

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL COAST REGION  
895 Aerovista Place, Suite 101  
San Luis Obispo, CA 93401-7906**

**ADMINISTRATIVE CIVIL LIABILITY  
ORDER NO. R3-2004-0088**

**Issued To**

**Dan Milligan, doing business as Coastal Boatworks  
261 Main St., Morro Bay  
San Luis Obispo County**

The California Regional Water Quality Control Board, Central Coast Region, finds that:

1. On March 9, 1994, Dan Milligan, doing business as Coastal Boatworks, (hereafter, Discharger) filed a Notice of Intent to comply with the terms of the General Permit for Storm Water Discharges Associated with Industrial Activity (General Permit).
2. The General Permit requires that an Annual Report for Storm Water Discharges Associated with Industrial Activity (Annual Report) be submitted on or before July 1 of each year.
3. The Discharger has violated the General Permit by failing to submit the 2002-2003 Annual Report in a timely manner, for which the Regional Water Quality Control Board, Central Coast Region (Regional Board) may impose civil liability under Section 13399.33 of the California Water Code.
4. The Discharger was involved in industrial activity during the reporting period (July 2002 – June 2003), which requires coverage under the General Permit.
5. Pursuant the California Water Code, the Regional Board sent two Notice of Violation Letters to the Discharger for failure to submit the Annual Report.
6. Section 13399.33(c) of the California Water Code, provides that a person that fails to submit an annual report in accordance with Section 13399.31, shall be civilly liable in an amount not less than \$1,000.
7. Section 13261(a) of the California Water Code provides that “[a]ny person failing to furnish a report or pay a fee under Section 13260 when so requested by a regional board is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b).” Section 13261(b)(1) provides that “[c]ivil liability may be administratively imposed by a regional board or the state board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (a) in an amount that may not exceed one thousand dollars (\$1,000) for each day in which the violation occurs.” Section 13261(b)(2) provides that “[c]ivil liability may be imposed by the superior court in accordance with Article 5 (commencing with Section 13350) and Article 6 (commencing with Section 13360) of Chapter 5 for a violation of subdivision (a) in an amount that may not exceed five thousand dollars (\$5,000) for each day the violation occurs.”
8. The California Regional Water Quality Control Board, Central Coast Region

(hereinafter Regional Board), may impose liability in accordance with California Water Code Sections 13261(b) for Discharger's failure to pay the annual fee assessed by the State Water Resources Control Board (State Board) for Waste Discharge Requirements Order No. 97-03-DWQ.

9. According to records provided by the State Board, the State Board mailed three invoices, three demand letters and three Notices of Violation to Dan Milligan for the Annual Fees for three consecutive fiscal years.
10. The Discharger is alleged to have violated Water Code Section 13260(d)(1) for 1037 days from the due date of the original invoice for the annual fee for Fiscal Year 01/02, and 674 days from the due date of the original invoice for the annual fee for Fiscal Year 02/03, and 305 days from the due date of the original invoice for the annual fee for Fiscal Year 03/04, through March 8, 2004.
11. Therefore, the Discharger is alleged to be in violation of Water Code Section 13260(d)(1) for a total of 2016 days.
12. Pursuant to Water Code Section 13261(b)(1), the Regional Board may impose administrative civil liability up to a **maximum amount of \$2,016,000 dollars**. Pursuant to Water Code Section 13261(b)(2), the Superior Court may impose judicial civil liability up to a **maximum amount of \$10,080,000 dollars**. The Regional Board may also refer this violation to the District Attorney for prosecution as a misdemeanor.
13. As required by California Water Codes section 13327, the Executive Officer has considered the nature, circumstances, extent, and gravity of the Discharger's late payment of annual fees, the Discharger's ability to pay the proposed civil liability, the effect of the proposed civil liability on the Discharger's ability to continue in business, any history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the late payment of annual fees, and other matters as justice may require, including the staff time required to prepare this Complaint. Staff costs are estimated at \$1,125.
14. The Discharger enjoyed the privilege of discharging waste without complying with their obligation to pay the annual waste discharge fees. By delaying the payment of fees, the Discharger gained the use of that money for other purposes. This has provided an economic business advantage to the Discharger over competitors who have paid their fees in a timely manner. The amount of the business advantage is the time value of delaying payment. The degree of culpability is high, since the Discharger failed to pay annual fees for three years, despite numerous notices and invoices. The proposed civil liability does not include the amount of the annual fees.
15. This enforcement action is taken for the protection of the environment and as such is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, *et seq.*) in accordance with sections 15307 and 15308, Title 14, California Code of Regulations.
16. A hearing on this matter was held before the Regional Board on July 9, 2004, in Watsonville, California. The Discharger, or the Discharger's representative(s), had the opportunity to be heard and to contest the allegations in the Complaint No. R3-2004-0088, which recommended the imposition of civil liability by the Regional Board.
17. At the hearing, the Regional Board considered whether to affirm, reject, or modify the proposed administrative liability, or whether to refer the matter

to the Attorney General for recovery of judicial civil liability.

**IT IS HEREBY ORDERED**, pursuant to Section 13399 and 13261 of the California Water Code, the Discharger is assessed a total civil liability of \$5,725, to be paid as follows:

1. The sum of Five Thousand Seven Hundred and Twenty-five Dollars (\$5,725.00) to be paid to the Regional Water Quality Control Board by August 9, 2004. The check is to be made payable to the State Water Resources Control Board.

**I, Roger W. Briggs, Executive Officer**, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the Regional Water Quality Control Board on July 9, 2004.

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Roger W. Briggs  
Executive Officer

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Date