

## Central Valley Regional Water Quality Control Board

12 March 2013

Mr. William Hill  
Emerald Bay Marine Manufacturing, Inc.  
4801 Feather River Boulevard #16  
Oroville, CA 95965

**CERTIFIED MAIL**  
**7012 2920 0001 2252 7129**

### **ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2013-0525a FOR ASSESSMENT OF MANDATORY MINIMUM PENALTIES, EMERALD BAY MARINE MANUFACTURING, INC., BUTTE COUNTY**

On 8 March 2013 the Executive Officer issued Administrative Civil Liability Complaint R5-2013-0525 pursuant to California Water Code section 13399.33, for violations of the State Water Resources Control Board Water Quality Order 97-03-DWQ by Emerald Bay Custom Houseboats, Inc., doing business as Precision Craft Boatworks, Inc. That complaint is hereby withdrawn and is replaced by Administrative Civil Liability Complaint (Complaint) issued to Emerald Bay Marine Manufacturing, Inc., (Discharger). The Water Quality Order contains the Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities, more commonly referred to as the Industrial Storm Water General Permit. The Complaint charges the Discharger with administrative civil liability in the amount of **five thousand dollars (\$5,000)** for the failure to obtain Industrial Storm Water General Permit coverage, plus staff costs

On 18 August 2011, Central Valley Water Board staff issued a Staff Enforcement Letter notifying the Discharger it was required to submit the notice of intent to obtain coverage under the Industrial Storm Water General Permit pursuant to Water Code section 13399.30. A second Staff Enforcement Letter was issued on 10 January 2012 also notifying the Discharge of its obligations. A third Staff Enforcement Letter was issued on 16 March 2012. The Discharger failed to obtain permit coverage after each letter. Staff issued a Notice of Noncompliance on 9 August 2012 again notifying the Discharger it was required to obtain permit coverage. However, despite these notices, the Discharger has still failed to submit the required notice of intent to obtain coverage under the Industrial Storm Water General Permit.

Pursuant to Water Code section 13323, the Discharger may:

- Pay the proposed administrative civil liability and waive its right to a hearing (Option #1 on the enclosed waiver form);
- Ask that the hearing be postponed to facilitate settlement discussions or for other reasons (Options #2 or #3 on the enclosed waiver form); or
- Contest the Complaint and/or enter into settlement discussions without signing the enclosed waiver while proceeding to a hearing

If the Central Valley Water Board does not receive a signed waiver by William Hill, a hearing will be scheduled for the Board meeting in Rancho Cordova. This hearing will be governed by the enclosed Hearing Procedures, which have been approved by the Board Chair for use in adjudicating matters such as this one. Any objections to the Hearing Procedures must be received by David Coupe, whose contact information is listed in the Hearing Procedures, by **5 p.m. on 18 March 2013.**

If the Discharger chooses to sign the waiver and pay the assessed civil liability, this will be considered a tentative settlement of the violations. The settlement will be considered final pending a 30-day comment period, starting from the date this Complaint is issued. Interested parties may comment on the proposed action during this period by submitting written comments to the Central Valley Water Board staff person listed below. Should the Central Valley Water Board receive new information or comments during this comment period, the Executive Officer may withdraw the complaint, return payment, and issue a new complaint. If the Central Valley Water Board does not hold a hearing on the matter, and if the terms of the final settlement are not significantly different from those proposed in the enclosed Complaint, then there will not be additional opportunities for public comment on the proposed settlement.

In order to conserve resources, this letter transmits paper copies of the documents to the Discharger only. Interested persons may download the documents from the Central Valley Water Board's Internet website at:

[http://www.waterboards.ca.gov/centralvalley/board\\_decisions/tentative\\_orders/](http://www.waterboards.ca.gov/centralvalley/board_decisions/tentative_orders/).

Copies of these documents can also be obtained by contacting or visiting the Central Valley Water Board's office weekdays between 8:00 AM and 5:00 PM.

If you have any questions or comments regarding the Administrative Civil Liability Complaint, please contact George Day at (530) 224-4859 or [gday@waterboards.ca.gov](mailto:gday@waterboards.ca.gov).



