STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION

In the matter of:	)	Complaint No. R8-2004-0023
	)	for
Holliday Rock Company, Inc.	)	Administrative Civil Liability
2193 West Foothill Blvd.	)	
Upland, CA 91786	)	
Attention: Mr. John Holliday	)	

YOU ARE HEREBY GIVEN NOTICE THAT:

1. Holliday Rock Company, Inc. (Holiday Rock) is 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 (c) 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 will be scheduled for the Board's regular meeting on March 12, 2004 at the Orange County Sanitation District facility in Fountain Valley. 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 prior to 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. Holliday Rock, a concrete products company, located at 16191 Construction Circle East in the City of Irvine, California (hereinafter facility), 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 830S017794.

5. Holliday Rock is alleged to have violated Water Code Section 13376 by discharging pollutants without having filed a report of the discharge. Holliday Rock is also alleged to have violated Provision A.1 ("...materials other than storm water (non-storm water discharges) that discharge either directly or indirectly to waters of the United States are prohibited."). Pursuant to Water Code Section 13385 (a)(1) and (2), civil liability may be imposed for the preceding violations.

6. This Complaint is based on the following facts:

a. On November 7, 2000, as part of an extended surveillance/inspection effort focusing on Construction Circle, staff from the City of Irvine, Orange County Public Facilities and Resources Department and the Board visited the Holliday Rock facility. Prior to entering the facility, it was noted that vehicle wash water had been allowed to run off the facility and discharge into the street. Contact was made with facility staff, including Mr. Jim Anderson and a request was made to review the facility Storm Water Pollution Prevention Plan (SWPPP). Facility staff were unable to produce any documents pertaining to the stormwater program at that time. During a physical inspection of the facility, it was noted that only minimal Best Management Practices (BMPs) were implemented to prevent the commingling of wastewater and other pollutants with storm water and prevent non-storm water runoff at the facility. Facility staff were informed that unauthorized non-storm water discharges from the facility were a violation of the General Permit. Facility staff were also informed that based on site topography, the primary BMP implemented at the facility exit (a six-inch wide swale) was inadequate to control runoff of contaminated storm water and unauthorized non-storm water from the facility. A Pollution Investigation/Notification Request Form was completed by County personnel and a copy was given to facility staff. The correction required was to "... contain water onsite and train employees."

b. On January 7, 2003, Board staff conducted an inspection of the facility. Upon approaching the facility, Board staff observed Mr. Jim Anderson, now the plant manager, washing down the entrance/exit with a high volume/high pressure hose to remove concrete spillage. Discharge from this activity was overwhelming the storm swale and on-site wastewater retention system and was entering the street. Staff informed the Mr. Anderson that the unauthorized non-storm water discharge was a violation of the General Permit and that it must cease immediately. An inspection of the facility indicated several major problems including: evidence of previous discharges to the adjacent property located to the west of the facility; a wastewater holding pond located in the rear of the facility with inadequate BMPs to prevent wastewater from migrating off the facility; and an undersized wastewater retention/storm swale system. Staff again requested to review the SWPPP and monitoring plan but site personnel were unable to produce any documentation that pertained to the storm water program. Staff again discussed the requirements of the permit in depth with site personnel and the importance of BMP implementation.

c. On January 10, 2003, staff re-inspected the facility. Again, Mr. Anderson, the plant manager, was washing concrete spillage off the driveway and the flow was overwhelming the water retention system at the entrance/exit of the facility and the resulting runoff was entering the street. Again, the plant manager was informed that the unauthorized non-storm water discharge was prohibited. Further, based on an earlier review of the State Board database by staff, it was discovered that a Notice of Intent had never been

filed for this facility. Therefore the plant manager was instructed to immediately file a Notice of Intent and cease the prohibited discharge of wash water.

d. On January 23, 2003, a Notice of Intent was submitted by the facility operators. Prior to that date, the facility had been in operation at least 808 days without coverage under the General Permit.

e. On July 24, 2003, a Notice of Non-Compliance was issued to the facility for failure to submit an Annual Report for the 2002/3 reporting period, which ends on June 30, 2003. Facility operators submitted their Annual Report on August 7, 2003. The report indicated that storm water sampling was not conducted during 2002/3 as the facility only began implementation of their SWPPP in February 2003, facility staff were not knowledgeable regarding sampling protocols, and appropriate sampling equipment was not available at the facility. Further, the facility operator had contracted with a consultant to monitor storm water discharges.

f. On August 13, 2003, staff conducted a drive-by inspection of the facility. As before, staff observed an unauthorized non-storm water discharge from the facility entrance/exit into the street. Due to time constraints, no contact was made with facility personnel.

g. On September 8, 9 and 19, 2003, drive-by inspections were performed by the City of Irvine Code Enforcement Unit. On each of these three occasions, the City inspectors noted that the same wash down procedures and runoff to the street were still occurring. Photos and email were sent to Board staff for follow-up enforcement.

h. A Notice of Violation was issued to Holliday Rock dated October 21, 2003.

7. Holliday Rock violated Section 13376 by discharging pollutants (wash water containing concrete wastes) without having filed a report of the discharge. Holliday Rock violated the General Permit by not developing and effectively implementing BMPs to reduce the discharge of pollutants and eliminate unauthorized non-storm water discharges, and discharging unauthorized non-storm water.

8. Section 13385(a)(1) provides that any person who discharges pollutants without having filed a report of the discharge shall be civilly liable. Section 13385(a)(2) provides that any person who violates waste discharge requirements 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. Additional liability, not to exceed $10 per gallon, may be imposed for each gallon discharged in excess of 1,000 gallons.

