

Santa Ana Regional Water Quality Control Board

February 11, 2013

Joe Bustamante
Floors & Granite Direct
9851 8th Street, Suite J
Rancho Cucamonga, CA 91730

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

**MANDATORY MINIMUM PENALTY (MMP) COMPLAINT NO. R8-2013-0012,
FLOORS & GRANITE DIRECT**

Dear Mr. Bustamante:

Enclosed is a certified copy of Mandatory Minimum Penalty Complaint No. R8-2013-0012 (hereinafter "Complaint"). The Complaint alleges that Floors & Granite Direct has violated the General Permit for Storm Water Discharges Associated with Industrial Activity, Order No. 97-03-DWQ, by failing to submit the 2011-2012 annual report by July 1, 2012. Pursuant to California Water Code Section 13399.33, the Complaint proposes that the Regional Board impose one thousand four hundred fifty dollars (\$1,450) in mandatory minimum penalty and staff costs.

A public hearing on this matter has been scheduled for the Regional Board meeting on May 3, 2013 at the Irvine Ranch Water District, 15600 Sand Canyon Ave., Irvine, CA 92618. The Hearing Procedures, Staff Report regarding this Complaint and the meeting agenda will be mailed to you at least 30 days prior to the hearing. You have two options.

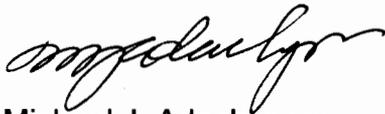
Option 1: Pursuant to California Water Code Section 13323, Floors & Granite Direct has the option to waive its right to a hearing. Should Floors & Granite Direct waive its right to a hearing and pay the proposed assessment, the Regional Board may not hold a public hearing on this matter. If Floors & Granite Direct chooses to waive its right to a hearing, please sign and submit the enclosed Waiver Form with a check for one thousand four hundred fifty dollars (\$1,450) made payable to the Waste Discharge Permit Fund. 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.

Option 2: If Floors & Granite Direct does not wish to waive its right to a hearing, a pre-hearing meeting is recommended. Should you wish to schedule a pre-hearing meeting,

please contact Nam Nguyen at 951-321-4528 or (nnguyen@waterboards.ca.gov) prior to March 11, 2013.

If you have any questions about the Complaint or the enclosed documents, please contact Nam Nguyen at 951-321-4582 (nnguyen@waterboards.ca.gov), or Milasol Gaslan 951-782-4419 (mgaslan@waterboards.ca.gov). All legal questions should be directed to Cris Carrigan at 916-341-5889 (ccarrigan@waterboards.ca.gov), Director, Office of Enforcement.

Sincerely,



Michael J. Adackapara
Division Chief
Regional Board Prosecution Team

Enclosures: Complaint No. R8-2013-0012
Waiver Form
Exhibit 1 (NNC dated August 9, 2012)
Pre-printed envelope

cc: Regional Board
Executive Officer – Kurt V. Berchtold (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 – Diana Messina
State Water Resources Control Board, Office of Enforcement – Cris Carrigan
(Regional Board Prosecution Team Attorney)
U.S. Environmental Protection Agency, Region 9 (WTR-7) – Ken Greenberg
San Bernardino County Flood Control District, Storm Water Program Manager –
Marc Rodabaugh
City of Rancho Cucamonga, NPDES Coordinator – Scott Rapp
(scott.rapp@cityofrc.us)
Floor & Granite Direct, Owner – Joe Bustamante
(floorsandgranitedirect@yahoo.com) by email
Floor Granite Direct, Owner – Joe Bustamante, 948 W. 9th Street, Upland, CA
91786 (by regular mail)

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION**

In the matter of:)	
)	
Floors & Granite Direct)	Complaint No. R8-2013-0012
9851 8th Street, Suite J)	for
Rancho Cucamonga, CA 91730)	Mandatory Minimum Penalty and Staff Costs
)	
Attention: Joe Bustamante)	

YOU ARE HEREBY GIVEN NOTICE THAT:

