

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

ORDER R2-2024-0024

**ORDER SETTING ADMINISTRATIVE CIVIL LIABILITY upon:
SODA LLC
21 LOCUST AVE., SUITE 1
MILL VALLEY, CA 94641**

The California Regional Water Quality Control Board, San Francisco Bay Region (Regional Water Board), finds, with respect to SODA LLC that:

1. SODA LLC is the party responsible for the Atlas Robles Development at 3825 Paradise Drive, Tiburon. SODA LLC submitted a Notice of Intent to obtain coverage under State Water Resources Control Board (State Water Board) Order 2009-009-DWQ, *General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities* (Permit). Daniel Rabin signed the Notice of Intent on behalf of SODA LLC on March 22, 2022, and received Waste Discharger Identification (WDID) number 2 21C396979.
2. Permit section XVI requires permittees to submit an annual report of stormwater monitoring and training information by September 1 of each year to the Executive Officer of the Regional Water Board. The annual report for the July 1, 2022, to June 30, 2023, reporting period (Annual Report) was due September 1, 2023.
3. SODA LLC violated Permit section XVI by failing to submit the Annual Report by September 1, 2023.
4. SODA LLC received multiple courtesy notices to submit the Annual Report, including advance notice from the State Water Board on August 13, 2023, before the deadline, and past-due notices from Regional Water Board staff on September 11 and 26 and October 24, 2023. SODA LLC failed to submit the Annual Report in response to these notices.
5. On November 15, 2023, Regional Water Board staff issued a first formal notice of noncompliance based on SODA LLC's failure to submit the Annual Report. The notice provided SODA LLC 30 days to submit the report to avoid enforcement. SODA LLC did not submit the Annual Report.
6. On December 18, 2023, Regional Water Board staff issued a second and final formal notice of noncompliance. The notice allowed SODA LLC until January 15, 2024, to submit the Annual Report and avoid enforcement. Again, SODA LLC failed to submit the required report.

7. SODA LLC is subject to civil liability pursuant to Water Code section 13323. Water Code section 13399.33(c) specifies a minimum penalty of \$1,000 for failing to submit an annual report, and Water Code section 13399.33(d) requires recovery of Regional Water Board staff costs.
8. On April 4, 2024, the Assistant Executive Officer of the Regional Water Board issued to SODA LLC a conditional offer to settle the violation for failing to submit the Annual Report for a mandatory minimum penalty of \$1,000. The Assistant Executive Officer requested a response by April 24, 2024. SODA LLC submitted the Annual Report on April 9, 2024, but did not accept the settlement offer.
9. On July 16, 2024, the Assistant Executive Officer issued Administrative Civil Liability Complaint R2-2024-1032 (Complaint) alleging SODA LLC failed to submit its Annual Report as required by Permit section XVI. The Complaint proposed an administrative civil liability of \$2,910, which includes the mandatory minimum penalty of \$1,000 plus \$1,190 for Regional Water Board staff costs.
10. The Regional Water Board has delegated authority to its Executive Officer to hold evidentiary hearings for administrative civil liability complaints brought under Water Code section 13399.33 and to issue administrative civil liability orders for such complaints. (See Regional Water Board Resolution Nos. 70-11 and R2-2021-0003.)
11. In a duly noticed public hearing on October 9, 2024, the Executive Officer, heard and considered all relevant evidence and testimony regarding this matter.
12. The Executive Officer determined the appropriate administrative civil liability to be \$2,910. In determining this administrative civil liability, the Executive Officer considered the factors set forth in Water Code section 13399.33(a)(2), including:

...the nature, circumstance, extent, and gravity of the violation, and, with respect to the violator, the ability to pay, any prior history of violations, the degree of culpability, economic benefits or savings resulting from the violation, and other matters as justice may require.
13. This is an action to enforce the laws and regulations administered by the Regional Water Board and is exempt from the provisions of the California Environmental Quality Act, codified at Public Resources Code section 21000 *et seq.*, in accordance with 14 California Code of Regulations section 15321(a)(2).
14. Any person aggrieved by this action may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 *et seq.* The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:
http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

IT IS HEREBY ORDERED pursuant to Water Code sections 13323 and 13399.33 that SODA LLC is subject to administrative civil liability for the violations as set forth above and shall pay an administrative civil liability in the amount of \$2,910. The administrative civil liability shall be paid by check payable to the State Water Resources Control Board no later than 30 days following the issuance of this Order.

State Water Resources Control Board
1001 I Street, 18th Floor
Sacramento, CA 95814
Attn: Accounting Department

So ordered on October 9, 2024.

**Eileen
White**  Digitally signed by
Eileen White
Date: 2024.10.10
19:17:32 -07'00'
Water Boards
Eileen White
Executive Officer

Attachment: Administrative Civil Liability Complaint No. R2-2024-1032