

ENFORCEMENT SUMMARY REPORT
November 12, 2008

ITEM: 10

SUBJECT: Administrative Assessment of Civil Liability: San Elijo Joint Powers Authority, San Elijo Ocean Outfall: The Regional Board will consider a tentative Order that would impose a \$9,000 Mandatory Minimum Penalty recommended in Complaint R9-2008-0006 for violations of effluent limitations established by Order R9-2005-0100, NPDES Permit No. CA0107999 *Waste Discharge Requirements for the San Elijo Joint Powers Authority, San Elijo Water Reclamation Facility Discharge to the Pacific Ocean Via the San Elijo Ocean Outfall, San Diego County*. The tentative Order recommends that \$4,500 of the \$9,000 recommended penalty be directed to a Supplemental Environmental Project implemented by the Southern California Coastal Waters Research Project. (Tentative Order R9-2008-0137) (Jeremy Haas)

PURPOSE: The Regional Board may approve, raise, lower, or reject the recommended penalty. If the Regional Board rejects the tentative Order, the matter will be rescheduled to a future public hearing at which time the Regional Board will consider assessment of civil liability.

PUBLIC NOTICE: On May 19, 2008, ACL Complaint R9-2008-0006 and its supporting documents were posted on the Regional Board website and mailed to interested parties. On October 11, 2008, the Regional Board published a notice of this item in the San Diego Union-Tribune newspaper.

DISCUSSION: The San Elijo Joint Powers Authority (SEJPA) discharges secondary treated wastewater from the San Elijo Water Reclamation Plant to the Pacific Ocean through the San Elijo Ocean Outfall that terminates 1.5 miles offshore. On May 16, 2008, the Assistant Executive Officer of the Regional Board issued Administrative Civil Liability (ACL) Complaint R9-2008-0006 (Supporting Document 3) to the SEJPA for alleged violations of effluent limitations established in NPDES Order R9-2005-0100.

The Complaint proposes that the Regional Board impose mandatory minimum penalties (MMPs) of nine thousand dollars (\$9,000) for three violations of effluent limitations that occurred in September 2006 and August 2007, pursuant to California Water Code Section 13386(h). Each violation is for high levels of settleable solids. Discretionary civil liability above the mandatory minimum for the violations alleged in this Complaint was not recommended.

On August 19, 2008, the SEJPA waived its right to a hearing accepting the validity of the allegations. As part of the resolution of the liability SEJPA has proposed that the Regional Board direct \$4,500 of the penalty toward a supplemental environmental project (SEP). The proposed SEP, "*Atmospheric Deposition and Harmful Algal Blooms*," would provide funds to the Southern California Coastal Waters Research Project's Bight '08 Study to add an important study of the contribution of atmospheric deposition of nutrients to coastal harmful algal blooms to the ongoing study of harmful algal blooms (Supporting Document No. 4).

CWC 13385(l) allows the Regional Board to direct a portion of MMPs toward implementation of SEPs. The proposed SEP satisfies the provisions of Section IV, Part D of the State Water Resources Control Board Water Quality Enforcement Policy (Resolution 96-030 as amended).

The comment period for this matter ends on November 8, 2008. To date, no public comments have been received.

LEGAL CONCERNS:

None

SUPPORTING
DOCUMENTS:

1. Location Map
2. Tentative ACL Order R9-2008-0137
3. Complaint R9-2008-0006
4. SEJPA August 19, 2008 Waiver of Public Hearing and Proposal for Supplemental Environmental Project, "*Atmospheric Deposition and Harmful Algal Blooms*."

RECOMMENDATION:

The adoption of Tentative Order R9-2008-0137 is recommended assessing a civil liability of \$9,000 against the San Elijo Joint Powers Authority for the violations alleged in Complaint No. R9-2008-0006 and directing that \$4,500 of the liability be directed to the Supplemental Environmental Project "*Atmospheric Deposition and Harmful Algal Blooms*."