1. You are alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), must impose liability under Section 13399.33 of the California Water Code.
2. A hearing concerning this Complaint will be held before the Board within ninety days of the date of issuance of this Complaint. The hearing in this matter has been scheduled for the Board's regular meeting on May 3, 2013 at the Irvine Ranch Water District, 15600 Sand Canyon Ave., Irvine, CA 92618. You or your representative will have an opportunity to appear and be heard, and to contest the allegations in this Complaint and the imposition of a mandatory penalty and staff costs by the Board. An agenda for the meeting, Hearing Procedures and a Staff Report pertaining to this item will be mailed to you at least 30 days before the hearing date.
3. At the hearing, the Board will consider whether to affirm, reject or modify the proposed Mandatory Minimum Penalty and assessment of costs pursuant to Section 13399.33 of the Water Code, to assess discretionary penalties pursuant to Section 13385 of the Water Code, or to refer the matter to the Attorney General for recovery of judicial civil liability.
4. Floors & Granite Direct, located at 2851 8th Street, Suite J in Rancho Cucamonga, is currently regulated under the State's General Permit for Storm Water Discharges Associated with Industrial Activities, Water Quality Order No. 97-03-DWQ, NPDES No. CAS000001 (General Permit). The facility's WDID Number is 8 36I020767. The General Permit requires submittal of an annual report by July 1 of each year.
5. Floors & Granite Direct's 2011-2012 annual report was not received by Board staff by the July 1, 2012 deadline. Therefore, on August 9, 2012, a Notice of Non-Compliance (NNC) was issued to Floors & Granite Direct, by certified mail (Exhibit 1). On September 4, 2012, the certified mail was returned by U.S. Postal service as unclaimed. Staff sent a copy of the NNC by regular mail on August 9, 2012 to an alternate address

at 948 West 9th Street, Upland, CA 91786. The NNC sent by regular mail was not returned to the Board office.

6. When Board staff received no response to the first NNC, staff visited the site on September 6, 2012 and noted that the facility was operating. Staff attempted to hand deliver a copy of the NNC to an employee at the site. The employee refused to accept the letter and refused to identify himself. Subsequently, staff tried to contact Mr. Bustamante at the phone number that was provided with the facility's permit application, (909) 376-0386, and left a detailed message of the violation and the consequences for not submitting the annual report. Staff requested Mr. Bustamante to submit the annual report immediately.
7. Staff did not get a response to the phone message that was left for Mr. Bustamante. On September 17, 2012, staff left another detailed message for Mr. Bustamante. Again, staff did not receive any response from Mr. Bustamante.
8. On December 12, 2012, staff left another message for Mr. Bustamante requesting him to submit the annual report. Each time a message was left for Mr. Bustamante, he was reminded of the potential monetary penalties. Staff received no response from Mr. Bustamante.
9. The NOI for this facility indicates that Mr. Bustamante is the owner of the facility. To date, the annual report has not been received and Mr. Bustamante has ignored all our attempts to bring him into compliance with the General Permit. This facility violated the General Permit, the Federal Clean Water Act and the California Water Code by failing to submit the annual report by July 1, 2012.
10. Section 13385(a)(2) of the California Water Code provides that any person who violates waste discharge requirements issued pursuant to the Federal Clean Water Act shall be civilly liable. Section 13385(c) provides that civil liability may be administratively imposed by a regional board in an amount not to exceed ten thousand dollars (\$10,000) for each day the violation occurs.
11. Section 13399.33(c) of the California Water Code requires that the Regional Board impose a minimum penalty of \$1,000 for any person who fails to submit an annual report in accordance with Section 13399.31 of the Water Code. Section 13399.33(d) of the California Water Code further requires that the Regional Board recover the costs incurred by the Regional Board with regard to those persons.

PROPOSED ADMINISTRATIVE CIVIL LIABILITY AND ASSESSMENT OF COSTS

12. Pursuant to Section 13399.33(c), the Division Chief proposes that the mandatory minimum penalty of \$1,000 be imposed on Floors & Granite Direct for the violation cited above. In addition, the Division Chief proposes that staff costs in the amount of \$450 (3 hours at \$150 per hour=\$450) be recovered from Floors & Granite Direct. The total proposed mandatory minimum penalty (\$1,000) and staff costs (\$450) is \$1,450. In

accordance with Water Code Section 13327 (consideration of ability to pay and to continue in business), the Division Chief does not propose a penalty as per Water Code Section 13385(c) as it would be a significant burden on a small business such as Floors & Granite Direct.

