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

ORDER NO. 98-011

ORDER SETTING ADMINISTRATIVE CIVIL LIABILITY FOR:

Eugene Jenkins dba Jenkins Auto Wrecking

for the property located at

1778 10th Street
Oakland
Alameda County

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

1. The Discharger violated provisions of law for which the Regional Board may impose civil liability under Section 13385 of the California Water Code.

2. A hearing on this matter was held before the Regional Board on February 18, 1998, in the Board Meeting Room, Second Floor, BART Headquarters Building, located at 800 Madison Street in Oakland, California. The Discharger, or the Discharger's representative(s), had the opportunity to be heard and to contest the allegations in Complaint No. 97-136, which recommended the imposition of civil liability by the Regional Board.

3. At the hearing, the Regional Board considered whether to affirm, reject or modify the proposed administrative liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.

4. Federal regulations for storm water discharges were issued by the U.S. Environmental Protection Agency on November 16, 1990 (40 Code of Federal Regulations (CFR) Parts 122, 123, and 124). These regulations require facilities that discharge storm water associated with industrial activity to obtain a National Pollutant Discharge Elimination System (NPDES) Permit. The regulations list industrial facilities that must be regulated by NPDES Permits, including all facilities with Standard Industrial Codes (SIC) of 5015 or 5093.

5. Consistent with the federal regulations described in Finding 4., the State Water Resources Control Board has adopted waste discharge requirements for Discharges of Storm Water Associated with Industrial Activities, NPDES General Permit No. CAS000001, Order No. 97-03-DWQ (General Permit).

6. The Discharger's facility has a Standard Industrial Classification (SIC) code of 5015 or 5093:

   SIC code 5015 (Motor Vehicle Parts, Used) - Establishments primarily engaged in the distribution at wholesale or retail of used motor vehicle parts. This industry includes establishments primarily engaged in dismantling motor vehicles for the purpose of selling parts.

   SIC code 5093 (Scrap and Waste materials) - Establishments primarily engaged in assembling, breaking up, sorting, and wholesale distribution of scrap and waste materials. This industry includes auto wreckers engaged in dismantling automobiles for scrap.

7. The Discharger discharges storm water associated with industrial activity but is not covered by either the General Permit or an individual NPDES permit. Discharges from the Discharger's facility enter waters of the United States.

8. By certified mail dated May 10, 1996, the Discharger was notified of the obligation to file a Notice of Intent (NOI) to obtain coverage under the General Permit and to comply with the General Permit. The Discharger was required to respond by June 7, 1996.

9. As of the date of Complaint No. 97-136, the Discharger has failed to submit either an NOI or an application for an individual NPDES permit. Consequently, the Discharger is in violation of California Water Code Section 13376 for at least 541 days.

10. The maximum civil liability which could be imposed by the Regional Board in this matter, pursuant to Section 13385 of the California Water Code, is $10,000 per day of violation. Complaint 97-136 addressed violations for the 541 day period from June 7, 1996 through November 30, 1997.

11. In Complaint 97-136, the Executive Officer of the Regional Board proposed that administrative civil liability be imposed by the board in an amount of $15,000. This amount includes $2,000 for the reimbursement of staff costs.

12. In determining the amount of civil liability, the Board has taken into account the following factors set forth in California Water Code Section 13385:

    "...the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the ability to pay, any prior history of violations, the degree of culpability, economic benefit and savings, if any, resulting from the violation, and other matters that justice may require."

13. This action is an order to enforce the laws and regulations administered by the Regional Board. Issuance of this Order is categorically exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) in accordance with Section 15321(a) of Title 14, California Code of Regulations.

IT IS HEREBY ORDERED, PURSUANT TO CALIFORNIA WATER CODE SECTION 13385, that the Discharger is civilly liable for this violation and shall pay administrative civil liability in the amount of $15,000. This amount includes $2,000 in staff costs. The liability shall be made payable to the State Water Pollution Cleanup and Abatement Account. Payment should be submitted to the Regional Water Quality Control Board, San Francisco Bay Region, at 2101 Webster St., Suite 500, Oakland, CA 94612 and is due within 30 days of the date of this Order.

I, Loretta K. Barsamian, 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 February 18, 1998.

Loretta K. Barsamian

Loretta K. Barsamian
Executive Officer