

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

<b>In the Matter of:</b>	)	
	)	
<b>Durham Transportation, Inc./</b>	)	<b>Order No. R8-2011-0010</b>
<b>Durham School Services, L.P.</b>	)	<b>for</b>
<b>4300 Weaver Parkway</b>	)	<b>Mandatory Minimum Penalty and Staff Costs</b>
<b>Warrenville, IL 60555</b>	)	
	)	
<b>Attention: Mike Nolte</b>	)	

The California Regional Water Quality Control Board, Santa Ana Region (hereinafter Regional Board), held a hearing on March 4, 2011 to receive testimony and take evidence on the allegations contained in Complaint No. R8-2010-0066, dated December 15, 2010 and on the recommendation for the imposition of penalties pursuant to Water Code Section 13399.33 in the amount of \$2,650. The Regional Board finds as follows:

1. Durham Transportation, Inc./Durham School Services, L. P., (hereinafter Durham), located at 2818 W. 5<sup>th</sup> Street in Santa Ana, CA, 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 WQID Number is 8 30I011540. The General Permit requires submittal of an annual report by July 1 of each year.
2. Durham's 2009-2010 annual report was not received by Board staff by the July 1, 2010 deadline. Therefore a Notice of Non-Compliance (NNC) was issued to Durham, by certified mail, on July 30, 2010. The return receipt showed it was received on August 4, 2010. When Board staff received no response to the first NNC, a second NNC was issued on August 30, 2010, again by certified mail. The return receipt showed the second NNC was received on September 13, 2010. In both NNCs, Board staff requested submittal of the completed annual report. The second NNC requested that the annual report be submitted to the Regional Board office by September 28, 2010 along with a statement explaining why the annual report was not submitted by the July 1 deadline, and the measures that would be taken to ensure that future annual reports are submitted on time. Both NNCs also identified the mandatory minimum penalty for failure to submit the annual report by the July 1, 2010 deadline.
3. On September 27, 2010, Board staff spoke with Mr. Jim Elsinger, Durham's contact person at the Santa Ana facility, informing him of the mandatory minimum penalty if the annual report was not submitted by September 28, 2010. On September 27, 2010, Board staff also spoke with Mr. Mike Nolte, Durham's corporate contact, informing him of the mandatory minimum penalty for non-submittal of the 2009-2010 annual report. The annual report was received by Board staff on September 29, 2010. Durham violated the General Permit, the Federal Clean Water Act, and the California Water Code by failing to submit the 2009-2010 annual report by July 1, 2010.

Durham Transportation, Inc./Durham School Services, L. P.

4. 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.
5. 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.
6. On December 15, 2010, the Division Chief issued Mandatory Minimum Penalty Complaint (MMP) No. R8-2020-0066 to Durham, proposing that the Regional Board impose the mandatory minimum penalty in the amount of \$1,000 for the violation cited above and that costs in the amount of \$1,650 be recovered from Durham. The total proposed mandatory minimum penalty and staff costs amount was \$2,650.
7. Notwithstanding the issuance of this Complaint, the Regional Board retains the authority to assess additional penalties for violations of the requirements of Durham's waste discharge requirements for which penalties have not yet been assessed or for violations that may subsequently occur.
8. 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).

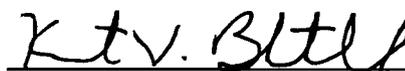
**IT IS HEREBY ORDERED** that pursuant to Water Code Section 13399, a penalty shall be imposed on Durham Transportation, Inc./Durham School Services, L.P. in the amount of \$2,650, as proposed in Complaint No. R8-2010-0066 for the violations cited, payable as set forth below.

1. Durham Transportation, Inc. and Durham School Services, L.P. are jointly and severally liable for the assessed amount and shall pay \$2,650 by April 4, 2011.

The Executive Officer is authorized to refer this matter to the Attorney General for enforcement.

Pursuant to Water Code Section 13320, you may petition the State Water Resources Control Board for review of this Order. If you choose to do so, you must submit the petition to the State Board within 30 days of the Regional Board's adoption of this Order.

I, Kurt V. Berchtold, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on March 4, 2011.



Kurt V. Berchtold  
Executive Officer