STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION

In the matter of:	)	Complaint No. 01-71
	)	for
Liquinox Company	)	Administrative Civil Liability
221 W. Meats Avenue	)	
Orange, CA 92807-2626	)	
	)	
Attention: Henry C. Garner	)	

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), may impose liability under Section 13385 of the California Water Code.

2. A hearing concerning this Complaint will be held before the Board within sixty days of the date of issuance of this Complaint. The hearing in this matter has been scheduled for the Board's regular meeting on July 20, 2001 at the City Council Chambers, Corona, California. 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 civil liability by the Board. An agenda for the meeting will be mailed to you not less than 10 days before the hearing date.

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

4. The Liquinox Company (hereinafter, Liquinox) located at 221 W. Meats Avenue, Orange, California, 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 830S014865.

5. Liquinox is alleged to have violated Provisions A.1. and A.2. of the General Permit. Liquinox failed to properly implement an effective Storm Water Pollution Prevention Plan (SWPPP) and Monitoring and Reporting Requirements, and improperly discharged concentrated liquid fertilizer to the storm drain system from its facility. Pursuant to Water Code Section 13385(a)(2), civil liability may be imposed for the preceding violations.

6. On February 22, 2001, Regional Board staff (staff) performed a compliance inspection at the Liquinox facility (facility) located at 221 W. Meats Avenue, in Orange. The best management practices (BMPs) that had been implemented to reduce or eliminate the commingling of chemical pollutants with storm water and non-storm water runoff into the storm drain system were inadequate. Laboratory results from previous storm water sampling revealed high concentrations of nitrate+nitrite, phosphorus, and specific conductivity; substantial etching was observed in the concrete at the base of the driveway, adjacent to a storm drain. General housekeeping was poor, and evidence of past spills of liquid and solid chemical products was observed.

7. During the February 22 site visit, and on a follow-up return visit the next day, staff emphasized the importance of developing and implementing site-specific BMPs to reduce pollutant loading in storm

water and authorized non-storm water discharges from the facility, as well as the requirement to eliminate unauthorized, non-storm water discharges, as set forth in the General Permit. Oral communications were followed by a staff enforcement letter, sent to Liquinox on March 8, 2001, outlining the inspection results and detailing requirements for compliance under the General Permit.

8. On April 25, 2001, staff performed a follow-up compliance inspection at Liquinox. During that inspection, two separate, unauthorized, non-storm water discharges were observed.

   a) A brown-colored discharge, identified as *Liquinox Start*, a concentrated fertilizer, originated from a spill that occurred within the plant in the mixing/bottling area. The spill was directed into a floor drain that emptied into a sump at the loading/unloading area. A sump pump directed the material into a pipe which exited the side of the building, and the material was discharged into the storm swale and subsequently to the street and into the storm drain. A sample of the fertilizer discharge was collected and found to have a very low pH, very high specific conductivity and total dissolved solids, and elevated concentrations iron, zinc, nitrate, total Kjeldahl nitrogen, total phosphorus, and total organic carbon.

   b) During the April 25, 2001, inspection, a separate storage tank overflowed, spilling approximately 15-20 gallons of liquid fertilizer onto the ground. An employee was observed hosing the spilled fertilizer toward the storm swale. When he was questioned about this practice, he responded that it was the standard procedure for handling spills. A sample of the wash-down discharge was collected and found to contain very high specific conductivity, and elevated concentrations of iron, nitrate, total Kjeldahl nitrogen, and total phosphorus.

9. The General Permit requires permittees to develop and implement an effective SWPPP, including proper BMPs. The General Permit further states that storm water runoff shall not cause pollution, contamination, or nuisance, and it prohibits most discharges of non-storm water. Liquinox violated the General Permit by not developing and effectively implementing BMPs, and discharging unauthorized, non-storm water containing pollutants into the storm drain system.

10. Section 13385(a)(2) provides that any person who violates waste discharge requirements shall be civilly liable. Section 13385(c) provides that a regional board may impose administrative civil liability in an amount not to exceed ten thousand dollars ($10,000) for each day the violation occurs. Additional liability, not to exceed $10 per gallon, may be imposed for each gallon discharged in excess of 1,000 gallons. It is estimated that the observed unauthorized discharge was less than 1,000 gallons.

11. Pursuant to Section 13385(c), Liquinox is civilly liable for a maximum of $10,000 (one day of violation), for the violations cited in Paragraph 8, above.

12. Regional Board staff spent a total of 6 hours investigating this incident (@$70/hr, the total cost for staff time is $420). Total cost savings to Liquinox for not developing and implementing adequate BMPs throughout the facility would be approximately $4,000 for secondary containment, redirection of sump pump discharges, and proper training to facility personnel. The company has been in business at this site for over 50 years, and staining and etching suggest that unauthorized

non-storm water discharges have repeatedly occurred over a long period of time. Further, past annual reports indicate that the facility has had a history of storm water discharges containing very high concentrations of nitrogen and phosphorus, but that adequate BMPs have not been implemented. These factors were considered in assessing the penalty proposed in Paragraph 13, below.

