

State of California
Regional Water Quality Control Board
San Diego Region

Supplemental
EXECUTIVE OFFICER SUMMARY REPORT
October 11, 2006

ITEM: 8

SUBJECT: CONINUATION OF CONSIDERATION OF SETTLEMENT OFFER: City of Escondido, Hale Avenue Resource Recovery Facility: Administrative Assessment of Civil Liability against the City of Escondido for Violations of Order No. 99-72, NPDES No. CA0107981, Waste Discharge Requirements for the City of Escondido, Hale Avenue Resources Recovery Facility, Discharge to the Pacific Ocean Via the Escondido Land Outfall and the San Elijo Ocean Outfall. (Tentative Order No. R9-2006-0095) (Rebecca Stewart)

PURPOSE: To consider acceptance of an offer proposed by the City of Escondido to settle the allegations of violations and administrative civil liability proposed in Complaint No. R9-2005-0265. If the Regional Board rejects the settlement, the matter will be rescheduled to a future public hearing at which time the Regional Board will consider assessment of civil liability.

DISCUSSION: At the September 13, 2006 Regional Board meeting, a question arose regarding the omission of a Supplemental Environmental Project (SEP) from the proposed settlement offer. The following is additional information regarding that discussion.

The City did not submit a formal SEP proposal for Regional Board staff review or inclusion in the settlement offer currently being considered. In accordance with the State Board's Enforcement Policy, for the Regional Board to evaluate and approve a SEP, the specific SEP needs to be proposed by the ACL Complainant. During the settlement negotiation, the City did express an interest in funding of a SEP as part of the settlement. At the time the City was advised that any proposal to

fund a SEP would be evaluated against the criteria developed in the Enforcement Policy. The City was also advised they would be responsible for reimbursement of reasonable oversight costs for SEPs requiring Regional Board oversight to insure implementation and completion. The estimated oversight fee would be approximately 20% of the amount of liability that is diverted to fund the SEP.

Since the issuance of the original Complaint to the City, the Regional Board has received several proposals from entities other than the City requesting funding from any liability assessed. Because the terms of the settlement do not include funding SEPs, these proposals have not been evaluated or provided to the Regional Board.