

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

**ORDER No. R2-2016-0005**

**ORDER IMPOSING ADMINISTRATIVE CIVIL LIABILITY upon:**

**MR. FRANK HAMEDI  
1761 JUNCTION AVENUE  
SAN JOSE, SANTA CLARA COUNTY**

The California Regional Water Quality Control Board, San Francisco Bay Region (Regional Water Board), finds, with respect to Mr. Frank Hamed, also known as Frank Hamed-Fard (Mr. Hamed), that:

1. Mr. Hamed and his wife, Rosemary Hamed-Fard, are the current owners of the property at 1761 Junction Avenue, San Jose (Former Velcon II Property). Mr. and Mrs. Hamed purchased the property from Velcon Filters, Inc., (Velcon) in 1993.
2. Mr. Hamed and Velcon are subject to the requirements of Regional Water Board Final Site Cleanup Requirements Order No. 01-108 (Site Cleanup Order) that regulates cleanup at the Former Velcon II Property.
3. The Site Cleanup Order named Mr. Hamed a secondarily responsible party because he is the current owner of the Former Velcon II Property. The Site Cleanup Order holds Mr. Hamed responsible with Site Cleanup Order compliance only if the Regional Water Board finds that Velcon has failed to comply with Site Cleanup Order requirements.
4. The Site Cleanup Order required Velcon to complete Tasks C.2 and C.3 of the Site Cleanup Order in cooperation with Mr. Hamed. Task C.2 requires the submittal of a technical report of proposed institutional constraints, including a deed restriction that is acceptable to the Executive Officer of the Regional Water Board, and Task C.3 requires recording of that deed restriction.
5. In a letter dated March 17, 2011, the Executive Officer notified Mr. Hamed of the Regional Water Board's intent to name Mr. Hamed the primarily responsible party for compliance with Tasks C.2 and C.3 of the Site Cleanup Order. Velcon failed to comply with these tasks due to Mr. Hamed's reluctance to accept a deed restriction.
6. In a letter dated February 5, 2014, the Executive Officer formally notified Mr. Hamed that he is primarily responsible for complying with Tasks C.2 and C.3 of the Site Cleanup Order. The Executive Officer set deadlines for compliance pursuant to his authority under Site Cleanup Order Section D.11. For Task C.2, Mr. Hamed was required to submit an acceptable draft deed restriction to the Regional Water Board by April 8, 2014.
7. On August 14, 2014, Regional Water Board staff sent Mr. Hamed a Notice of Violation (NOV) for failing to submit a technical report with an acceptable deed restriction. The

NOV noted that the report was 128 days late and that Mr. Hamedi was subject to fines of up to \$5,000 per day pursuant to Water Code section 13350.

8. On September 2, 2015, the Assistant Executive Officer of the Regional Water Board issued Administrative Civil Liability Complaint No. R2-2015-1012 (Complaint) alleging that Mr. Hamedi had failed to comply with Task C.2 of the Site Cleanup Order. The Complaint proposed an administrative civil liability of \$65,600. The Complaint was noticed for 30 days.
9. The Regional Water Board held a duly noticed public hearing on January 13, 2016, to consider relevant evidence and testimony regarding the Complaint and whether to issue an administrative civil liability order assessing the liability proposed in the Complaint, or a higher or lower amount, reject the proposed liability, or refer the matter to the Attorney General for judicial enforcement.
10. A person who violates a cleanup and abatement order issued by the Regional Water Board shall be civilly liable under Water Code section 13350.
11. The Regional Water Board may impose administrative civil liability for non-discharge violations on a daily basis. The maximum and minimum civil liability for each day of violation is \$5,000 and \$100 respectively under Water Code section 13350, subdivision (e)(1).
12. In determining the amount of civil liability, the Regional Water Board has taken into consideration the following factors to be considered in Water Code section 13327: the nature, circumstance, extent, and gravity of the violation or violations; whether the discharge is susceptible to cleanup or abatement; the degree of toxicity of the discharge; and, with respect to the violator, the ability to pay, the effect on ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters as justice may require. The Regional Water Board has taken into consideration the discussion of these factors in Exhibit A of the Complaint (attached).
13. A \$65,600 administrative civil liability is appropriate based on the considerations in Finding 12.
14. 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, Public Resources Code section 21000 et seq., in accordance with California Code of Regulations., title 14, section 15321, subdivision (a)(2).
15. Any person aggrieved by this action of the Regional Water Board may petition the State Water Resources Control 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 Resources Control Board must receive the petition by 5:00 p.m., 30 days after the Regional

Water Board action, except that if the thirtieth day following the action falls on a Saturday, Sunday, or State holiday, the petition must be received by the State Water Resources Control 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 the link below or will be provided upon request:

[http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality)

**IT IS HEREBY ORDERED** pursuant to California Water Code sections 13350 and 13323 that Mr. Hamed is subject to administrative civil liability for the violation of Regional Water Board Final Site Cleanup Requirements Order No. 01-108 as set forth above and shall pay an administrative civil liability in the amount of \$65,600. 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.

I, Bruce H. Wolfe, Executive Officer, do hereby certify that the foregoing is a full, complete, and correct copy of an Order issued by the Regional Water Board on January 13, 2016.

---

Bruce H. Wolfe  
Executive Officer

Attachment: Administrative Civil Liability Complaint No. R2-2015-1012