9. The amount of wash water containing pollutants discharged to the local storm drain system and subsequently to Peters Canyon Wash on each of the above-mentioned dates was estimated to be less than 1,000 gallons.

10. Pursuant to Section 13385(c), Holliday Rock is civilly liable for seven days of violation at $10,000 per day for a maximum amount of $70,000. This is based on violations of Section 13376 on November 7, 2000, and January 7 and 10, 2003, and violations of General Permit Provision A.1 on August 13 and September 8, 9 and 19, 2003.

11. Regional Board staff spent a total of 30 hours investigating this incident (@$70/hr, the total cost for staff time is $2,100). Holliday Rock saved approximately $5,000 by not applying for coverage under the General Permit from November 2000 to January 2003 and approximately $10,000 by not implementing adequate BMPs throughout the facility to reduce the discharge of pollutants and eliminate unauthorized non-storm water discharges.

12. Section 13385 (e) specifies factors that the Board shall consider in establishing the amount of civil liability. These factors include: nature, circumstances, extent, and gravity of the violation, and, with respect to the discharger, the ability to pay, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters that justice may require. At a minimum, liability shall be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation. The factors are evaluated in the table below.

Factor	Comment
A. Nature, Circumstances, Extent and Gravity of Violation	The discharger operated without having obtained coverage under the General Permit. Once permitted, the discharger continued to discharge high pH, unauthorized non-storm water by not implementing adequate BMPs, in spite of repeated notices by Board staff to stop such discharges.
B. Culpability	The discharger is entirely culpable for the violations
C. Economic Benefit or Savings	The discharger saved approximately $2,000 by not obtaining coverage under the General Permit for two years and approximately $5,000 by not properly developing, implementing and maintaining an adequate SWPPP and implementing proper BMPs.
D. Prior History of Violations	The discharger has received a Notice of Violation for inadequate BMP implementation at another facility and a Notice of Non-Compliance for late submittal of the 2002-2003 Annual Report for this facility.

E. Staff Costs	Regional Board staff spent approximately 30 hours investigating this incident (@$70 per hour, the total cost for staff time is $2,100).
F. Ability to pay	The discharger has not provided any information to indicate that it is unable to pay the proposed amount.

After consideration of these factors, the Executive Officer proposes that civil liability be imposed on Holliday Rock in the amount of $70,000 for the violations cited above. An invoice for this amount is enclosed.

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 12, above, to Sacramento in the enclosed preprinted envelope.

If you have any questions, please contact Aaron Buck, at (909) 782-4469 or Mark Smythe at (909) 782-4998. For legal questions, contact the Regional Board's staff counsel, Jorge Leon at (916) 341-5180.

2-11-04
Date

Gerard J. Thibeault
Executive Officer

In the matter of:	)	Complaint No. R8-2004-0023
	)	for
Holliday Rock Company, Inc.	)	Administrative Civil Liability
2193 West Foothill Blvd	)	
Upland, CA 91786	)	
Attention: Mr. John Holliday	)	

WAIVER OF HEARING

I agree to waive the right of Holliday Rock to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the violations alleged in Complaint No. R8-2004-0023. I have enclosed a check or money order, made payable to the State Water Resources Control Board, in the amount of $70,000. I understand that I am giving up the right of Holliday Rock 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 Holliday Rock Company, Inc.

State Water Resources Control Board

Terry Tamminen
Secretary for Environmental Protection

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 http://www.swrcb.ca.gov

Arnold Schwarzenegger
Governor

To:
HOLLIDAY ROCK CO,INC
2193 W FOOTHILL BLVD
UPLAND, CA 91786
ATTN: Mr. John Holliday

Invoice No: 44621
Invoice Date: 02/10/2004
Enforcement Action ID: 82994
Enforcement Order No: R8-2004-0023

INVOICE

ACLCOMP

Milestone ID	Description	Amount	Due Date
54567	LIABILITY AMOUNT	$70,000.00	
	TOTAL AMOUNT DUE	**$70,000.00**	

California Environmental Protection Agency

Recycled Paper

Retain above portion for your records
Please return bottom portion with your payment

HOLLIDAY ROCK CO,INC
2193 W FOOTHILL BLVD
UPLAND, CA 91786
ATTN: Mr. John Holliday

Milestone ID	Description	Amount	Due Date
54567	LIABDUE	$70,000.00	
	TOTAL AMOUNT DUE	**$70,000.00**	

Make your check payable to:
State Water Resources Control Board

Mail payment to:
SWRCB ACCOUNTING
ATTN: ENFORCEMENT
P. O. Box 100
SACRAMENTO, CA 95812-0100

Amount Enclosed: $_____

PLEASE PRINT THE FOLLOWING INVOICE NUMBER ON YOUR CHECK: **44621**

Invoice Date: 02/10/2004
Enforcement Action ID: 82994
Enforcement Order No.: R8-2004-0023

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

February 11, 2004

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. John Holliday
Holliday Rock Company, Inc.
2193 W. Foothill Blvd.
Upland, CA 91786

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R8–2004–0023

Dear Mr. Holliday:

We are enclosing a certified copy of Complaint No. R8-2004-0023 proposing administrative civil liability of $70,000 for violations of the State's General Permit for Storm Water Discharges Associated with Industrial Activity, Order No. 97-83-DWQ, NPDES No. CAS000001, WDID No. 8 30S017794. If necessary, a public hearing on this matter will be scheduled for the Regional Board meeting on March 12, 2004. 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 may 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 submit the form with a check for $70,000. The check should be made payable to the State Water Resources Control Board and should be mailed to Sacramento in the enclosed preprinted envelope, with the bottom portion of the enclosed invoice and the waiver form.

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 February 20, 2004. 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 violation;

2. Your ability to pay the proposed assessment;

3. Any prior history of violations;