

ITEM No. 9

November 21, 2008

ERRATA SHEET

CHANGES TO ORDER NO. R8-2008-0074

Administrative Civil Liability Complaint

Carson Hall, Jr.

Riverside County

(Deleted language is ~~strike-through~~)

(Additional language is in **bold**)

Paragraph no. 1 is amended as follows:

1. On August 19, 1999, the State Water Resources Control Board (SWRCB) adopted Waste Discharge Requirements, Order No. 99-08-DWQ (NPDES No. CAS000002), General Permit for Discharges of Storm Water Associated with Construction Activity (General Permit). The General Permit requires dischargers of storm water from construction sites to obtain permit coverage prior to the start of construction activities. **In or around July 2005**, Mr. Hall owned APNs 242-070-033, 242-070-034 (~~this parcel has since been sold~~) and 242-070-036. In or around July 2005, Mr. Hall started construction activities on these parcels without first obtaining General Permit coverage. Board staff sent two certified Notices of Noncompliance (NNCs) to Mr. Hall, the first one on July 7, 2006 and the second one on August 15, 2006. Mr. Hall received the first NNC. The second NNC was returned unclaimed. Board staff sent a third NNC by regular mail on December 12, 2007. Mr. Hall acknowledged receipt of the third NNC. These NNCs notified Mr. Hall that the facility is required to obtain coverage under the General Permit and that there is a mandatory penalty for not obtaining coverage under the General Permit. Coverage under the General Permit is obtained by filing a Notice of Intent (NOI). The final NNC required Mr. Carson Hall to submit the NOI by January 11, 2008. Mr. Carson Hall failed to comply with the NNCs. As of November **21** 7, 2008, Mr. Hall has not obtained General Permit coverage.

Paragraph no. 4 is amended as follows:

Water Code Section 13399.33(a) requires the Board to ~~assess a mandatory penalty of five thousand dollars (\$5,000) per year of noncompliance or fraction thereof.~~ **impose civil liability administratively in an amount that is not less than \$5,000.00 per year of noncompliance or fraction thereof, unless the Regional Board makes express findings setting forth the reasons for its failure to do**

so, based on factors provided in Water Code section 13399.33(a)(2). The consideration of these factors is set forth below.

Paragraph no. 6 is amended as follows:

Water Code Section 13399.33(a)(2) requires the Regional Board to consider the following factors in determining the amount of civil liability imposed pursuant to 13399.33: the nature, circumstances, extent, and of gravity of the violation; and with respect to the violator, the ability to pay, any prior history of violations, the degree of culpability, economic benefits or savings resulting from the violation, and other matters that justice may require. ~~These factors are evaluated in the ACL, a copy of which is attached to this order.~~ **These factors are discussed in detail in the table below. Section 13399.33, subdivision (a)(2) also requires that these considerations be balanced against the need for the regulatory costs of environmental protection to be borne equally by dischargers throughout the state, and the need for predictability of enforcement when making business decisions.**

Factor	Analysis
A. Nature, Circumstance, Extent, and Gravity of Violation	Mr. Hall conducted construction activities without obtaining coverage under the General Permit, even after receiving two notices from Regional Board staff indicating that coverage was required.
B. Ability to Pay	Mr. Hall has indicated that he is currently facing financial difficulties, although no detailed documentary evidence has been submitted to support this contention. Mr. Hall is currently the owner of two parcels of property. Based on Mr. Hall's ownership interests and without sufficient information to support Mr. Hall's claim of financial hardship, the Regional Board finds that Mr. Hall has the ability to pay the assessed penalty.
C. Prior History of Violations	Regional Board staff is not aware of any prior violations by Mr. Hall.
D. Degree of Culpability	Mr. Hall failed to obtain coverage under the General Permit after substantial and significant attempts by Regional Board staff to enroll him under the General Permit.
E. Economic Benefit or Savings	By conducting construction activities without the required permit coverage, failure to pay the necessary

	application fee, Mr. Hall realized an economic benefit. Mr. Hall saved approximately \$2,542 in annual fees for four years $((\\$200 + \\$20/\text{acre}) \times 18.5\%$ surcharge. The fee for 16.81 acres is \$635.40/year). Total economic savings are therefore calculated to be \$2,542.
F. Other Factors	Regional Board staff spent at least 120 hours of staff time in its efforts to bring this facility into compliance (@\$110.00 per hour, the total cost for staff time in \$13,200).

Additionally, the Regional Board has balanced the proposed penalty against the need for the regulatory costs of environmental protection to be borne equally by dischargers throughout the state, and the need for predictability of enforcement when making business decisions, and finds that a penalty in the amount of \$20,000.00 is appropriate.



Linda S. Adams
*Secretary for Environmental
Protection*

California Regional Water Quality Control Board

Santa Ana Region

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Arnold Schwarzenegger
Governor

ADDENDUM TO AGENDA ANNOUNCEMENT

REGIONAL BOARD MEETING
Friday, November 21, 2008
(Prepared 11-19-08)

NOTICE

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The following item has been added to the agenda.

- 8b. [Emergency Resolution Regarding the Use of Class I Biosolid and Green Waste Compost for Erosion Control Applications Within the Areas Burned During the November 2008 Fires in Orange, Riverside and San Bernardino Counties Within the Santa Ana Region](#) – In response to Governor Schwarzenegger's recent Declarations of Emergency for the Orange, Riverside, and San Bernardino Counties for the Freeway Complex Fires in these areas, the Regional Board will consider a resolution clarifying the use of Class I Biosolid and Green Waste Compost within areas damaged by the fires. {Gerard J. Thibeault 951/782-3284 gthibeault@waterboards.ca.gov}





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The following item has been added to the agenda.

- 8a. **Maximum Benefit Update** – The Chino Basin Watermaster and Inland Empire Utilities District will report back to the Board concerning the status of these agencies meeting the Maximum Benefit commitments for the Chino Groundwater Management Zones. Information Item.
{Gerard J. Thibeault 951/782-3284 jthibeault@waterboards.ca.gov}



California Regional Water Quality Control Board
Santa Ana Region

November 21, 2008

UPDATE TO THE AGENDA
(Prepared 11-10-08)

The following items have been postponed:

- *6 Appeal of Staff's Denial of an Exemption from the 30 Percent Maximum Slope Requirement for the Subsurface Disposal System - Cary and Lisa Anderson
{Jun Martirez 951/782-3258 jmartirez@waterboards.ca.gov}
- 10. Workshop on Clean Water Act Section 305(b) Integrated Report/ Clean Water Act Section 303(d) List of Impaired Waterbodies
{Hope A. Smythe 951/782-4493 hsmythe@waterboards.ca.gov}

The following item will be transmitted separately:

- 11. Public Workshop, Renewal of Waste Discharge Requirements, Orange County Resources and Development Management Department, the County of Orange and Incorporated Cities of Orange County, Areawide Urban Storm Water Runoff Management Program (NPDES No. CA8618030)
{Mark E. Smythe 951/782-4998 msmythe@waterboards.ca.gov}
Order No. R8-2008-0030