

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1**

| | | |
|--------------------------------------|---|--|
| <hr/> |) | |
| IN THE MATTER OF |) | |
| |) | DOCKET NO: CWA-AO-R01-FY25-24 |
| The Marina at Admiral’s Hill Long |) | |
| Term Lessees Association Inc. |) | |
| 305 Commandants Way |) | |
| Chelsea, MA 02150 |) | |
| |) | |
| |) | FINDING OF VIOLATIONS AND ADMINISTRATIVE COMPLIANCE ORDER |
| Respondent |) | |
| |) | |
| Proceeding under Sections 308(a) and |) | |
| 309(a)(3) of the Clean Water Act, |) | |
| As Amended, 33 U.S.C. §§ 1318(a) and |) | |
| 1319(a)(3) |) | |
| <hr/> |) | |

I. STATUTORY AUTHORITY

The following Findings are made and ADMINISTRATIVE COMPLIANCE ORDER issued pursuant to Section 308(a) and Section 309(a)(3) of the Clean Water Act, as amended (the “Act” or “CWA”), 33 U.S.C. §§ 1318(a) and 1319(a)(3). Section 309(a)(3) of the CWA grants the Administrator of the U.S. Environmental Protection Agency (“EPA”) the authority to issue orders requiring persons who are in violation of Sections 301, 302, 306, 307, 308, 318, or 405 of the CWA, or in violation of any permit condition or limitation implementing any of such sections in a National Pollutant Discharge Elimination System (“NPDES”) permit issued under Section 402 of the CWA, 33 U.S.C. § 1342, to comply with such section or requirement. Section 308(a) of the CWA, 33 U.S.C. § 1318(a), authorizes EPA to require the submission of any information required

In re Admiral’s Hill, Inc.
EPA Docket No.
CWA-AO-R01-FY25-24

Finding of Violations and
Administrative Compliance Order

to carry out the objectives of the CWA. These authorities have been delegated to EPA Region 1's Administrator, and, in turn, to the Director of EPA, Region 1's Enforcement and Compliance Assurance Division (the "Director").

The Order herein is based on findings of violations of Section 301(a) of the CWA, 33 U.S.C. § 1311. Pursuant to Section 309(a)(5)(A) of the CWA, 33 U.S.C. § 1319(a)(5)(A), the Order provides a schedule for compliance which the Director has determined to be reasonable.

II. DEFINITIONS

Unless otherwise defined herein, terms used in this Order shall have the meaning given to those terms in the CWA, 33 U.S.C. §§ 1251 *et. seq.*, and the regulations promulgated thereunder.

III. STATUTORY AND REGULATORY FRAMEWORK

1. The CWA is designed to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." 33 U.S.C. § 1251(a).
2. To accomplish those objectives, Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the "discharge of any pollutant" by any person except in compliance with certain sections of the CWA, including, where applicable, an NPDES permit issued pursuant to CWA Section 402, 33 U.S.C. § 1342.
3. Section 502(5) of the CWA, 33 U.S.C. § 1362(5), defines "person" to include, *inter alia*, "an individual, corporation, partnership, [or] association."

4. Section 502(12) of the CWA, 33 U.S.C. § 1362(12), defines the term “discharge of a pollutant” as, among other things, “any addition of any pollutant to navigable waters from any point source.”

5. Section 502(6) of the CWA, 33 U.S.C. § 1362(6), defines “pollutant” to include, among other things, “chemical wastes” and “industrial, municipal, and agricultural waste” discharged into water.

6. Section 502(7) of the CWA, 33 U.S.C. § 1362(7), defines “navigable waters” as “waters of the United States” which is further defined in 40 C.F.R. § 120.2.

7. Section 502(14) of the CWA, 33 U.S.C. § 1362(14), defines a “point source” as including “any discernable, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, [or] container . . . from which pollutants are or may be discharged.”

Stormwater

16. Pursuant to Sections 308 and 402 of the CWA, 33 U.S.C. §§ 1318 and 1342, EPA promulgated stormwater discharge regulations at 40 C.F.R. § 122.26.

17. Forty C.F.R. § 122.26(b)(13) defines “storm water” to include stormwater runoff, snow melt runoff, and surface runoff and drainage.

18. Section 402(a) of the CWA, 33 U.S.C. § 1342(a), authorizes EPA to issue NPDES permits for the discharge of pollutants into navigable waters in compliance with the CWA.

19. Section 402(p) of the CWA, 33 U.S.C. § 1342(p), and implementing regulation 40 C.F.R. § 122.26(a)(1)(ii), require that facilities discharging stormwater associated with industrial

activity obtain a permit.