Bryan J. Smith, P.E.  
Supervising Water Resource Control Engineer

SZ: nm/lm

Enclosures: ACL Complaint R5-2013-0525a  
Hearing Procedures  
Waiver Form

cc w/o encl: Kenneth Greenberg, USEPA, Region 9, San Francisco  
Ken Landau, Central Valley Water Board Advisory Team, Sacramento  
Patrick Pulupa, Office of Chief Counsel, SWRCB, Sacramento  
David Coupe, Office of Chief Counsel, SWRCB, Sacramento  
Laura Drabandt, Office of Chief Counsel, SWRCB, Sacramento

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2013-0525a

IN THE MATTER OF

EMERALD BAY MARINE MANUFACTURING, INC.  
BUTTE COUNTY

This Complaint is issued to Emerald Bay Marine Manufacturing, Inc., (hereafter Discharger) pursuant to California Water Code sections 13399.30, and 13399.33, which authorizes the imposition of Administrative Civil Liability, and Water Code section 13323, which authorizes the Executive Officer to issue this Complaint. This Complaint is based on findings that the Discharger violated provisions of State Water Resources Control Board Order WQO 97-03-DWQ (National Pollutant Discharge Elimination System (NPDES) General Permit CAS000001).

The Executive Officer of the Central Valley Regional Water Quality Control Board (Central Valley Water Board or Board) finds the following:

1. On 17 April 1997, the State Water Resources Control Board (State Water Board) adopted Water Quality Order 97-03-DWQ (NPDES General Permit CAS000001), *Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities* (hereafter "General Permit").
2. The General Permit requires that the operators of certain classifications of industrial facilities<sup>1</sup> apply for coverage under the General Permit, and generally requires the operators to (a) eliminate unauthorized non-storm water discharges, (b) develop and implement a Storm Water Pollution Prevention Plan (SWPPP), and (c) perform monitoring of storm water discharges.
3. The Discharger operates a manufacturing facility located at 4801 Feather River Boulevard #16, Oroville, Butte County that is primarily engaged in building and repairing boats, which is classified under Manufacturing Facilities in Attachment 1 of the General Permit and is identified with Standard Industrial Classification (SIC) number 3732. This SIC category of industrial facility is required to obtain coverage under the General Permit.
4. 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). On 16 August 2011, Central Valley Water Board

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<sup>1</sup> Facilities that discharge storm water associated with industrial activity requiring coverage under the General Permit are listed by category in 40 Code of Federal Regulations Section 122.26(b)(14) and Attachment 1 of the General Permit.

staff inspected and determined that the Discharger's facility is required to obtain General Permit coverage since its SIC number is subject to the General Permit.

5. On 18 August 2011, the Central Valley Water Board sent a staff enforcement letter notifying the Discharger it was required to submit an NOI to obtain coverage under the General Permit by 31 August 2011, and to submit a copy of the SWPPP to the Central Valley Water Board Redding office by 15 September 2011. The Discharger requested and was granted two time extensions in September and October to obtain General Permit coverage, but failed to do so each time. Central Valley Water Board staff verified by checking the California Storm Water Multiple Applications and Report Tracking System (SMARTS) database that showed that the facility had not obtained General Permit coverage.
6. On 10 January 2012, the Central Valley Water Board sent a second staff enforcement letter requesting that the Discharger submit an NOI to obtain coverage under the General Permit by 30 January 2012, and to submit a copy of the SWPPP to the Central Valley Water Board Redding office by 13 February 2012.
7. On 13 February 2012, the Central Valley Water Board received a letter from the Discharger in response to our 10 January 2012 request. The Discharger declined to obtain coverage under the General Permit.
8. On 16 February 2012, Central Valley Water Board staff conducted a General Permit non-filer inspection of the Discharger's facility verifying that the facility was still in operation and still met the requirement of obtaining General Permit coverage. Central Valley Water Board staff observed that the facility had numerous bad housekeeping issues where numerous pollutants of concern were exposed to possible storm water contact, thus posing a threat to water quality. Central Valley Water Board staff again determined after checking the SMARTS database that the facility still did not have General Permit coverage.
9. On 16 March 2012, the Central Valley Water Board sent a third and final notice staff enforcement letter requesting that the Discharger submit an NOI to obtain coverage under the General Permit by 30 March 2012, and to submit a copy of the SWPPP to the Central Valley Water Board Redding office by 13 April 2012.
10. On 2 April 2012, Central Valley Water Board staff called Mr. William Hill who requested a week of time to reevaluate complying with the prior three staff enforcement letters.
11. On 10 April 2012, after various communications with the Discharger, Mr. Hill contacted Central Valley Water Board staff and stated that he would obtain General Permit coverage. Mr. Hill requested a time extension to 30 April 2012.
12. By 4 June 2012, the Discharger had failed to obtain General Permit coverage. Central Valley Water Board staff contacted the Discharger's office manager who requested a week of time to reevaluate complying with the prior three staff enforcement letters.

