UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

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CERTIFIED MAIL
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Mr. Robert Stickell
President
The Washington Marina Company
1300 Main Avenue SW
Washington, DC 20024

Re: Administrative Order
Docket No.: CWA-03-2016-0067DN

Dear Mr. Stickell:

Enclosed is a Findings of Violation and Order for Compliance ("Order") issued this date pursuant to Section 309(a) of the Clean Water Act ("Act"), as amended 33 U.S.C. § 1319(a). This Order contains a finding that you, as the owner and operator of The Washington Marina Company (Permit No. DCR05A744) located at 1300 Main Avenue SW, Washington, DC 20024, have violated the Act and its implementing regulations by failing to submit a complete and accurate Notice of Intent (NOI) for authorization to discharge storm water associated with industrial activity under the 2015 Multi Sector General Permit ("MSGP").

You should carefully read the contents of the enclosed Order and communicate to each responsible official, agent or employee of your facility, the actions each person must take to ensure compliance with its terms. This Order requires you to seek National Pollutant Discharge Elimination System (NPDES) permit coverage, or to provide notification of any reason(s) you need not seek authorization to discharge under the 2015 MSGP. Failure to comply with the terms of this Order constitutes a violation of Section 309 of the Act, 33 U.S.C. § 1319, and may result in further enforcement action involving civil or criminal penalties.

You may qualify as a "small business" under the Small Business Regulatory Enforcement and Fairness Act (SBREFA). Any decision to participate in such a program or to seek compliance assistance, does not relieve you of your obligation to respond in a timely manner to an EPA request or other enforcement action, create any new rights or defenses under law and will not affect EPA's decision to pursue this enforcement action. To preserve your legal rights, you must comply with all rules governing the administrative enforcement process. The

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Ombudsman and fairness boards do not participate in the resolution of EPA's enforcement action.

Please note that, as indicated by its terms, this Order is effective fifteen days after receipt. If you require additional information or assistance regarding this Order, please contact Michael Greenwald at (215) 814-2398.

Sincerely,

Jon M. Capacasa, Director
Water Protection Division

cc: Joshua Rodriguez, DDOE

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

IN THE MATTER OF:	:	
	:	Docket No. CWA-03-2016-0067DN
The Washington Marina Company 1300 Main Avenue SW Washington, DC 20024	:	FINDINGS OF VIOLATION AND ORDER FOR COMPLIANCE
Respondent	:	

I. STATUTORY AUTHORITY

1. This ORDER for Compliance is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (hereinafter "EPA") under Section 309(a) of the Clean Water Act ("CWA" or "the Act"), 33 U.S.C. § 1319(a). This authority has been delegated by the Administrator to the Regional Administrator of EPA, Region III, and re-delegated by the Regional Administrator of EPA, Region III to the Director, Water Protection Division of EPA, Region III.

II. STATUTORY AND REGULATORY BACKGROUND

2. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant from a point source to waters of the United States except in compliance with, among other things, a National Pollutant Discharge Elimination System ("NPDES") permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342.

3. Section 309(a) of the Act, 33 U.S.C. § 1319(a), provides, *inter alia*, that whenever on the basis of any information available the Administrator finds that any person is in violation of any permit condition or limitation implementing certain CWA sections in a permit issued under Section 402 of the Act, he shall issue an order requiring such person to comply with such section or requirement.

4. Section 402 of the Act, 33 U.S.C. § 33 U.S.C. § 1342(a)(b), provides that the Administrator of EPA may issue permits under the NPDES program for the discharge of pollutants from point sources to waters of the United States, or may authorize states to issue such permits. The discharges are subject to specific terms and conditions as prescribed in the permit. EPA is the permitting authority for the District of Columbia.

5. Section 402(p) of the Act, 33 U.S.C. § 1342(p), and 40 C.F.R. §§ 122.1(b) and 122.26(a)(ii) provide that facilities with storm water discharges associated with industrial activity are "point sources" subject to the NPDES permitting requirements under Section 402(a) of the Act, 33 U.S.C. § 1342(a).

6. The term "industrial activity" includes the 10 categories of industrial activities included in the definition of "storm water discharges associated with industrial activity," as defined in 40 C.F.R. 122.26(b)(14)(i)(ix) and (xi). Stormwater discharges associated with industrial activity means "the discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant, 40 C.F.R. § 122.26(b)(14).

7. "Storm water" is defined as "storm water runoff, snow melt runoff and surface runoff and drainage," 40 C.F.R. § 122.26(b)(13).

8. Operators who discharge storm water associated with industrial activities to waters of the United States must do so in compliance with an NPDES permit.