20. Under 40 C.F.R. § 122.26(c)(1), dischargers of stormwater associated with industrial activity must apply for an individual permit or seek coverage under a general permit.

21. Pursuant to 40 C.F.R. § 122.26(b)(14)(viii), “storm water discharge associated with industry activity” includes certain stormwater discharges associated with transportation facilities.

22. On September 29, 1995, EPA issued the NPDES Stormwater Multi-Sector General Permit for Industrial Activities (“1995 MSGP”). 60 Fed. Reg. 50804. EPA re-issued the Multi-Sector General Permit for Industrial Activities on October 30, 2000 (“2000 MSGP”), 65 Fed. Reg. 64746; on September 29, 2008 (“2008 MSGP”), 73 Fed. Reg. 56572; on June 4, 2015 (“2015 MSGP”), 80 Fed. Reg. 34403; and on February 19, 2021 (“2021 MSGP”), 86 Fed. Reg. 10269.

23. The 2015 MSGP became effective on June 4, 2015. Although the expiration date of the 2015 MSGP originally was set for June 4, 2020, it was administratively continued until March 1, 2021, the date on which the 2021 MSGP became effective. The 2021 MSGP remains in effect.

24. The 2021 MSGP contains terms and conditions designed to ensure the implementation of practices to minimize the pollutants in stormwater discharges associated with industrial activity.

25. Under the 2021 MSGP, a facility discharging stormwater associated with industrial activity is required to submit a Notice of Intent (“NOI”) to be covered under the permit, prepare and implement a Stormwater Pollution Prevention Plan (“SWPPP”), conduct inspections, conduct

monitoring and sampling, and meet eligibility and other requirements.

IV. FINDINGS

The Director of the Enforcement and Compliance Assurance Division makes the following findings of fact:

26. The Marina at Admiral's Hill Long Term Lessees Association Inc. ("Admiral's Hill" or "Respondent") is the owner and operator of a marina located at 305 Commandants Way, Chelsea, Massachusetts (the "Facility").

27. The Facility falls within the Standard Industrial Classification ("SIC") major group 43, "Water Transportation," and more specifically, within SIC code 4493, "Marinas."

28. Admiral's Hill provides boat hauling and launching, dock and equipment maintenance, boat storage, materials handling, and bottom washing services at the Facility.

29. Admiral's Hill has conducted such "industrial activities," within the meaning of 40 C.F.R. § 122.26(b)(14)(viii) since at least March 1, 2021.

30. On October 26, 2023, Admiral's Hill submitted its NOI to EPA, certifying the Facility's eligibility for coverage under the MSGP.

31. On December 25, 2023, Admiral's Hill received 2021 MSGP coverage (NPDES Permit No. MAR05J07M).

32. Since December 25, 2023, Admiral's Hill was authorized under the 2021 MSGP to discharge stormwater into the Mystic River from a single discharge point, subject to certain terms and conditions contained within the 2021 MSGP. These terms and conditions are designed to ensure the implementation of practices aimed at reducing the pollutants in stormwater discharges

associated with industrial activity at the Facility.

33. The Mystic River is an impaired waterbody due to ammonia, pathogens, oil and grease, algal growth, PCBs, and oxygen depletion. *See* CWA § 303(d).

34. The Mystic River flows into the Boston Harbor, which is part of Massachusetts Bay. Massachusetts Bay opens into the Atlantic Ocean. All of the aforementioned water bodies are waters of the United States, as defined in 40 C.F.R. § 122.2, and navigable waters under Section 502(7) of the Act, 33 U.S.C. § 1362(7).

35. On October 8, 2024, EPA conducted an inspection of the Facility.

2021 MSGP Requirements

36. Section 1.3.2. of the 2021 MSGP requires that to be covered under this permit, the permittee must prepare and submit to EPA a complete and accurate NOI that provides information on the permittee's industrial activities and related discharges.

37. Admiral's Hill has at its Facility an uncovered marine rail lift where boat washing is conducted and from which stormwater discharges to the Mystic River.

38. Admiral's Hill did not identify the above-described marine rail lift on its NOI as an area of industrial activity from which stormwater discharges from a discrete conveyance.

39. Section 4.2.2 of the 2021 MSGP applies specific pollutant benchmarks to certain sectors and subsectors. Under Section 4.2.2.3, the permittee is required to conduct quarterly benchmark monitoring for each designated pollutant specified for the permittee's sectors or subsectors in the first and fourth years of permit coverage.

40. As described in Section 4.2.2.3(a)(ii), if the annual average for a parameter

exceeds the benchmark threshold, the permittee must:

- a. Comply with Part 5.2 of the MSGP (Additional Implementation Measures responses and deadlines); and
- b. Continue quarterly benchmark monitoring for that parameter until results indicate that the annual average is no longer exceeded, after which the permittee can discontinue benchmark monitoring for that parameter until monitoring resumes in the fourth year of permit coverage.