13. On 9 August 2012, a Notice of Noncompliance was sent to the Discharger by certified mail, return receipt requested. The Notice of Noncompliance stated the Discharger had failed to obtain coverage under the General Permit. The Notice of Noncompliance gave the Discharger 30 days from 9 August 2012 to submit a, NOI and appropriate fee to the State Water Board and to comply with the terms and conditions of the General Permit including preparing and implementing a SWPPP and annual monitoring of storm water runoff.
14. On 16 August 2012, Central Valley Water Board staff drove by the facility and saw that a new sign was posted stating, "Precision Craft Boatworks" and "Exclusive Builders of Emerald Bay Custom Houseboats." The previous sign had read "Emerald Bay Houseboats" and "Repairs and Fabrication."
15. On 27 August 2012, Central Valley Water Board staff received a letter from Mr. Hill indicating that he would not obtain General Permit coverage. To date, the Discharger has not obtained General Permit coverage for the discharge of storm water associated with industrial activities.
16. Water Code section 13260 requires that any person discharging or proposing to discharge waste that could affect the quality of the waters of the state shall file a report of the discharge and submit an annual fee.
17. 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 the first notice 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.
18. 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).
19. Water Code section 13399.33(d) requires the Regional Board to recover the costs incurred with regard to the persons described in subdivisions (a), (b), and (c).

20. The Discharger failed to submit the Notice of Intent from 10 September 2012 to the date of this Complaint, 8 March 2013, violating the General Permit for 180 days. Having failed to file an NOI for this time period, 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 recover \$3,450 in costs from the Discharger pursuant to Water Code section 13399.33(d), as shown in Attachment A to this Complaint, incorporated herein by reference.
21. Issuance of this Administrative Civil Liability Complaint to enforce Water Code Division 7, Chapter 5.5 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). The nature of this action is monetary and does not create any adverse environmental impacts.

**EMERALD BAY CUSTOM BUILT HOUSEBOATS INC., dba PRECISION CRAFT  
BOATWORKS, INC., IS HEREBY GIVEN NOTICE THAT:**

1. The Executive Officer of the Central Valley Water Board proposes that the Discharger be assessed an Administrative Civil Liability in the amount of **five thousand dollars (\$5,000)**.
2. A hearing on this matter will be held at the Central Valley Water Board meeting scheduled on **May 30/31 2013**, unless the Discharger does one of the following by **8 April 2013**:
  - a) Waives the hearing by completing the attached waiver form (checking off the box next to Option #1 and returning it to the Central Valley Water Board, along with payment for the proposed civil liability of **five thousand dollars (\$5,000)**); or
  - b) Requests to engage in settlement discussions by checking off the box next to Option #2 on the attached waiver form, and returns it to the Board along with a letter describing the issues to be discussed. It remains within the discretion of the Central Valley Water Board to agree to delay the hearing; or
  - c) Requests a delay by checking off the box next to Option #3 on the attached waiver form, and returns it to the Board along with a letter describing the amount of additional time requested and the rationale. It remains within the discretion of the Central Valley Water Board to approve the extension.
3. If a hearing on this matter is held, the Central Valley Water 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. If this matter proceeds to hearing, the Executive Officer reserves the right to amend the proposed amount of civil liability to conform to the evidence presented, including but not limited to, increasing the proposed amount to account for the costs of enforcement

(including staff, legal and expert witness costs) incurred after the date of the issuance of this Complaint through completion of the hearing.

