

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2013-0041

IN THE MATTER OF

EMERALD BAY MARINE MANUFACTURING, INC.
BUTTE COUNTY

This Order is issued to Emerald Bay Marine Manufacturing, Inc. (hereafter Discharger) pursuant to California Water Code sections 13323, 13399.30, and 13399.33, which authorizes the imposition of Administrative Civil Liability (ACL). The California Regional Water Quality Control Board, Central Valley Region (Central Valley Regional Water Board), hereby finds that Emerald Bay Marine Manufacturing, Inc. (Discharger) has violated California Water Code section 13399.30(a)(2) by failing to submit the required notice of intent to obtain coverage of the State Water Resources Control Board Order 97-03-DWQ (National Pollutant Discharge Elimination System (NPDES) General Permit CAS000001) *Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities* (General Permit) after duly receiving two notices from the Central Valley Regional Water Board. The Central Valley Water Board specifically finds that:

BACKGROUND

1. The Discharger owns and operates a manufacturing facility located at 4801 Feather River Boulevard #16, Oroville, Butte County that is primarily engaged in building and repairing boats. Such activities are classified under Manufacturing Facilities in Attachment 1 of the General Permit and are identified with Standard Industrial Classification (SIC) number 3732. This SIC category of industrial facility is required to obtain coverage under the General Permit. The facility back parking lot on the east side of the facility is paved and has storm drain drop inlets that discharge to an unnamed drainage that eventually discharges to the Feather River, a water of the state and United States.
2. On 16 August 2011, Central Valley Water Board staff inspected the facility and determined that the Discharger is required to obtain General Permit coverage. Staff issued a letter to the Discharger (at the time called Emerald Bay Custom Built Houseboats) on 18 August 2011, notifying the Discharger it was required to obtain General Permit coverage. On 10 January 2012, staff issued a second letter to the Discharger again notifying the Discharger it was required to obtain General Permit coverage. Central Valley Water Board staff again notified the Discharger of the permit requirements in two more letters dated 16 March 2012 and 9 August 2012.
3. On 8 March 2013, the Central Valley Water Board Executive Officer issued Administrative Civil Liability Complaint R5-2013-0525, and on 12 March 2013,

she issued Complaint R5-2013-0525a (the latter contained corrections to the original complaint). Complaint R5-2013-0525a alleges the Discharger violated the requirements of the General Permit and Water Code section 13399.30(a)(2) and is subject to administrative civil liability pursuant to Water Code section 13399.33(a)(1) and 13399.33(d). Complaint R5-2013-0525a proposes a total administrative civil liability of \$5,000.

4. As of the date of this hearing, 30 May 2013, the Discharger has not filed a Notice of Intent to Comply with the General Permit.
5. On 30 May 2013, in Sacramento, California, after notice to the Discharger and all other affected persons and the public, the Central Valley Water Board conducted a public hearing at which evidence was received and the Discharger had the opportunity to be heard and to contest the allegations in Complaint R5-2013-0525a.

REGULATORY CONSIDERATIONS

6. On 17 April 1997, the State Water Board adopted the General Permit.
7. Provision E.1. of the General Permit states that "[a]ll facility operators seeking coverage by the General Permit must submit an NOI [Notice of Intent] for each of the facilities they operate." The Notice of Intent or NOI referred to is the Notice of Intent to Comply with the Terms of the General Permit to Discharger Storm Water Associated with Industrial Activity (WQO 97-03-DWQ).
8. Water Code section 13399.30 requires any person that discharges, proposes to discharge, or is suspected of discharging storm water associated with industrial activity to submit an NOI or notice of non-applicability within 30 days of the regional board providing notice permit coverage is required. If the person fails to submit an NOI or notice of non-applicability within 30 days from when the Regional Board sends a notice requiring permit coverage, the executive officer shall send a second notice to the discharger. Should the person fail to submit an NOI or notice of non-applicability within 60 days from when the Regional Board sent its first notice requiring permit coverage, then the Regional Board shall impose penalties pursuant to Water Code section 13399.33.
9. Water Code section 13399.33(a)(1) states:

With regard to a discharger of storm water associated with industrial activity that fails to submit the required notice of intent to obtain coverage in accordance with Section 13399.30, impose civil liability administratively in an amount that is not less than five thousand dollars (\$5,000) per year of noncompliance or fraction thereof, unless the regional board makes express

findings setting forth the reasons for its failure to do so, based on the specific factors required to be considered pursuant to paragraph (2).

10. Water Code section 13399.33(d) requires the Central Valley Regional Water Board to recover the costs incurred with regard to the persons described in subdivisions (a), (b), and (c).

VIOLATION

11. The Discharger violated Water Code section 13399.30(a)(2) by failing to submit a Notice of Intent from September 10, 2012 to the date of this hearing, 30 May 2013, violating the General Permit for 263 days. Having failed to file an NOI for a portion of one year, the Discharger is subject to a minimum of \$5,000 in civil liability pursuant to Water Code section 13399.33(a)(1). The Regional Board shall in addition recover \$4,950 in costs from the Discharger pursuant to Water Code section 13399.33(d).
12. The total amount of administrative civil liability imposed for the cited violations, and staff costs is \$9,950.

GENERAL PROVISIONS

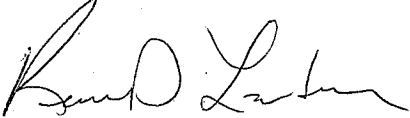
13. This Order is effective immediately upon issuance.
14. The Central Valley Regional Water Board reserves all enforcement rights and its authority to assess additional civil liabilities for violations of applicable laws or order for which civil liabilities have not yet been assessed or for violations that may subsequently occur.
15. Issuance of this Administrative Civil Liability Order to enforce Water Code Division 7, Chapter 5.9 is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code section 21000 et seq.), in accordance with California Code of Regulations, title 14, section 15321(a)(2).
16. Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

IT IS HEREBY ORDERED THAT:

1. The Discharger, Emerald Bay Marine Manufacturing, Inc., its agents, successors and assigns, is assessed an Administrative Civil Liability in the amount of \$9,950.
2. The Discharger shall submit payment with a cashier's check or money order in the full amount of \$9,950 payable to the State Water Resources Control Board's Waste Discharge Permit Fund within 30 days of the date this Order is adopted.
3. Should the Discharger fail to make the specific payment to the State Water Resources Control Board's Waste Discharge Permit Fund within the time limit specified in this Order as set forth above, the Central Valley Regional Water Board may enforce this Order by applying for a judgment pursuant to Water Code section 13328. The Central Valley Water Board's Assistant Executive Officer is hereby authorized to pursue a judgment pursuant to Water Code section 13328.

I, Kenneth D. Landau, Assistant 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, Central Valley Region, on 30 May 2013.



KENNETH D. LANDAU
Assistant Executive Officer