

**California Regional Water Quality Control Board
San Francisco Bay Region**

In the Matter of:)
)
LP Acquisitions LLC) **Complaint No. R2-2024-1038**
San Mateo County) **For**
) **Administrative Civil Liability**
Failure to Submit Annual Report)
)

Discharger is hereby given notice that:

1. The San Francisco Bay Regional Water Quality Control Board (Regional Water Board) alleges that LP Acquisitions LLC (Discharger) has violated a provision of the Stormwater Enforcement Act. The violation requires the Regional Water Board to impose an administrative civil liability (monetary penalty), pursuant to Water Code sections 13399.31 and 13399.33.
2. This Administrative Civil Liability Complaint (Complaint) is issued pursuant to Water Code section 13323, which allows the Regional Water Board to issue a complaint based on a discharger's violation of law. In this case, Discharger has failed to submit required documentation to the Regional Water Board in violation of Water Code section 13399.33(c). As such, the Regional Water Board must issue this Complaint, which imposes a mandatory minimum penalty as well as the staff costs incurred to enforce Water Code sections 13399.33(b) and (d).
3. Discharger operates a construction project at 405 Alberto Way in Los Gatos. On September 13, 2021, the Discharger filed a Notice of Intent (attached hereto as Attachment A) to obtain permit coverage for construction activities through State Board Order No. 2009-0009-DWQ, *General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities* (Construction Stormwater General Permit [Permit]). Discharger is responsible for complying with Permit requirements, which include preparing, electronically submitting, and certifying a report of stormwater monitoring and training information (Annual Report) no later than September 1 of each year (see Section XVI of the Permit).

Allegations

4. Discharger violated Section XVI of the Permit by failing to submit the required Annual Report for the 2022-2023 reporting year by September 1, 2023.
5. Pursuant to Water Code sections 13399.31 and 13399.33, the Regional Water Board must impose a monetary penalty in an amount not less than \$1,000 when the discharger fails to submit an annual report after receiving two notifications. Water Code section 13399.31(b) requires the Regional Water Board to notify the

- discharger of its noncompliance first. If a response is not received within 30 days, Water Code section 13399.31(c) requires the Regional Water Board to issue a second notice of noncompliance before assessing a penalty.
6. Based on Discharger's failure to submit the Annual Report, and as required by Water Code section 13399.31, the Regional Water Board issued, via certified mail (Certified Mail Receipts, attached hereto as Attachment B) and email, notices of noncompliance on November 15, 2023, and December 18, 2023 (Notices of Noncompliance, attached hereto as Attachment C). These notices of noncompliance instructed Discharger to submit the Annual Report within 30 days to avoid further enforcement. The notices also informed Discharger of the mandatory minimum penalty associated with violation of Water Code section 13399.33(c) for failing to submit an annual report. However, Discharger failed to submit the required Annual Report within 60 days of the first notice (by January 14, 2024) and did not otherwise respond to the Regional Water Board.
 7. As set forth above, when a discharger fails to certify and submit an annual report via the State Water Resource Control Board's (State Water Board's) Stormwater Multiple Application and Report Tracking System (SMARTS) within 60 days from the date of the first notice of noncompliance, Water Code section 13399.33(c) requires the Water Board to impose a \$1,000 penalty and, pursuant to Water Code section 13399.33(d), recover staff costs the Regional Water Board incurs in enforcing the Permit.
 8. On April 4, 2024, Regional Water Board staff issued via email a conditional offer to settle the alleged reporting violation for a mandatory minimum mandatory of \$1,000 (Settlement Offer Letter and Tentative Order for Conditional Resolution and Waiver, attached hereto as Attachments D and E). This Settlement Offer required Discharger to respond by April 24, 2024, by either accepting the offer, contesting the alleged violation, or rejecting the offer.
 9. On April 5, 2024, Discharger sent an email saying nothing had been done at the site since January of 2020 and reporting they requested closure of the permit "many years ago". Regional Water Board staff responded on April 10, 2024, reminding Discharger that a Stormwater Pollution Prevention Plan and Notice of Intent Application for Construction had been submitted on August 20, 2021, and September 13, 2021, respectively, to the SMARTS account for the site. Staff also informed Discharger that an annual report must be submitted so long as an active project is covered under the, including when the project is on hold or otherwise delayed. Staff also advised Discharger that he could terminate coverage. The Regional Water Board received the Annual Report on April 15, 2024.
 10. On April 15, 2024, Discharger sent an email inviting Staff to visit the site. Staff responded via on April 16, 2024, that a site visit was not necessary at the time,

that Discharger would need to respond to the Conditional Offer, and they needed to either update the status of their project or terminate permit coverage as appropriate. Discharger started a Notice of Termination for the site in SMARTS on April 15, 2024, but has not submitted the completed Notice as of the date of this complaint.

11. Discharger contested the violation by email on April 23, 2024. On May 7, 2024, the Regional Water Board informed Discharger that the contest did not have merit and that Discharger had 15 days from receipt of the email to accept the offer or receive notice of additional enforcement. Discharger did not respond.

Proposed Civil Liability

12. The minimum liability for the alleged violation is a mandatory penalty of \$1,000, pursuant to Water Code section 13399.33(c), along with the recovery of Regional Water Board staff costs, pursuant to Water Code section 13399.99(d). Staff costs were estimated to be \$1,910.00 (Staff Cost Estimate, attached hereto as Attachment F).
13. Based on the foregoing, the Regional Water Board should impose civil liability in the amount of \$2,910.00 on Discharger based on failure to submit an annual report by September 1, 2023, for the 2022-2023 reporting year, as required by the Permit.

Ross Steenson
Assistant Executive Officer
California Regional Water Quality Control Board
San Francisco Bay Region

Date

Attachments:

- A. Notice of Intent
- B. Certified Mail Receipts
- C. Notices of Noncompliance
- D. Settlement Offer Letter
- E. Tentative Order for Conditional Resolution and Waiver
- F. Staff Costs