

California Regional Water Quality Control Board
North Coast Region

Administrative Civil Liability Complaint Order No. R1-2009-0118

In the Matter of

Coast Wood Preserving, Inc.
WDID No. 1231004224

For

Late Submittal of Annual Storm Water Reports
For Fiscal Years 2006/2007 and 2007/2008

Mendocino County

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

1. Coast Wood Preserving, Inc. (hereinafter "Discharger") operates a wood preserving treatment site located in Mendocino County at 3150 Taylor Drive, Ukiah, California (hereinafter "Facility").
2. The U.S. Environmental Protection Agency issued regulations for storm water discharges on November 16, 1990. Subsequently, the State Water Resources Control Board (hereinafter "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 "91-013-DWQ"). On September 17, 1992, the State Water Board amended the 91-013-DWQ, and on August 17, 1997, the State Water Board issued Order No. 97-03-DWQ (hereinafter "General Permit"), which revised and replaced the 91-013-DWQ.
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. The Discharger filed an NOI for the Facility on August 11, 2006. Subsequently, the Regional Water Board staff assigned WDID No. 1231004224 for the Facility.
4. Section B, Number 14 of the General Permit requires that all facility operators submit an Annual Report by July 1 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 2006/2007 and 2007/2008 Annual Reports for the Facility by July 1, 2007 and July 1, 2008, respectively.
6. California Water Code (hereinafter "CWC") section 13399.31(b) requires the Regional Water Board to notify each discharger who failed to submit an annual report, as required by the Regional Water Board, of the discharger's noncompliance and the penalties therefrom. If the discharger, who is so notified, fails to submit an annual report within 30 days of that notification, CWC section 13399.31(c) requires that the Regional Water Board's Executive Officer send a

second notice to that discharger. If the discharger then fails to submit the required annual report within 60 days from the first notice, CWC section 13399.33(d) requires the Regional Water Board to impose penalties.

7. On August 6, 2007, the Executive Officer issued the first Notice of Noncompliance via certified mail return receipt requested to the Discharger citing the Discharger's failure to submit the 2006/2007 Annual Report . The return receipt shows that the Discharger received the August 6, 2007 notice on August 7, 2007. On September 5, 2007, the Regional Water Board's Executive Officer issued a second Notice of Noncompliance letter via certified mail return receipt requested to the Discharger. The second notice cited the Discharger's continued failure to submit the 2006/2007 Annual Report and the penalties for such non-compliance. The return receipt shows that the Discharger received the September 5, 2007 notice on September 7, 2007.
8. On August 8, 2008, the Executive Officer issued the first Notice of Noncompliance via certified mail return receipt requested to the Discharger citing the Discharger's failure to submit the 2007/2008 Annual Report. The return receipt shows that the Discharger received the August 8, 2008 notice on August 12, 2008. On September 22, 2008, the Regional Water Board's Executive Officer issued a second and final Notice of Noncompliance via certified mail return receipt requested to the Discharger. The second notice cited the Discharger's continued failure to submit the 2007/2008 Annual Report and the penalties for such non-compliance.
9. The 2006/2007 and 2007/2008 Annual Storm Water Reports were due July 1, 2007 and July 1, 2008 respectively. Regional Water Board staff received both annual reports on August 13, 2009; equating to 774 days late for fiscal year 2006/2007 and 408 days late for fiscal year 2007/2008.
10. Under CWC section 13399.31 (d), if the discharger fails to submit an annual report within 60 days from the date the first notice is sent, the Regional Water Board shall impose the penalties described in CWC section 13399.33 (c). Pursuant to CWC section 13399.33 (c) and (d) the Regional Water Board shall impose civil liability in an amount that is not less than \$1,000 and the costs incurred by the Regional Water Board's staff for enforcement.
11. Costs incurred by Regional Water Board associated with this enforcement action are estimated to be a minimum of \$2,430. This includes staff time to prepare this Complaint and public notices.
12. Based on the requirements for minimum penalties, as described in Finding 10 above, the total minimum penalty for the two late reports is two thousand dollars (\$2,000) plus two thousand four hundred thirty dollars (\$2,430) in staff costs incurred, for a total of four thousand four hundred thirty dollars (\$4,430).
13. The issuance of this Complaint does not have the potential to result in a physical change in the environment and, therefore, is not a "project" subject to the provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.). It is also exempt from CEQA in accordance with title 14, California Code of Regulations, section 15321, subsection (a)(2).

THE DISCHARGER IS HEREBY GIVEN NOTICE THAT:

1. The Assistant Executive Officer proposes that the Discharger be assessed an administrative civil liability in the amount of four thousand four hundred thirty dollars (\$4,430) for the failure to submit the Annual Stormwater Reports for the 2006/2007 and 2007/2008 fiscal years by the July 1, 2007 and July 1, 2008, respectively, as required by the General Permit.
2. The Regional Water Board will conduct a hearing on this Complaint on January 21, 2010, unless the Discharger waives the right to a hearing by signing and returning the waiver form attached to this Complaint within thirty (30) days of the date of this Complaint. By doing so, the Discharger agrees to:
 - a. Pay the total assessed penalty of four thousand four hundred thirty dollars (\$4,430) in full to the State Water Resources Control Board, Waste Discharger Permit Fund, within thirty (30) days of the date of this Complaint or,
3. If the Discharger waives the hearing and pays the liability, the resulting settlement may become effective on the next day after the thirty-day public comment period on this Complaint ends. If there are significant public comments, the Assistant Executive Officer may withdraw the Complaint, reissue it as appropriate, or take other appropriate action.
4. If a hearing is held, the Regional Water Board may impose an administrative civil liability in the amount proposed or for a different amount, decline to seek civil liability, or refer the matter to the Attorney General to have a Superior Court consider enforcement. If this matter proceeds to hearing, the Prosecution Team reserves the right to seek an increase in the civil liability amount to cover the costs of enforcement incurred subsequent to the issuance of this Complaint through hearing.
5. Regulations of the United States Environmental Protection Agency require public notification of any proposed settlement of the civil liability that stem from violation of the Clean Water Act, including NPDES permit violations. Accordingly, interested persons will be given thirty (30) days to comment on any proposed settlement of this Complaint.
6. Notwithstanding the issuance of this Complaint, the Regional Water Board shall retain the authority to assess additional penalties for violations of the Discharger's storm water permit.

Luis G. Rivera
Assistant Executive Officer

October 27, 2009