13. Section 13385(e) specifies factors that the Board shall consider in establishing the amount of civil liability. After consideration of those factors, the Executive Officer proposes that administrative civil liability be imposed on Liquinox by the Board in the amount of $10,000 for the violations cited above.

WAIVER OF HEARING

You may waive your right to a hearing. If you choose to do so, please sign the attached waiver form and return it, together with a check or money order payable to the State Water Resources Control Board for the amount of civil liability proposed under Paragraph 13, above, to:

Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501-3348

If you have any questions, please contact Mark Smythe at (909) 782-4998, or Michael Adackapara, at (909) 782-3238. For legal questions, contact the Regional Board's staff counsel, Ted Cobb at (916) 341-5171.

6-19-01
Date

Gerard J. Thibeault
Executive Officer

In the matter of:	)	Complaint No. 01-71
	)	for
Liquinox Company	)	Administrative Civil Liability
221 W. Meats Avenue	)	
Orange, CA 92807-2621	)	
	)	
Attention: Mr. Henry C. Garner	)	

WAIVER OF HEARING

I agree to waive Liquinox Company's right to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the violations alleged in Complaint No. 01-71.

☐ I have enclosed a check or money order, made payable to the State Water Resources Control Board, in the amount of $10,000. I understand that I am giving up Liquinox Company's right to be heard and to argue against allegations made by the Executive Officer in this Complaint, and against the imposition of, and the amount of, the liability proposed.

☐ I have enclosed a check or money order, made payable to the State Water Resources Control Board, in the amount of $5,000. In addition, Liquinox will develop and implement an acceptable plan that will include BMPs to eliminate unauthorized, non-storm water discharges and control pollutant loading in storm water. I understand that if appropriate BMPs (including employee training) are not developed and implemented by August 31, 2001, the suspended assessment ($5,000) becomes due and payable immediately. I also understand that I am giving up Liquinox Company's right to be heard and to argue against allegations made by the Executive Officer in this Complaint, and against the imposition of, and the amount of, the liability proposed.

_____ _____

Date for Liquinox Company

California Regional Water Quality Control Board
Santa Ana Region

Winston H. Hickox
Secretary for Environmental Protection

Internet Address: http://www.swrcb.ca.gov/rwqcb8
3737 Main Street, Suite 500, Riverside, California 92501-3348
Phone (909) 782-4130 - FAX (909) 781-6288

Gray Davis
Governor

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website at www.swrcb.ca.gov/rwqcb8.

June 19, 2001

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Henry C. Garner
Liquinox Company
221 W. Meats Avenue
Orange, CA 92807-2626

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. 01-71

Dear Mr. Garner:

We are enclosing a certified copy of Complaint No. 01-71, proposing administrative civil liability of $10,000 for violations of the State's General Permit for Storm Water Discharges Associated with Industrial Activity, Order No. 97-03-DWQ, NPDES No. CAS000001, WDID No. 830S014865. If necessary, a public hearing on this matter will be scheduled for the Regional Board meeting on July 20, 2001. The staff report regarding this complaint and the meeting agenda will be mailed to you not less than 10 days prior to the Board meeting.

You have the option to waive your right to a hearing. Should you waive your right to a hearing and pay the proposed assessment, the Regional Board will not hold a public hearing on this matter. If you choose to waive your right to a hearing, please sign the enclosed waiver form and select one of the two options presented to you. You may either pay $10,000; or, alternatively, you may pay $5,000, plus develop and implement an acceptable Storm Water Pollution Prevention Plan, with BMPs to eliminate unauthorized, non-storm water discharges and control pollutant loading in storm water discharges from your facility. The check or money order should be made payable to the State Water Resources Control Board and should be mailed to this office.

If you do not wish to waive your right to a hearing, a pre-hearing meeting with Board staff is recommended. Should you wish to schedule a pre-hearing meeting, please call us prior to July 3, 2001. At that time, you may submit information that may not have been previously available to staff regarding this incident. The information should address the following:

1. Nature, circumstances, extent, and gravity of the violations;
2. Your ability to pay the proposed assessment;
3. Any prior history of violations;
4. Your degree of culpability;

5. Economic benefit or savings; and

6. Such other matters as justice may require.

If you have any questions regarding this complaint, you may contact Mark Smythe at (909) 782-4998, or Michael Adackapara at (909) 782-3238. All legal questions should be referred to our legal counsel, Ted Cobb, at (916) 341-5171.

Sincerely,

Gerard J. Thibeault
Executive Officer

Enclosures: Complaint No. 01-71 and Waiver of Hearing Form

cc with enclosures:

Regional Board Members
State Water Resources Control Board, Division of Water Quality – Bruce Fujimoto
State Water Resources Control Board, Office of Chief Counsel – Ted Cobb
U.S. Environmental Protection Agency, Region 9 (WTR-7) – Tom Huetteman
Orange County Public Facilities & Resources Dept. – Karen Ashby
City of Orange, NPDES Coordinator – Jim Bisetti
Orange County CoastKeeper – Garry Brown
Lawyers for Clean Water – Daniel Cooper
Lawyers for Clean Water – Kimberly Lewand