebuts the information previously submitted by other designated parties shall submit 15 hard copies of their rebuttal information and one electronic copy of the information to Advisory Team Attorney David Rice so that they are received by 5 p.m. on July 12, 2010. Rebuttal information shall be limited to the scope of the information previously submitted by the other designated parties. Rebuttal information that is not responsive to information previously submitted by other designated parties may be excluded.

If the total amount of information submitted by any party is less than 15 pages, that party may submit the information by email, rather than in writing. In addition to the foregoing, each designated party shall submit (1) one copy of the above information to each of the other designated parties so that it is received by 5 p.m. on the deadline specified above.

Interested persons who would like to submit written non-evidentiary policy statements are encouraged to submit them to the Advisory Team as early as possible, but no later than July 8, 2010. Interested persons do not need to submit written non-evidentiary policy statements in order to speak at the hearing.

In accordance with Title 23, California Code of Regulations, Section 648.4, the Regional Board endeavors to avoid surprise testimony or evidence. Absent a showing of good cause and lack of prejudice to the parties, the Regional Board may exclude evidence and testimony that is not submitted in accordance with this hearing procedure. Excluded evidence and testimony will not be considered by the Regional Board and will not be included in the administrative record for this proceeding. Power Point and other visual presentations may be used at the hearing, but their content may not exceed the scope of other submitted written material. A copy of such material intended to be presented at the hearing must be submitted to the Advisory Team by July 12, 2010 for inclusion in the administrative record. Additionally, any witness who has submitted written testimony for the hearing shall appear at the hearing and affirm that the written testimony is true and correct, and shall be available for cross-examination.

Request for Pre-hearing Conference

A designated party may request that a pre-hearing conference be held before the hearing in accordance with Water Code Section 13228.15. A pre-hearing conference may address any of the matters described in subdivision (b) of Government Code Section 11511.5. Requests must contain a description of the issues proposed to be discussed during that conference, and must be submitted to the Advisory Team, with a copy to all other designated parties, as early as practicable.

Evidentiary Objections

Any designated party objecting to written evidence or exhibits submitted by another designated party must submit a written objection to the Advisory Team and all other designated parties so that it is received by 5 p.m. on July 12, 2010. The Advisory Team will notify the parties about further action to be taken on such objections and when that action will be taken.

Evidentiary Documents and File

The Complaint and related evidentiary documents are on file and may be inspected or copied at the Regional Board office at 3737 Main Street, Suite 500, Riverside, CA 92501 by contacting August Lucas (email: alucas@waterboards.ca.gov; phone: 951-782-7961). This file shall be considered part of the official administrative record for this hearing. Other submittals received for this proceeding will be added to this file and will become a part of the administrative record absent a contrary ruling by the Regional Board Chair. Many of these documents are also posted on-line at:

http://www.waterboards.ca.gov/santaana/public_notices/enforcement_actions.shtml.

Although the web page is updated regularly, to assure access to the latest information, you may contact Reed Sato (rsato@waterboards.ca.gov).

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Questions

Questions concerning this proceeding may be addressed to the Advisory Team Attorney David Rice (davidrice@waterboards.ca.gov).

IMPORTANT DEADLINES

(Note: the Regional Board is required to provide a hearing within 90 days of issuance of the Complaint (Water Code Section 13323). The Advisory Team will generally adhere to this schedule unless the discharger waives that requirement.)

May 18, 2010	Prosecution Team issues Complaint to Discharger and Advisory Team, sends Hearing Procedure to Discharger and Advisory Team, and publishes Public Notice.
May 25, 2010	Deadline for requests for designated party status
June 01, 2010	Deadline for oppositions to requests for designated party status
June 09, 2010	Deadline for objections, if any, to proposed Hearing Procedure
June 23, 2010	Discharger's deadline for waiving right to hearing
June 23, 2010	Advisory Team issues decision on requests for designated party status, if any
June 23, 2010	Prosecution Team's deadline for all information required under "Submission of Evidence and Policy Statements"
July 01, 2010	Remaining Designated Parties' Deadline for all information required under "Submission of Evidence and Policy Statements"
July 08, 2010	Interested Persons' deadline for written non-evidentiary policy statements
July 12, 2010	All Designated Parties' deadline for rebuttal information and evidentiary objections, if any
July 12, 2010	Deadline for submission of hearing presentation material
July 12, 2010	Deadline for requests of additional time
July 23, 2010	Public Hearing


Michael J. Adackapara
Division Chief

Regional Board Prosecution Team


Date



California Regional Water Quality Control Board

Santa Ana Region



3737 Main Street, Suite 500, Riverside, California 92501-3348
Phone (951) 782-4130 • FAX (951) 781-6288 • TDD (951) 782-3221
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Linda S. Adams
Secretary for
Environmental Protection

Arnold Schwarzenegger
Governor

WAIVER FORM FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT

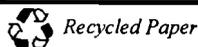
By signing this waiver, I affirm and acknowledge the following:

I am duly authorized to represent Friends Christian School (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint No. R8-2010-0023 (hereinafter the "Complaint"). I am informed that California Water Code Section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served [with the Complaint]. The person who has been issued a complaint may waive the right to a hearing."

(**OPTION 1: Check here if the Discharger waives the hearing requirement and will pay the liability in full.**)

- a. I hereby waive any right the Discharger may have to a hearing before the Regional Board.
- b. I certify that the Discharger will remit payment for the proposed civil liability in the full amount of fifty-eight thousand dollars (\$58,000) by check that references "Complaint No. R8-2010-0023" made payable to the State Water Pollution Cleanup and Abatement Account. Payment must be received by the Regional Board office no later than **June 23, 2010** or the Regional Board may adopt an Order requiring payment.
- c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after the 30-day public notice and comment period. Should the Regional Board receive significant new information or comments from any source (excluding the Regional Board's Prosecution Team) during this comment period, the Regional Board's Division Chief may withdraw the Complaint, return payment, and issue a new Complaint. I understand that this proposed settlement is subject to approval by the Executive Officer of the Regional Board, and that the Regional Board may consider this proposed settlement in a public meeting or hearing. I also understand that approval of the settlement will result in the Discharger having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
- d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

California Environmental Protection Agency



(OPTION 2: Check here if the Discharger waives the 90-day hearing requirement in order to engage in settlement discussions.) I hereby waive any right the Discharger may have to a hearing before the Regional Board within 90 days after service of the Complaint, but I reserve the ability to request a hearing in the future. I certify that the Discharger will promptly engage the Regional Board Prosecution Team in settlement discussions to attempt to resolve the outstanding violation(s). By checking this box, the Discharger requests that the Regional Board delay the hearing so that the Discharger and the Prosecution Team can discuss settlement. It remains within the discretion of the Regional Board to agree to delay the hearing. Any proposed settlement is subject to the conditions described above under "Option 1."

(OPTION 3: Check here if the Discharger waives the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines. Attach a separate sheet with the amount of additional time requested and the rationale.) I hereby waive any right the Discharger may have to a hearing before the Regional Board within 90 days after service of the Complaint. By checking this box, the Discharger requests that the Regional Board delay the hearing and/or hearing deadlines so that the Discharger may have additional time to prepare for the hearing. It remains within the discretion of the Regional Board to approve the extension.

(Print Name and Title)

(Signature)

(Date)