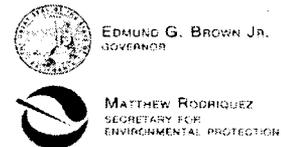
13. Notwithstanding the issuance of this Complaint, the Regional Board retains the authority to assess additional penalties for violations of the General Permit for which penalties have not yet been assessed or for violations that may subsequently occur.
14. Issuance of this Complaint is an enforcement action and is therefore exempt from the provisions of the California Environmental Quality Act (Pub. Res. Code § 21000 et seq.) pursuant to Title 14, California Code of Regulations, Sections 15308 and 15321 Subsection (a) (2).

2-11-2013

Date



Michael J. Adackapara, Division Chief
Regional Board Prosecution Team



EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Santa Ana Regional Water Quality Control Board

**WAIVER FORM
FOR MANDATORY MINIMUM PENALTY COMPLAINT NO. R8-2013-0012**

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

I am duly authorized to represent Floors & Granite Direct in connection with Mandatory Minimum Penalty Complaint No. R8-2013-0012 (hereinafter the "Complaint"). I am informed that California Water Code Section 13323, subdivision (b), states, "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."

Check here and sign below if Floors & Granite Direct waives the hearing requirement and will pay the liability in full.

- a. I hereby waive any right Floors & Granite Direct may have to a hearing before the Regional Board.
- b. I certify that Floors & Granite Direct will remit payment for the proposed penalty in the full amount of one thousand four hundred fifty dollars (\$1,450) by check that references "Complaint No. R8-2013-0012" made payable to the Waste Discharge Permit Fund. Payment must be received by the Regional Board office no later than **March 11, 2013** 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 Floors & Granite Direct having waived the right to contest the allegations in the Complaint and the imposition of penalty.
- d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations may subject Floors & Granite Direct to further enforcement, including additional penalties.

(Print Name and Title)

(Signature)

(Date)



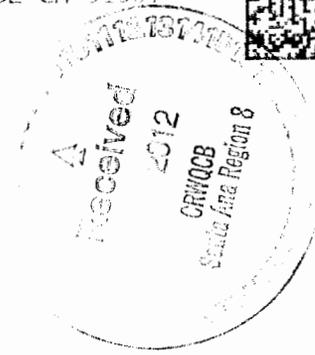
7007 2680 0000 4251 0426

CA REGIONAL WATER
QUALITY CONTROL RGS
3727 MAIN ST 500
RIVERSIDE CA 92501



UNITED STATES POSTAGE
02 1P \$ 005.75⁰⁰
0003113122 AUG 09 2012
MAILED FROM ZIP CODE 92501

n/c 8/9
[Handwritten scribbles]



Attn: Joe Bustamante or Facility Manager
Floors & Granite Direct
9851 8th Street, J
Rancho Cucamonga, CA 1730

NIAIE 917 4E 1 08 09/02/12
RETURN TO SENDER
UNCLAIMED
UNABLE TO FORWARD
BC: 92501 *2704-01600-09-36

917305239999



7007 2680 0000 4251 0426

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$	\$0.45
Certified Fee		\$2.95
Return Receipt Fee (Endorsement Required)		\$2.35
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	\$5.75

Send Date: **8/9/2012**
Postmark Here

1st NNC Letter
8 361020767

Sent To: **Attn: Joe Bustamante or Facility Manager**
Floors & Granite Direct
Street, Apt. No., or PO Box No.: **9851 8th Street, J**
City, State, ZIP+4: **Rancho Cucamonga, CA**

PS Form 3800, August 2006 See Reverse for Instructions



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Santa Ana Regional Water Quality Control Board

August 9, 2012

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Attn: Joe Bustamante or Facility Manager
Floors & Granite Direct
9851 8th Street, J
Rancho Cucamonga, CA

Notice of Noncompliance: Failure to Comply With the General Permit for Storm Water Discharges Associated With Industrial Activities, Order No. 97-03-DWQ, NPDES NO. CAS000001 (General Permit), Waste Discharge Identification (WDID) Number 8 36I020767

Dear Joe Bustamante or Facility Manager:

Your facility located at 9851 8th Street, J, in the city of Rancho Cucamonga, is regulated under the General Permit and is identified by WDID number 8 36I020767. Section B.14 of the General Permit requires you to submit an annual report by July 1 of each year. Our records show that your annual report for the July 1, 2011 to June 30, 2012 reporting period has not been received.