5. Further failure to comply with the General Permit beyond the date of this Complaint may subject the Discharger to further administrative civil liability, and/or other enforcement actions, including but not limited to referral to the Attorney General.

*Pamela C. Creedon* (For)

\_\_\_\_\_  
PAMELA C. CREEDON, Executive Officer

*3/12/13*

\_\_\_\_\_  
DATE

Attachment: Waiver Form  
Attachment A: Staff costs

**WAIVER FORM  
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

By signing this waiver, I affirm and acknowledge the following:

I am duly authorized to represent Emerald Bay Marine Manufacturing, Inc., (hereafter Discharger) in connection with Administrative Civil Liability Complaint R5-2013-0525a (hereafter Complaint). I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served. The person who has been issued a complaint may waive the right to a hearing."

**(OPTION 1: Check here if the Discharger waives the hearing requirement and will pay in full.)**

- a. I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board.
- b. I certify that the Discharger will remit payment for the proposed civil liability in the full amount of **five thousand dollars (\$5,000)** by check that references "ACL Complaint R5-2013-0525a" made payable to the *Waste Discharge Permit Fund*. Payment must be received by the Central Valley Water Board by **8 April 2013**.
- c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after a 30-day public notice and comment period. Should the Central Valley Water Board receive significant new information or comments during this comment period, the Central Valley Water Board's Executive Officer may withdraw the complaint, return payment, and issue a new complaint. I also understand that approval of the settlement will result in the Discharger having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
- d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

**(OPTION 2: Check here if the Discharger waives the 90-day hearing requirement in order to engage in settlement discussions.)** I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board within 90 days after service of the complaint, but I reserve the ability to request a hearing in the future. I certify that the Discharger will promptly engage the Central Valley Water Board Prosecution Team in settlement discussions to attempt to resolve the outstanding violation(s). By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing so that the Discharger and the Prosecution Team can discuss settlement. It remains within the discretion of the Central Valley Water Board to agree to delay the hearing. Any proposed settlement is subject to the conditions described above under "Option 1."

**(OPTION 3: Check here if the Discharger waives the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines. Attach a separate sheet with the amount of additional time requested and the rationale.)** I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board within 90 days after

service of the complaint. By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing and/or hearing deadlines so that the Discharger may have additional time to prepare for the hearing. It remains within the discretion of the Central Valley Water Board to approve the extension.

\_\_\_\_\_  
(Print Name and Title)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

ATTACHMENT A  
 ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2013-0525a  
 EMERALD BAY MARINE MANUFACTURING INC., BUTTE COUNTY

**Staff costs to obtain compliance:**

Staff position	Task	Estimated hours	Estimated Cost
Asst Exec Officer	Review case and documents	0.5	\$75
Attorney	Review case, edit documents	3.5	\$525
Exec Officer	Review case	0.5	\$75
Office Technician	Mail documents	0.5	\$75
Senior Engineer	Review case, edit documents, finalized document	3	\$450
Staff Scientist	Notifications to Discharger	2	\$300
Staff Scientist	Inspections	2	\$300
Staff Scientist	Review enforcement case	1	\$150
Staff Scientist	Prepare enforcement documents	8	\$1200
Staff Scientist	Internal meetings with management	2	\$300
<b>Total</b>		<b>23</b>	<b>\$3,450</b>

Note: Staff costs are based on an average rate of \$150 per hour, as directed by the State Water Board Office of Enforcement

Central Valley Regional Water Quality Control Board

HEARING PROCEDURE  
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT  
R5-2013-0525a

ISSUED TO  
EMERALD BAY MARINE MANUFACTURING INC.  
BUTTE COUNTY

SCHEDULED FOR 30/31 MAY 2013

PLEASE READ THIS HEARING PROCEDURE CAREFULLY. FAILURE TO COMPLY WITH THE DEADLINES AND OTHER REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF YOUR DOCUMENTS AND/OR TESTIMONY.

**Background**

The Executive Officer has issued an Administrative Civil Liability (ACL) Complaint pursuant to California Water Code sections 13323, 13399.30 and 13399.33 to Emerald Bay Marine Manufacturing, Inc., (Discharger) alleging that the Discharger violated State Water Resources Control Board Order WQO 97-03-DWQ (National Pollutant Discharge Elimination System (NPDES) General Permit CAS000001) by failing to obtain Industrial General Permit coverage from 10 September 2012 to the date the Complaint was issued, 8 March 2013.