41. The Facility is classified as Sector Q, “Water Transportation,” under the 2021 MSGP.

42. Section 8.Q.6 of the 2021 MSGP requires certain Sector Q facilities—including those facilities classified as Subsector Q1, “Water Transportation Facilities (SIC Code 4493 only)”—to conduct indicator monitoring. The Facility falls within SIC Code 4493 and thus is subject to the indicator monitoring requirements for Subsector Q1.

43. Section 8.Q.7 of the 2021 MSGP requires Sector Q facilities to conduct benchmark monitoring for aluminum, lead, and zinc.

44. Through its Coastal Zone Management Program, the Commonwealth of Massachusetts has incorporated additional sector-specific requirements into the 2021 MSGP. *See* Section 9.1.2.5. These requirements include benchmark monitoring for copper for Sector Q facilities.

45. Admiral’s Hill’s manager stated within the Facility’s annual report dated January 18, 2024 that Admiral’s Hill understood that the first monitoring quarter for the Facility was the

first quarter of 2024. However, Admiral’s Hill did not conduct quarterly benchmark sampling for all required parameters at its Facility during the first, second, third, and fourth quarters of 2024, as required by the 2021 MSGP. In addition, Admiral’s Hill did not conduct biannual indicator monitoring in its first year of permit coverage, as required by the 2021 MSGP.

46. Under Section 7.3.1 of the 2021 MSGP, facilities subject to the monitoring requirements of the 2021 MSGP are required to submit their sampling results to EPA electronically using EPA's NetDMR system no later than 30 days after receiving their complete laboratory results. Facilities that do not have a discharge or that are unable to obtain a sample during the monitoring period must similarly use NetDMR to submit their Discharge Monitoring Reports ("DMRs") with the appropriate "no data indicator" or "NODI" code to EPA no later than 30 days after the end of the monitoring reporting period.

47. No representative of Admiral’s Hill has signed up for NetDMR in association with the Facility’s permit and as such, no DMRs associated with the Facility have been submitted.

48. Section 2.1 of the 2021 MSGP states that the Facility “must select, design, install, and implement stormwater control measures (including best management practices) to minimize pollutant discharges that address the selection and design considerations in Part 2.1.1, meet the non-numeric effluent limits in Part 2.1.2, meet limits contained in applicable effluent limitations guidelines in Part 2.1.3, and meet the water quality-based effluent limitations in Part 2.2.”

49. During EPA’s October 8, 2024 inspection of the Facility, EPA observed the discharge of stormwater with an oil sheen into the catch basin located in the maintenance and storage yard at the Facility. This catch basin leads to the one permitted discharge point at the

Facility, Outfall #001, which discharges to the Mystic River. The observed discharge indicates that Admiral's Hill failed to implement stormwater control measures (including best management practices) to minimize pollutant discharges.

50. Admiral's Hill is a person under Section 502(5) of the Act, 33 U.S.C § 1362(5). The Facility discharges pollutants, as defined in Sections 502(6) and (12) of the Act, 33 U.S.C. §§ 1362(6) and (12), from point sources, as defined in Section 502(14) of the Act, 33 U.S.C. § 1362(14), including Outfall #001 and the marine rail lift, both of which discharge into the Mystic River, a water of the United States.

51. By discharging stormwater from the Facility into waters of the United States in violation of the terms and conditions of a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, and by failing to comply with all the conditions in the 2021 MSGP, Admiral's Hill violated Section 301(a) of the CWA, 33 U.S.C. § 1311(a) from December 25, 2023 through the present.

V. ORDER

Accordingly, pursuant to Sections 308(a) and 309(a)(3) of the CWA, it is hereby ordered that:

52. Immediately upon receipt of this Finding of Violations and Administrative Compliance Order, Admiral's Hill shall fully implement the requirements set forth in the 2021 MSGP at its Facility, which includes, but is not limited to, conducting all biannual indicator monitoring required by Section 8.Q.6 of the 2021 MSGP, conducting all quarterly benchmark monitoring required by Sections 8.Q.7 and 9.1.2.5 of the 2021 MSGP, and implementing

stormwater control measures (including best management practices) to minimize pollutant discharges (Sections 2.1 and 8.Q.3 of the 2021 MSGP).

53. Within 30 days of the Effective Date¹ of this Order, submit a change NOI to include the additional discharge point (the marine rail lift). *See* Section 1.3.2 of the 2021 MSGP.

54. Within 90 days of the Effective Date of this Order, Admiral's Hill shall update its SWPPP to specifically describe where Admiral's Hill conducts the monitoring activities required by the 2021 MSGP.