You are in violation of the General Permit, the California Water Code and the federal Clean Water Act for failure to submit a complete 2011-2012 annual report. We request that you submit a complete 2011-2012 annual report to this office no later than 30 days from the date of this letter. A blank copy of the report form can be downloaded from the Storm Water section of the State Water Resources Control Board web site at:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/annualreport.shtml

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 ensure timely submittals in the future. Failure to submit the requested information may result in enforcement action, including civil monetary penalties of up to \$10,000 for each day of violation. Please note that Section 13399.33 of the California Water Code stipulates a minimum penalty of \$1,000 to those permittees that do not submit their annual reports after notification.

If you wish to be notified electronically of future annual report submittals prior to the due date, please update the first page of annual report contact information with the appropriate e-mail address. If you wish to add additional contact person(s) to the notification list, please indicate on a separate page.

CAROLE H. BESWICK, CHAIR | KURT V. BERCHTOLD, EXECUTIVE OFFICER

3737 Main St., Suite 500, Riverside, CA 92501 | www.waterboards.ca.gov/santaana

Should you need assistance in completing the annual report or have any questions, please contact Nam Nguyen at 951-321-4582 (e-mail: nnguyen@waterboards.ca.gov), or Michael Roth at 951-320-2027 (e-mail: mroth@waterboards.ca.gov)

Sincerely,

A handwritten signature in black ink, appearing to read "mjadackapara". The signature is written in a cursive, flowing style.

Michael J. Adackapara
Division Chief

CC to Owner: Joe Bustamante or Facility Owner. Floor & More. 960 W. 9th Street,
Upland, CA 91786



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Santa Ana Regional Water Quality Control Board

August 9, 2012

This is a copy letter to facility owner

Joe Bustamante or Facility Owner
Floor & More
960 W. 9th Street
Upland, CA 91786

Notice of Noncompliance: Failure to Comply With the General Permit for Storm Water Discharges Associated With Industrial Activities, Order No. 97-03-DWQ, NPDES NO. CAS000001 (General Permit), Waste Discharge Identification (WDID) Number 8 36I020767

Dear Joe Bustamante or Facility Owner:

Your facility located at 9851 8th Street, J, in the city of Rancho Cucamonga, is regulated under the General Permit and is identified by WDID number 8 36I020767. Section B.14 of the General Permit requires you to submit an annual report by July 1 of each year. Our records show that your annual report for the July 1, 2011 to June 30, 2012 reporting period has not been received.

You are in violation of the General Permit, the California Water Code and the federal Clean Water Act for failure to submit a complete 2011-2012 annual report. We request that you submit a complete 2011-2012 annual report to this office no later than 30 days from the date of this letter. A blank copy of the report form can be downloaded from the Storm Water section of the State Water Resources Control Board web site at:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/annualreport.shtml

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 ensure timely submittals in the future. Failure to submit the requested information may result in enforcement action, including civil monetary penalties of up to \$10,000 for each day of violation. Please note that Section 13399.33 of the California Water Code stipulates a minimum penalty of \$1,000 to those permittees that do not submit their annual reports after notification.

If you wish to be notified electronically of future annual report submittals prior to the due date, please update the first page of annual report contact information with the appropriate e-mail address. If you wish to add additional contact person(s) to the notification list, please indicate on a separate page.

CAROLE H. BESWICK, CHAIR | KURT V. BERCHTOLD, EXECUTIVE OFFICER

3737 Main St., Suite 500, Riverside, CA 92501 | www.waterboards.ca.gov/santaana

Should you need assistance in completing the annual report or have any questions, please contact Nam Nguyen at 951-321-4582 (e-mail: nnguyen@waterboards.ca.gov), or Michael Roth at 951-320-2027 (e-mail: mroth@waterboards.ca.gov)

Sincerely,

A handwritten signature in black ink, appearing to read "mjadackapara". The signature is written in a cursive, flowing style.

Michael J. Adackapara
Division Chief

CC via regular mail to: Floors & Granite Direct. Joe Bustamante. 9851 8th Street, J,
Rancho Cucamonga, CA 91730.

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE.
CERTIFIED MAIL™



7009 2820 0001 6722 6299
7009 2820 0001 6722 6299

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	

Postmark
Here

Sent To **Joe Bustatmante**
Floors & Granite Direct
Street, or PO Box **9851 8th St., Ste J**
City, State **Rancho Cucamonga, CA 91730**