

STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

ORDER NO. 99-038

ORDER SETTING ADMINISTRATIVE CIVIL LIABILITY FOR:

Isiah Lewis dba Vallejo Pull-a-Part
2744 Green Island Road
Vallejo
Solano County

The California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter called the Board), finds, with respect to Isiah Lewis (dba Vallejo Pull-a-Part hereinafter Discharger) that:

1. The Discharger violated California Water Code (Water Code) Section 13376 by discharging pollutants to waters of the United States without waste discharge requirements for which the Board may impose civil liability under Section 13385 of the Water Code.
2. A hearing on this matter was held before the Board on May 25, 1999, in First Floor Auditorium, Elihu M. Harris State Building, located at 1515 Clay Street, in Oakland, California. The Discharger, or the Discharger's representative(s), had the opportunity to be heard and to contest the allegations in Complaint No. 98-114, which recommended the imposition of civil liability by the Regional Board.
3. At the hearing, the Board considered whether to affirm, reject or modify the proposed administrative liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. Federal regulations for storm water discharges were issued by the U.S. Environmental Protection Agency on November 16, 1990 (40 Code of Federal Regulations (CFR) Parts 122, 123, and 124). These regulations require facilities that discharge storm water associated with industrial activity to obtain a National Pollutant Discharge Elimination System (NPDES) Permit. The regulations list industrial facilities that must be regulated by NPDES Permits, including all facilities with Standard Industrial Codes (SIC) of 5015 or 5093.
5. Consistent with the federal regulations described in Finding 4., the State Water Resources Control Board has adopted waste discharge requirements for Discharges of Storm Water Associated with Industrial Activities, NPDES General Permit No. CAS000001, Order No. 97-03-DWQ (General Permit).

6. The Discharger's facility has a Standard Industrial Classification (SIC) code of 5015 or 5093:

SIC code 5015 (Motor Vehicle Parts, Used) - Establishments primarily engaged in the distribution at wholesale or retail of used motor vehicle parts. This industry includes establishments primarily engaged in dismantling motor vehicles for the purpose of selling parts.

SIC code 5093 (Scrap and Waste materials) - Establishments primarily engaged in assembling, breaking up, sorting, and wholesale distribution of scrap and waste materials. This industry includes auto wreckers engaged in dismantling automobiles for scrap.

7. The Discharger discharges storm water associated with industrial activity but is not covered by either the General Permit or an individual NPDES permit. Discharges from the Discharger's facility enter waters of the United States.
8. By certified mail dated March 23, 1998, the Discharger was notified of the obligation to file a Notice of Intent (NOI) to obtain coverage under the General Permit and to comply with the General Permit. The Discharger was required to respond by April 22, 1998.
9. By certified mail dated September 21, 1998, the Executive Officer issued a Notice of Violation (NOV) letter to the Discharger. The NOV informed the Discharger that it was in violation of Section 13376 of the California Water Code and that the Executive Officer would recommend enforcement actions if a NOI was not submitted.
10. As of April 20, 1999, the date of Complaint No. 98-114, the Discharger has failed to submit either an NOI or an application for an individual NPDES permit. Consequently, the Discharger is in violation of Water Code Section 13376 for at least 2,373 days.
11. The maximum civil liability which could be imposed by the Board in this matter, pursuant to Section 13385 of the Water Code, is \$10,000 per day of violation. Complaint 98-114 addressed violations for the 2,373 day period from October 1, 1992 through March 31, 1999.
12. In Complaint 98-114, the Executive Officer of the Board proposed that administrative civil liability be imposed by the Board in an amount of \$15,000. This amount includes \$2,000 for the reimbursement of staff costs.
13. In determining the amount of civil liability, the Board has taken into account the following factors set forth in Water Code Section 13385:

A. NATURE AND CIRCUMSTANCES OF THE VIOLATION

As of this time, the Discharger has not complied with any of the General Permit tasks. The Discharger has been notified of the requirement to submit an NOI and to prepare a

Storm Water Pollution Prevention Plan (SWPPP). The Discharger was given the opportunity to comply with the General Permit through the notification but it did not respond to any of our requests.

B. EXTENT AND GRAVITY OF THE VIOLATION

After each storm event, pollutants such as sediments, oil and grease, heavy metals, and floatables may be discharged into waters of the United States. Until a SWPPP has been developed and implemented, numerous discharges will continue to occur after each storm.

C. DEGREE OF CULPABILITY OF THE VIOLATOR

The Discharger is fully aware of the Water Code and the obligation to comply with the General Permit, based on the first certified notification letter sent and subsequent NOV letter.

D. PRIOR HISTORY OF VIOLATION

The Discharger has been in violation since October 1, 1992, the permit application deadline established by the State Board in the Industrial Stormwater General Permit (Order No. 91-13-DWQ) issued on November 19, 1991.

E. ECONOMIC SAVINGS RESULTING FROM THE VIOLATION

The Discharger has realized cost savings by failure to pay General Permit annual fees, failure to perform required sampling and analyses, failure to develop a SWPPP, and failure to implement the SWPPP. Estimated cost savings are as follows:

- **annual fee:** up to \$500/year
- **sampling and analyses:** \$100/sample/discharge point
- **development of SWPPP:** EPA survey indicates average costs to prepare SWPPP about \$4,000 - 7,000, dependent on size/complexity of facility
- **SWPPP implementation:** EPA survey indicates less than \$2,500/yr.

F. ABILITY TO PAY

The Discharger has at a minimum the cash flow from its operation.

G. OTHER MATTERS THAT JUSTICE MAY REQUIRE

Staff time to prepare a complaint and supporting information is estimated to be 20 hours. Based on an average cost to the State of \$100 per hour, the total cost is \$2,000.

14. This action is an order to enforce the laws and regulations administered by the Regional Board. Issuance of this Order is categorically exempt from the provisions of the California

Environmental Quality Act (Public Resources Code Section 21000 et seq.) in accordance with Section 15321(a) of Title 14, California Code of Regulations.

IT IS HEREBY ORDERED, PURSUANT TO WATER CODE SECTION 13385, that the Discharger is civilly liable for this violation and shall pay administrative civil liability in the amount of \$15,000. This amount includes \$2,000 in staff costs. \$5,000 of this liability shall be paid to the State Water Pollution Cleanup and Abatement Account within 30 days of the date of this Order.

The following amounts shall be suspended from the \$15,000 total administrative civil liability if the following tasks are completed according to the dates shown below:

TASK	DUE DATE	AMOUNT SUSPENDED
a. Submit Notice of Intent in accordance with the General Permit	June 30, 1999	\$2,000
b. Submit Stormwater Pollution Prevention Plan in accordance with the General Permit	July 30, 1999	\$3,000
c. Submit Annual Report in accordance with the General Permit	July 1, 2000	\$5,000

Any remaining liability, if not suspended as described herein, shall be paid to the State Water Pollution Cleanup and Abatement Account within 30 days of the date of a demand letter, issued by the Executive Officer, requiring payment.

I, Loretta K. Barsamian, Executive Officer, do hereby certify that the foregoing is a full, complete, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on May 25, 1999.


Loretta K. Barsamian
Executive Officer