The Complaint proposes that an administrative civil liability in the amount of \$10,000 be imposed. A hearing is currently scheduled to be conducted before the Central Valley Water Board during its 30/31 May 2013 meeting.

**Purpose of Hearing**

The purpose of the hearing is to consider relevant evidence and testimony regarding the ACL Complaint. At the hearing, the Central Valley Water Board will consider whether to issue an administrative civil liability order assessing the proposed liability, or a higher or lower amount. The Board may also decline to assess any liability, or may continue the hearing to a later date. If less than a quorum of the Board is available, this matter may be conducted before a hearing panel. The public hearing will commence at 8:30 a.m. or as soon thereafter as practical, or as announced in the Central Valley Water Board meeting agenda. The meeting will be held at

11020 Sun Center Drive, Suite 200, Rancho Cordova, California.

An agenda for the meeting will be issued at least ten days before the meeting and posted on the Central Valley Water Board's web page at:

[http://www.waterboards.ca.gov/centralvalley/board\\_info/meetings](http://www.waterboards.ca.gov/centralvalley/board_info/meetings)

### **Hearing Procedure**

The hearing will be conducted in accordance with this Hearing Procedure, which has been approved by the Central Valley Water Board Chair for adjudication of such matters. The procedures governing adjudicatory hearings before the Central Valley Water Board may be found at California Code of Regulations, title 23, section 648 et seq., and are available at:

<http://www.waterboards.ca.gov>

Copies will be provided upon request. In accordance with section 648, subdivision (d), any procedure not provided by this Hearing Procedure is deemed waived. Except as provided in section 648(b) and herein, Chapter 5 of the Administrative Procedures Act (Gov. Code, § 11500 et seq.) does not apply to this hearing.

The Discharger shall attempt to resolve objections to this Hearing Procedure with the Prosecution team BEFORE submitting objections to the Advisory Team.

### **Separation of Prosecutorial and Advisory Functions**

To help ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the Central Valley Water Board (the "Prosecution Team") have been separated from those who will provide legal and technical advice to the Central Valley Water Board (the "Advisory Team"). Members of the Advisory Team are: Mr. Kenneth Landau, Assistant Executive Officer, and Mr. David Coupe, Attorney. Members of the Prosecution Team are: Ms. Pamela Creedon, Executive Officer, Mr. Clint Snyder, Assistant Executive Officer, Mr. Bryan Smith, Supervising Senior Water Resources Control Engineer, Mr. George Day, Senior Water Resources Control Engineer, Mr. Scott Zaitz, Environmental Scientist, and Ms. Laura Drabandt, Attorney.

Any members of the Advisory Team who normally supervise any members of the Prosecution Team are not acting as their supervisors in this proceeding, and vice versa. Pamela Creedon regularly advises the Central Valley Water Board in other, unrelated matters, but is not advising the Central Valley Water Board in this proceeding. Other members of the Prosecution Team act or have acted as advisors to the Central Valley Water Board in other, unrelated matters, but they are not advising the Central Valley Water Board in this proceeding. Members of the Prosecution Team have not had any ex parte communications with the members of the Central Valley Water Board or the Advisory Team regarding this proceeding.

### **Hearing Participants**

Participants in this proceeding are designated as either "Designated Parties" or "Interested Persons." Designated Parties may present evidence and cross-examine witnesses and are subject to cross-examination. Interested Persons may present non-evidentiary policy

statements, but may not cross-examine witnesses and are not subject to cross-examination. Interested Persons generally may not present evidence (e.g., photographs, eye-witness testimony, monitoring data). At the hearing, both Designated Parties and Interested Persons may be asked to respond to clarifying questions from the Central Valley Water Board, staff, or others, at the discretion of the Board Chair.

