

California Regional Water Quality Control Board
North Coast Region

Complaint No. R1-2005-0048

For

Administrative Civil Liability

In the Matter of

American Aircraft Painting
600 Heidelberger Way
Healdsburg

WDID No. 1 1 49I001518

For

Failing to File an Annual Storm Water Report
for Fiscal Year 2003-2004 in a Timely Manner

Sonoma County

The Executive Officer of the California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board), hereby gives notice that:

1. Larry Remington (hereinafter the Discharger) operated the American Aircraft Painting site, an aircraft painting facility located at 600 Heidelberger Way in Healdsburg, California (hereinafter Facility).
2. The U.S. Environmental Protection Agency issued regulation for storm water discharges on November 16, 1990. Subsequently, the State Water Resources Control Board (State Water Board) adopted Water Quality Order No. 91-013-DWQ, National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities (hereinafter General Permit). On September 17, 1992, the State Water Board amended the General Permit, and on August 17, 1997, the State Water Board issued Order No. 97-03-DWQ, which revised and replaced the General Permit.
3. Provision E(1) of the General Permit requires that all facility operators seeking coverage under the General Permit file a Notice of Intent (NOI) for each of the facilities they operate. Larry Remington filed a NOI for the American Aircraft Painting site on March 27, 1992, and was assigned WDID No. 1 1 49I001518 for the operation.
4. Provision E(3) and Section B(14) of the General Permit require that all facility operators submit an Annual Report by July 1st of each year to the Executive Officer of the Regional Water Board responsible for the area in which the facility is located.

5. The Discharger failed to submit its 2003-2004 Annual Report for the Facility by July 1, 2004.
6. California Water Code (CWC) Section 13399.31(b) requires a Regional Water Board to provide notice of non-compliance to a discharger who has failed to submit an Annual Report. Should a discharger who is so notified fail to submit an Annual Report within 30 days of notification, Section 13399.31(c) requires that the Regional Water Board's Executive Officer send a second notice to that discharger.
7. On August 3, 2004, the Executive Officer issued the first Notice of Non-Compliance to the Discharger related to the failure to submit the 2003-2004 Annual Report. The Discharger did not respond to this Notice. On September 3, 2004, the Executive Office issued the second Notice of Non-Compliance letter to the Discharger.
8. CWC Section 13399.25 provides that CWC Division 7, Chapter 5.9, which includes CWC Section 13399.33, "supplement, and does not supplant, other laws relating to the discharge of storm water." Section 13385(a)(2) provides that any person who violates any waste discharge requirements issued pursuant to Chapter 5.5 of the Porter-Cologne Water Quality Control Act shall be civilly liable pursuant to CWC Section 13385(c)(1) in an amount not to exceed ten thousand dollars (\$10,000) for each day the violation occurs.
9. CWC Section 13323 states, in part:

"(a)... Any executive officer of a regional board may issue a complaint to any person on whom administrative civil liability may be imposed pursuant to this article."
10. CWC Section 13399.33(d) states that costs incurred by the regional board can be recovered from the discharger. Staff time to prepare this Complaint and supporting information is estimated to 40 hours. Based on an average cost to the State of \$65 per hour, the total cost is \$2,600.
11. In determining the amount of civil liability to be imposed, the Executive Officer considered, pursuant to CWC Section 13385(e), the nature, circumstances, extent, and gravity of the violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and with respect to the violator, the ability to pay, the effect on ability to continue on business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic savings, if any, resulting from the violation, and such other matters as justice requires, CWC Section 13385(e) provides that "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."
12. The Discharger did not submit the 2003-2004 Annual Report for the facility until October 7, 2004, violating the General Permit for 98 days. The total maximum penalty under CWC Section 13385(c)(1) is \$980,000. Under CWC Section 13385(e) and including estimated staff costs, the Executive Officer is proposing a fine of \$9,000.

13. A settlement of this Complaint will not become effective until after a 30-day public comment period.

PROPOSED CIVIL LIABILITY

1. Based on the foregoing, I hereby propose that the Larry Remington pay an Administrative Civil Liability in the amount of \$9,000.
2. Unless waived, a hearing on this matter will be held before the Regional Water Board on June 21, 2005, at the Regional Water Quality Control Board Hearing Room located at 5550 Skylane Boulevard, Suite A, Santa Rosa, California. At this hearing, the Discharger, or representative(s) will have an opportunity to address and contest the allegations in the Complaint and the imposition of civil liabilities before the Regional Water Board.
3. At the hearing the Regional Water Board will consider whether to affirm, reject, or modify the proposed civil liability, to refer the matter to the Attorney General for judicial enforcement, or to take other enforcement action.
4. The issuance of a Complaint for Administrative Civil Liability does not have the potential to result in a physical change in the environment and is therefore not a "project" subject to the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000 et seq.) pursuant to Title 14, California Code of Regulations Section 15060(c). The issuance of the Complaint is also an enforcement action and is exempt from CEQA pursuant to Title 14, California Code of Regulations, Section 15321(a)(2).

Waiver of Hearing

Larry Remington may waive the right to a future hearing, if it so chooses, by signing the enclosed Waiver and returning it together with a cashier's check or money order, made payable to the "State Water Resources Control Board," for the full amount of the proposed civil liability, within 14 days of the date of this Complaint. The waiver and check/money order should be submitted to the California Regional Water Quality Control Board, North Coast Region, 5550 Skylane Boulevard, Suite A, Santa Rosa, CA 95403

Ordered by:


Catherine E. Kuhlman
Executive Officer

May 23, 2005

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By signing below, I hereby affirm and acknowledge the following:

1. I am the duly authorized representative of American Aircraft Painting;
2. I am informed of the right provided by Water Code Section 13323, Subdivision (b), to a hearing within ninety (90) days of issuance of an Administrative Civil Liability Complaint;
3. I hereby waive Larry Remington's right to a hearing before the California Regional Water Quality Control Board, North Coast Region, within ninety (90) days of the date of issuance of the above-listed complaint;
4. Without admitting liability for the matters alleged in the complaint, I otherwise agree to remit payment for the civil liability imposed;
5. I understand that this settlement will not become effective until after a public comment period;
6. I understand that the Executive Officer has complete discretion to modify or terminate this settlement.

Date

Name and Title (Print)

Signature