55. Within one year of the Effective Date of this Order, Admiral's Hill shall provide a progress report to EPA evaluating how Admiral's Hill has fulfilled its obligations under the 2021 MSGP from the Effective Date through the date of the progress report.

56. In addition to the above, Admiral's Hill shall conduct in 2025:

- a. Biannual indicator monitoring for each designated pollutant specified for Admiral's Hill's sector and subsector(s). *See* Section 8.Q.6 of the 2021 MSGP.
- b. Quarterly benchmark monitoring for each designated pollutant specified for Admiral's Hill's sector and subsector(s). *See* Sections 8.Q.7 and 9.1.2.5 of the 2021 MSGP.
- c. If any of Admiral's Hill's quarterly sampling results are above benchmark standards in calendar year 2025, Admiral's Hill shall include, as a part of its progress report, whether, and if so how, it has reviewed the selection,

design, installation, and implementation of its stormwater control measures to determine if modifications are necessary to meet the benchmark standards in this permit, and either:

- i. Make the necessary modifications and continue quarterly monitoring until Admiral's Hill has completed four additional quarters of monitoring for which every sample is within the benchmark, or
- ii. Make and document a determination that no further pollutant reductions are technologically available and economically practicable and achievable in light of best industry practice to meet the technology-based effluent limits, or are necessary to meet the water quality-based effluent limitations in Parts 2.1 and 2.2 of this permit. In this case, Admiral's Hill must continue monitoring on the normal permit schedule. Admiral's Hill must retain all records related to this documentation with its SWPPP.

57. Admiral's Hill must also comply with all reporting and recordkeeping requirements, as required by Section 7 of the 2021 MSGP. Within 14 days of the Effective Date, Admiral's Hill shall submit the name and email address of the person who is/will be responsible for submitting DMR reports to EPA at NetDMR_R1@epa.gov. At a minimum, one authorized individual must sign up for NetDMR.

¹ "Effective Date" is defined in Section VI. General Provisions below.

58. Within 14 days of the Effective Date, Admiral's Hill must complete and submit all overdue DMRs since the date when the Facility was obtained coverage under the MSGP. DMRs must be submitted via NetDMR to EPA for all relevant monitoring periods for which the Facility was covered. NetDMR must also be used to report any failure to monitor during the regular reporting period using one of the available "no data indicator" codes.

59. Admiral's Hill shall send an email to NetDMR_R1@epa.gov and to dever.mary@epa.gov to notify EPA when all missing monitoring results have been submitted.

60. Admiral's Hill shall continue to complete and submit all DMRs by their required due dates under its permit.

V. NOTIFICATION PROCEDURES

61. Where this Order requires specific actions to be performed within a certain time frame, Admiral's Hill shall submit to EPA a written notice of compliance or noncompliance with such action within seven (7) calendar days following all applicable deadlines. However, written notice of compliance is not necessary if the action required by the Order is the submission of a document, report, or other written material, and Admiral's Hill has timely submitted such document, report, or written material to EPA.

62. If noncompliance is reported, the written notice submitted to EPA must include the following information:

- a. A description of the noncompliance;
- b. A description of any actions taken or proposed by Admiral's Hill to comply

with the lapsed schedule requirements;

c. A description of any factors that tend to explain or mitigate the noncompliance; and

d. A date by which Admiral's Hill will perform the required action.

63. After a notification of noncompliance has been submitted to EPA, Admiral's Hill must achieve compliance as expeditiously as possible, but by no later than the date that Admiral's Hill submitted to EPA pursuant to Paragraph 62(d), and submit to EPA the required document, report, or written material, as applicable, or a written notice that compliance with the action has been achieved.

64. Submissions required by this Order shall be made via electronic mail to:

Alex Rosenberg
Senior Enforcement Officer, EPA Region 1
rosenberg.alex@epa.gov

65. EPA shall notify Admiral's Hill in writing of any changes to the contact person or email address.

VI. GENERAL PROVISIONS

66. This Order does not constitute a waiver or a modification of the terms and conditions of the MSGP. The MSGP remains in full force and effect. EPA reserves the right to seek any and all remedies available under Section 309 of the Act, 33 U.S.C. § 1319, as amended, for any violation cited in this Order.

67. Admiral's Hill may seek federal judicial review of the Order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

68. This Order shall become effective upon receipt by Admiral's Hill, and this date of receipt shall become the Effective Date of this Order.

Digitally signed by JAMES
CHOW
Date: 2025.03.24 16:20:46
-04'00'

Date

James Chow, Director
Enforcement Compliance Assurance Division
U.S. Environmental Protection Agency, Region 1