The following participants are hereby designated as parties in this proceeding:

1. Central Valley Water Board Prosecution Team
2. Emerald Bay Marine Manufacturing, Inc.

### **Requesting Designated Party Status**

Persons who wish to participate in the hearing as a Designated Party must request designated party status by submitting a request in writing so that it is received no later than the deadline listed under "Important Deadlines" below. The request shall include an explanation of the basis for status as a Designated Party (i.e., how the issues to be addressed at the hearing affect the person, the need to present evidence or cross-examine witnesses), along with a statement explaining why the parties listed above do not adequately represent the person's interest. Any objections to these requests for designated party status must be submitted so that they are received no later than the deadline listed under "Important Deadlines" below.

### **Primary Contacts**

#### **Advisory Team:**

Kenneth Landau, Assistant Executive Officer  
11020 Sun Center Drive, Suite 200, Rancho Cordova, CA 95670  
Phone: (916) 464-4726  
klandau@waterboards.ca.gov

#### **David Coupe, Attorney**

State Water Resources Control Board, Office of Chief Counsel  
Physical Address: 1001 I Street, Sacramento, CA 95814  
Mailing Address: P.O. Box 100, Sacramento, CA 95812  
Phone: (916) 341-5051; fax (916) 341-5199  
DCoupe@waterboards.ca.gov

#### **Prosecution Team:**

Pamela Creedon, Executive Officer  
11020 Sun Center Drive, Suite 200, Rancho Cordova, CA 95670  
Phone: (916) 464-4835; fax: (916) 464-4645

Clint Snyder, Assistant Executive Officer

Bryan Smith, Supervising Water Resources Control Engineer  
George Day, Senior Water Resources Control Engineer  
Scott Zaitz, Environmental Scientist  
364 Knollcrest Drive, Suite 205, Redding, CA 96002  
Phone: (530) 224-4845  
Scott.zaitz@waterboards.ca.gov

Laura Drabandt, Attorney  
State Water Resources Control Board, Office of Chief Counsel  
Physical Address: 1001 I Street, Sacramento, CA 95814  
Mailing Address: P.O. Box 100, Sacramento, CA 95812  
Phone: (916) 341-5180; fax: (916) 341-5199  
ldrandt@waterboards.ca.gov

**Discharger:**

William Hill  
Emerald Bay Marine Manufacturing, Inc.  
4801 Feather River Boulevard, #16  
Oroville, CA 95965  
Phone: (530) 534-3440

**Ex Parte Communications**

Designated Parties and Interested Persons are forbidden from engaging in ex parte communications regarding this matter. An ex parte communication is a written or verbal communication related to the investigation, preparation, or prosecution of the ACL Complaint between a Designated Party or an Interested Person and a Board Member or a member of the Board's Advisory Team (see Gov. Code, § 11430.10 et seq.). However, if the communication is copied to all other persons (if written) or is made in a manner open to all other persons (if verbal), then the communication is not considered an ex parte communication. Communications regarding non-controversial procedural matters are also not considered ex parte communications and are not restricted.

**Hearing Time Limits**

To ensure that all participants have an opportunity to participate in the hearing, the following time limits shall apply: each Designated Party shall have a combined **30** minutes to present evidence (including evidence presented by witnesses called by the Designated Party), to cross-examine witnesses (if warranted), and to provide a closing statement. Each Interested Person shall have 3 minutes to present a non-evidentiary policy statement. Participants with similar interests or comments are requested to make joint presentations, and participants are requested to avoid redundant comments. Participants who would like additional time must submit their request to the Advisory Team so that it is received no later than the deadline listed under "Important Deadlines" below. Additional time may be provided at the discretion of the Advisory Team (prior to the hearing) or the Central Valley Water Board Chair (at the hearing) upon a showing that additional time is necessary. Such showing shall explain what testimony, comments or legal argument

require extra time, and why it could not adequately provide the testimony, comments or legal argument in writing by the applicable deadline .

A timer will be used, but will not run during Board questions or the responses to such questions, or during discussions of procedural issues.

### **Submission of Evidence and Policy Statements**

The Prosecution Team and all other Designated Parties (including the Discharger) must submit the following information in advance of the hearing:

1. All evidence (other than witness testimony to be presented orally at the hearing) that the Designated Party would like the Central Valley Water Board to consider. Evidence and exhibits already in the public files of the Central Valley Board may be submitted by reference, as long as the exhibits and their location are clearly identified in accordance with California Code of Regulations, title 23, section 648.3. Board members will not generally receive copies of materials incorporated by reference unless copies are provided, and the referenced materials are generally not posted on the Board's website.
2. All legal and technical arguments or analysis.
3. The name of each witness, if any, whom the Designated Party intends to call at the hearing, the subject of each witness' proposed testimony, and the estimated time required by each witness to present direct testimony.
4. The qualifications of each expert witness, if any.

