California Regional Water Quality Control Board
San Diego Region

Terry Tamminen
Secretary for Environmental Protection

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Arnold Schwarzenegger
Governor

June 17, 2004

Jeanne Noonan
Birtcher Commercial Development
27611 La Paz Rd
Laguna Niguel, CA 92677

Certified Mail – Return Receipt Requested
7003 3110 0006 1844 9010

In reply refer to:
CA:10-3011900:rodrv

Dear Jeanne Noonan:

ACCEPTANCE OF WAIVER OF PUBLIC HEARING

On June 10, 2004, the California Regional Water Quality Control Board, San Diego Region (Regional Board) accepted your decision to waive a public hearing regarding the violation of California Water Code 13260, failure to pay annual fees, described in Complaint No. R9-2004-0118. As a result, your payment of $1,310 has been deposited in the Cleanup and Abatement Account. The enclosed Order No. R9-2004-0196, adopted by the Regional Board on June 10, 2004, documents the conclusion of the administrative civil liability proceedings relating to this matter.

The heading portion of this letter includes a Regional Board code number noted after "In reply refer to:" In Order to assist us in the processing of your correspondence please include this code number in the hearing or subject line portion of all correspondence and reports to the Regional Board pertaining to this matter.

If you have any questions, please contact Vicente Rodriguez at (858) 627-3940 or rodrv@rb9.swrcb.ca.gov.

Respectfully,

JOHN H. ROBERTUS
Executive Officer

JHR:alc:vrr

Enclosure: Order No. R9-2004-0196

CA;Item11-ALL;rodrv-TL;June 10, 2004 ACL for failure to pay fees [ADOPTED] [vrr].doc

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

ORDER NO. R9-2004-0196

ADMINISTRATIVE ASSESSMENT OF CIVIL LIABILITY
AGAINST

BIRTCHER COMMERCIAL DEV/ PALM TERRACE

25521 25531 AND 25541 COMMERC
LAKE FOREST, CA
FOR FAILURE TO PAY ANNUAL FEES

The California Regional Water Quality Control Board, San Diego Region (hereinafter Regional Board), finds the following:

1. BIRTCHER COMMERCIAL DEV/ PALM TERRACE violated Section 13260(d) of the California Water Code which requires that each person for whom waste discharge requirements have been prescribed pursuant to Water Code Section 13263 shall pay an annual fee according to a fee schedule established by the State Water Resources Control Board (State Board). BIRTCHER COMMERCIAL DEV/ PALM TERRACE, hereinafter discharger, was or is regulated under WQ Order No. 99-08, Construction Storm Water Permit. The discharger's total unpaid annual storm water fees in this matter were in the amount of $450 for the construction site located at 25521 25531 AND 25541 COMMERC in LAKE FOREST, CA.

2. On April 23, 2004, the Executive Officer, in *Complaint No. R9-2004-0118 for Administrative Civil Liability* (ACL), proposed imposition of civil liability in the amount of $1,310 for the violations alleged in Complaint No. R9-2004-0118.

3. The discharger, upon receipt of Complaint No. R9-2004-0118, paid the proposed ACL amount of $1,310 for failure to pay the annual storm water fee and waived the right to request a hearing before the Regional Board. The discharger has also resolved the outstanding annual storm water fee.

4. On June 10, 2004, the Regional Board held a hearing to solicit public participation in this matter, and considered the comments of interested persons regarding adoption of this Order.

5. Consideration of the factors prescribed in California Water Code Section 13327 based upon information available to the Regional Board prior to the hearing and described in greater detail in Complaint No. R9-2004-0118 supports assessment of civil liability pursuant to Water Code section 13263 in the amount of $1,310.

6. The adoption of this Order is an appropriate resolution of the violations alleged in Complaint No. R9-2004-0118 because the assessment of $1,310 is a sufficient amount of liability to deter this discharger and other dischargers from not paying annual fees in the future.

7. The Regional Board incurred costs totaling $400, which includes preparation of enforcement documents.

8. This enforcement action is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Division 13, Chapter 3, Section 21000 et seq.) in accordance with Section 15308, Chapter 3, Title 14 of the California Code of Regulations.

IT IS HEREBY ORDERED, that pursuant to Section 13261(b) of the California Water Code, that civil liability be imposed on the discharger, BIRTCHER COMMERCIAL DEV/ PALM TERRACE in the amount $1,310.

I, John H. Robertus, Executive Officer, do hereby certify the foregoing is a full, true and correct copy of an order imposing civil liability assessed by the California Regional Water Quality Control Board, San Diego Region, on June 10, 2004.

JOHN H. ROBERTUS
Executive Officer