

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

COMPLAINT NO. R2-2013-1004

ADMINISTRATIVE CIVIL LIABILITY  
IN THE MATTER OF  
NAPA VALLEY CAST STONE, LLC  
1111 GREEN ISLAND ROAD  
AMERICAN CANYON, NAPA COUNTY

This Complaint is issued to Napa Valley Cast Stone, LLC (Napa Valley Cast Stone) pursuant to California Water Code (Water Code) section 13385, subdivision (c)(1), which authorizes the California Regional Water Quality Control Board, San Francisco Bay Region (Regional Water Board) to impose administrative civil liability, and Water Code section 13323, which authorizes the Executive Officer to issue this complaint. Alleged in the complaint is Napa Valley Cast Stone's failure to implement best management practices (BMPs), in violation of a general National Pollutant Discharge Elimination System (NPDES) permit. For this alleged violation, we assess a \$5,200 penalty.

The Assistant Executive Officer of the Regional Water Board hereby gives notice that:

1. Cathy Daniels owns the property located at 1111 Green Island Road, American Canyon, Napa County (Facility). Ms. Daniels assumed ownership of the property in 2003. The property is zoned General Industrial and Napa Valley Cast Stone uses Facility for manufacturing concrete cast products. Napa Valley Cast Stone works with architects, designers, builders and masons to offer a diversified portfolio of cast products. Napa Valley Cast Stone operates under the Standard Industrial Classification Codes 3271 defined as industrial activities concrete block and brick, and 3272 defined as concrete products (except block and brick).
2. Napa Valley Cast Stone is the owner and operator of the Facility and is the responsible party for this matter.
3. Napa Valley Cast Stone has individual coverage under the State Water Resources Control Board (State Water Board) Water Quality Order No. 97-03-DWQ NPDES General Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities (Industrial Storm Water General Permit).
4. Regional and State Water Boards staff members responsible for prosecuting this matter (Prosecution Team) allege that Napa Valley Cast Stone violated the Industrial Storm Water General Permit by failing to implement acceptable BMPs at its Facility. The Prosecution Team's allegations are described in Exhibit A, attached hereto, and incorporated herein by this reference.
5. Napa Valley Cast Stone is alleged to have violated provisions of the law for which the Regional Water Board may impose civil liability pursuant to Water Code section 13385, subdivision (c)(1). The proposed liability of \$5,200 for the violations cited is consistent with the penalty factors cited under this section of the Water Code and with the State Water Board

Water Quality Enforcement Policy (Enforcement Policy), as discussed in Exhibit A. The Prosecution Team intends to seek additional liability for staff costs incurred, as necessary, to bring this matter to settlement or hearing.

6. Unless waived, the Regional Water Board will hold a hearing on this matter on July 10, 2013, in the Elihu M. Harris State Building, First Floor Auditorium, 1515 Clay Street, Oakland. The Hearing Procedure included with this complaint provides important information on the hearing process and procedural deadlines (dates by which parties must take specific actions and/or submit information).

## **STATEMENT OF PROHIBITIONS AND REQUIREMENTS**

7. Federal regulations for storm water discharges were issued by the U.S. EPA on November 16, 1990 (40 Code of Federal Regulations [CFR] Parts 122, 123, and 124). The regulations require operators of specific categories of facilities, where storm water comes in contact with industrial operations and discharges to the environment, to obtain an NPDES permit. The permit requires implementation of Best Available Technology Economically Achievable (BAT) and Best Conventional Pollutant Control Technology (BCT) to reduce or prevent pollutants from discharging in storm water and authorized (non-storm) discharges.
8. The U.S. EPA regulations allow authorized states, such as California, to issue general permits to regulate storm water discharges (e.g., the Industrial Storm Water General Permit). Provision E (1) of the Industrial Storm Water General Permit requires that all facility operators seeking coverage under the Industrial Storm Water General Permit to file a notice of intent (NOI) for the facility they operate. On December 27, 2004, Napa Valley Cast Stone submitted an NOI to the State Water Board to obtain coverage under the Industrial Storm Water General Permit. The Waste Discharge Identification number for Napa Valley Cast Stone is 2 28I019243. By filing the NOI, Napa Valley Cast Stone demonstrated its knowledge of and intent to comply with the Industrial Storm Water General Permit requirements.
9. Section 11 of the Industrial Storm Water General Permit requires BMPs to reduce or prevent pollutants associated with industrial activity in storm water discharges and authorized non-storm water discharges. BMPs are appropriate where numeric effluent limitations are infeasible, and the implementation of BMPs is adequate to achieve compliance with BAT/BCT and with water quality standards.
10. The Regional Water Board shall enforce the provisions of the Industrial Storm Water General Permit.

## **ALLEGED VIOLATIONS OF PROHIBITIONS AND REQUIREMENTS APPLICABLE TO NAPA VALLEY CAST STONE**

11. On January 23, 2013, Regional Water Board staff conducted a compliance inspection at the Facility. Regional Water Board staff recorded inadequate BMPs (Exhibit B; attached hereto, and incorporated herein by this reference).