**Prosecution Team:** The Prosecution Team's information must include the legal and factual basis for its claims against each Discharger; a list of all evidence on which the Prosecution Team relies, which must include, at a minimum, all documents cited in the ACL Complaint, Staff Report, or other material submitted by the Prosecution Team; and the witness information required under items 3-4 for all witnesses, including Board staff.

**Designated Parties (including the Discharger):** All Designated Parties shall submit comments regarding the ACL Complaint along with any additional supporting evidence not cited by the Central Valley Water Board's Prosecution Team no later than the deadline listed under "Important Deadlines" below.

**Rebuttal:** Any Designated Party that would like to submit evidence, legal analysis, or policy statements to rebut information previously submitted by other Designated Parties shall submit this rebuttal information so that it is received no later than the deadline listed under "Important Deadlines" below. "Rebuttal" means evidence, analysis or comments offered to disprove or contradict other submissions. Rebuttal shall be limited to the scope of the materials previously submitted. Rebuttal information that is not responsive to information previously submitted may be excluded.

**Copies:** Board members will receive copies of all submitted materials. The Board Members' hard copies will be printed in black and white on 8.5"x11" paper from the Designated Parties' electronic copies. Designated Parties who are concerned about print quality or the size of all or part of their written materials should provide an extra nine paper copies for the Board Members. For voluminous submissions, Board Members may receive copies in electronic format only. Electronic copies will also be posted on the Board's

website. Parties without access to computer equipment are strongly encouraged to have their materials scanned at a copy or mailing center. The Board will not reject materials solely for failure to provide electronic copies.

Other Matters: The Prosecution Team will prepare a summary agenda sheet (Summary Sheet) and will respond to all significant comments. The Summary Sheet and the responses shall clearly state that they were prepared by the Prosecution Team. The Summary Sheet and the responses will be posted online, as will revisions to the proposed Order.

Interested Persons: Interested Persons who would like to submit written non-evidentiary policy statements are encouraged to submit them to the Advisory Team as early as possible, but they must be received by the deadline listed under "Important Deadlines" to be included in the Board's agenda package. Interested Persons do not need to submit written comments in order to speak at the hearing.

Prohibition on Surprise Evidence: In accordance with California Code of Regulations, title 23, section 648.4, the Central Valley Water Board endeavors to avoid surprise testimony or evidence. Absent a showing of good cause and lack of prejudice to the parties, the Board Chair may exclude evidence and testimony that is not submitted in accordance with this Hearing Procedure. Excluded evidence and testimony will *not* be considered by the Central Valley Water Board and will not be included in the administrative record for this proceeding.

Presentations: Power Point and other visual presentations may be used at the hearing, but their content shall not exceed the scope of other submitted written material. These presentations must be provided to the Advisory Team at or before the hearing both in hard copy and in electronic format so that they may be included in the administrative record.

Witnesses: All witnesses who have submitted written testimony shall appear at the hearing to affirm that the testimony is true and correct, and shall be available for cross-examination.

### **Evidentiary Documents and File**

The ACL Complaint and related evidentiary documents are on file and may be inspected or copied at the Central Valley Water Board office at 11020 Sun Center Drive, Rancho Cordova, CA 95670. This file shall be considered part of the official administrative record for this hearing. Other submittals received for this proceeding will be added to this file and will become a part of the administrative record absent a contrary ruling by the Central Valley Water Board's Chair. Many of these documents are also posted on-line at:

[http://www.waterboards.ca.gov/centralvalley/board\\_decisions/tentative\\_orders/index.shtml](http://www.waterboards.ca.gov/centralvalley/board_decisions/tentative_orders/index.shtml)

Although the web page is updated regularly, to assure access to the latest information, you may contact George Day (contact information above) for assistance obtaining copies.

### **Questions**

Questions concerning this proceeding may be addressed to the Advisory Team attorney (contact information above).