III. FACTUAL AND LEGAL ALLEGATIONS

9. At all times relevant to this Order, Respondent has been the operator of existing industrial activities associated with its Washington, DC site.

10. Respondent has been conducting industrial activities (SIC code 4493) at its site since on or about March 8, 2009.

11. Respondent is a "person" within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5) and 40 C.F.R. § 122.2.

12. Discharges of storm water from Respondent's industrial activities at the site flow into the Anacostia River via the Washington Channel.

13. The Anacostia River is a "water of the United States," as that term is defined in Section 502(7) of the Act, 33 U.S.C. § 1362(7) and 40 C.F.R. § 122.2.

14. Pursuant to Section 402(b) of the Act, 33 U.S.C. § 1342(b), EPA issued an NPDES Multi-Sector General Permit which became effective on June 4, 2015 ("2015 MSGP"). The 2015 MSGP, effective within the District of Columbia, authorizes discharges of

storm water associated with industrial activities, but only in accordance with the conditions of the permit.

15. Section 1.2.1 of the 2015 MSGP requires that industrial activities be covered under the 2015 MSGP. An applicant must submit to EPA a complete and accurate Notice of Intent ("NOI") for permit coverage by the deadline applicable to your facility, as represented in Table 1-2 of the MSGP. For existing projects, the MSGP requires that an NOI for coverage under the 2015 MSGP be submitted no later than September 2, 2015. See 2015 MSGP, at page 10, http://www.epa.gov/npdes/final-2015-msgp-documents.

IV. FINDINGS OF VIOLATION

16. The 2015 MSGP requires that the operator of an existing industrial activity must submit an NOI for coverage under the 2015 MSGP, no later than September 2, 2015. See 2015 MSGP, 1.2.1.3, Table 1-2.

17. From at least September 3, 2015 through the present, Respondent has discharged stormwater associated with industrial activity from its facility into a water of the United States.

18. On information and belief, as of the date of this Order, Respondent has failed to submit an NOI to EPA for authorization to discharge storm water associated with industrial activity under the 2015 MSGP.

19. Respondent's failure to submit an NOI for authorization to discharge storm water associated with industrial activity under the 2015 MSGP constitutes a violation of Section 301 of the Act, 33 U.S.C. § 1311.

20. Respondent's discharge of pollutants without a permit is a violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

V. ORDER FOR COMPLIANCE

AND NOW, this 4th day of April, 2016, Respondent is hereby ORDERED, pursuant to Section 309(a) of the Act, U.S.C. § 1319(a), to do the following:

21. Within fifteen (15) days of the effective date of this Order, Respondent shall: 1) submit an NOI for authorization to discharge storm water associated with industrial activity under the 2015 MSGP and 2) take all actions necessary to comply with the 2015 MSGP, or

22. Within fifteen (15) days of the effective date of this Order, Respondent shall disclose any reason(s) why it need not seek authorization to discharge under the 2015 MSGP.

VI. GENERAL PROVISIONS

23. Issuance of this Order shall not be deemed an election by EPA to forego any administrative, civil, or criminal action to seek penalties, fines, or any other appropriate relief under the Act for the violations cited herein. EPA reserves the right to seek any remedy available under the law that it deems appropriate for the violations cited. Failure to comply with this Order or the Act may result in a civil judicial action initiated by the U.S. Department of Justice. If EPA initiates such an action, Respondent may be subject to civil penalties of up to $37,500 per day of violation pursuant to 33 U.S.C. § 1319 and 40 C.F.R. Part 19.

24. This Order does not constitute a waiver or modification of the terms or conditions of any NPDES permit. Compliance with the terms and conditions of this Order does not relieve the Respondent of its obligation to comply with any applicable Federal, state, or local law or regulation.

VII. OPPORTUNITY TO CONFER

25. Within fifteen (15) days upon receipt of this Order, Respondent is invited to confer with EPA about the findings and conclusions and the terms and conditions contained herein. Any such conference can be in person or by electronic means. Respondent may also submit any written material it believes to be relevant to EPA's determination. If such a conference is desired, Respondent should contact:

Michael Greenwald
NPDES Enforcement Branch (3WP42)
U.S. EPA, Region 3
1650 Arch Street
Philadelphia, PA 19103
greenwald.michael@epa.gov
(215) 814-2398

VIII. JUDICIAL REVIEW

26. Respondent may seek federal judicial review of this Order, pursuant to Chapter 7 of the Administrative Procedures Act, 5 U.S.C. §§ 701-706. Respondent is free to seek counsel from an attorney regarding its response.

IX. EFFECTIVE DATE

27. This ORDER will become effective 15 days after receipt, unless modified or withdrawn.

Date: 4/4/16

Jon M. Capacasa, Director
Water Protection Division
EPA, Region III