12. Based on the inadequate BMPs described above, Napa Valley Cast Stone violated the terms and conditions of the industrial Storm Water General Permit, which implements the Federal Water Pollution Control Act (Clean Water Act). Section 402(p) of the Clean Water Act establishes a framework for regulating municipal and industrial storm water discharges under the NPDES program that is applicable to all specified industrial sites on a nationwide basis.
13. The Regional Water Board staff's January 23, 2013, inspection was prompted by the following circumstances:
  - a) Napa Valley Cast Stone failed to submit its 2010/2011 annual report by the July 1, 2011, deadline in the Industrial Storm Water General Permit. Section B—Monitoring and Reporting Requirements, Item 14 of the Industrial Storm Water General Permit requires all facility operators to submit an annual report documenting its sampling and analyses, observations, and an annual comprehensive site compliance evaluation, by July 1 of each year. Regional Water Board staff received Napa Valley Cast Stone annual report on September 27, 2011, 88 days late.
  - b) On September 22, 2011, Regional Water Board staff conducted a compliance inspection at the Facility and observed inadequate BMPs and discharges of pollutants to the storm water drain system. Staff reported these observations in an inspection report and provided notification of the violations to Napa Valley Cast Stone on October 17, 2011 (Exhibit C, attached hereto, and incorporated herein by this reference).
  - c) The Assistance Executive Officer sought a monetary penalty for the late annual report violation consistent with what other industrial operators paid for their late reports. However, on June 29, 2012, the Assistant Executive Officer agreed not to pursue the monetary penalty after Napa Valley Cast Stone submitted evidence of financial hardship, conditioned upon Napa Valley Cast Stone improving BMPs at the Facility and documenting those improvements by September 1, 2012 (Exhibit D; incorporated by this reference as if fully set forth therein). Napa Valley Cast Stone submitted documents after this deadline, and only after reminders and prompting by Regional Water Board staff. On October 26, 2012, Regional Water Board staff received an updated Storm Water Pollution Prevention Plan, and on October 29, 2012, received photographic evidence of BMP improvements at the Facility. Based on this evidence, Regional Water Board staff determined that deficiencies noted in its inspection of September 22, 2011, and letter of June 29, 2012, did not appear to have been adequately addressed. For example, industrial chemicals were not adequately stored, sediments were observed in the vicinity of storm water drop inlets, process water containers did not include mechanisms to prevent overflow, trash and concrete-related materials were observed unsecured at the Facility (Exhibit B).

**WATER CODE SECTIONS UPON WHICH LIABILITY IS BEING ASSESSED DUE TO NONCOMPLIANCE WITH INDUSTRIAL STORM WATER GENERAL PERMIT**

14. Pursuant to Water Code section 13385, subdivision (a)(2), any person who violates any requirements established pursuant to Water Code section 13160 (Industrial Storm Water

General Permit requirements established by the State Water Board) is liable under Water Code section 13385, subdivision (c)(1), wherein administrative civil liability may be imposed by the Regional Water Board in an amount not to exceed ten thousand dollars (\$10,000) for each day in which the violation occurs.

### **PROPOSED CIVIL LIABILITY**

15. The Prosecution Team used the penalty methodology in the Enforcement Policy to calculate a proposed administrative civil liability, as presented in Exhibit A.
16. The Assistant Executive Officer of the Regional Water Board proposes administrative civil liability in the amount of \$5,200, of which \$3,000 is for the recovery of staff costs incurred thus far.

This proposed liability is more than the required minimum and less than the required maximum liabilities. The minimum liability according to the Enforcement Policy is 10 percent more than the economic benefit gained by Napa Valley Cast Stone as a result of the alleged violations (estimated to be \$4,700; Exhibit A). The maximum liability under Water Code section 13385(c)(1) is \$10,000 for one day of violation.

17. If this matter proceeds to hearing, the Assistant Executive Officer reserves the right to amend the proposed amount of civil liability to conform to the evidence presented, including, but not limited to, increasing the proposed amount to account for the costs of enforcement (including staff, legal, and expert witness costs) incurred after the date of the issuance of this complaint through completion of the hearing.
18. Issuance of this Complaint is an enforcement action, and is therefore exempt from the provisions of the California Environmental Quality Act (Pub. Res. Code § 21000 et seq.) in accordance with Title 14, California Code of Regulations, section 15321, subdivision (a)(2).

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Thomas E. Mumley  
Assistant Executive Officer

April 11, 2013  
Date

**Exhibit A:** Factors Considered in Determining Administrative Civil Liability

**Exhibit B:** Industrial Storm Water Inspection Report, January 23, 2013

**Exhibit C:** Notice of Violation and Required Corrective Actions for Failure to Protect Stormwater at Industrial Facility, October 17, 2011.

**Exhibit D:** Late Annual Report Violation of Industrial Stormwater Permit and Requirement to Improve BMPs, June 29, 2012.