

State of California  
Regional Water Quality Control Board  
San Diego Region

ENFORCEMENT SUMMARY REPORT  
November 12, 2008

- ITEM: 18
- SUBJECT: Administrative Assessment of Civil Liability, City of San Diego, Convention Center Dewatering Project: The Regional Board will consider adoption of a tentative Order for Administrative Assessment of Civil Liability imposing \$69,000 in Mandatory Minimum Penalties for reported violations of effluent limitations prescribed in Order R9-2003-0050, NPDES Permit No. CA0109029, *Waste Discharge Requirements for Groundwater Extraction Waste Discharges to San Diego Bay from the San Diego Convention Center, San Diego County*. (Tentative Order R9-2008-0140) (Joann Cofrancesco)
- PURPOSE: The Regional Board will consider whether to accept the City's hearing waiver and whether to adopt the tentative Order. 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 August 15, 2008, Conditional Early Settlement Offer No. R9-2008-0076 was posted on the Regional Board's website and made available at the Regional Board's office for review. The public comment period ended on September 15, 2008. The Tentative Order was posted on the Regional Board web site on October 10, 2008. On October 11, 2008 the Regional Board published notice of this item in the San Diego Union Tribune. On October 14, 2008 the Tentative Order was distributed to known interested parties.
- DISCUSSION: NPDES Permit Order No. R9-2003-0050 prescribed effluent limitations for discharges from the San Diego Convention Center to San Diego Bay. The City has terminated the direct discharge to the Bay and now diverts the flow to the City of San Diego Metropolitan Wastewater Department's sewage collection system

for further treatment at the Point Loma Wastewater Treatment Plant. A vicinity map is provided in Supporting Document 1.

Conditional Early Settlement Offer No. R9-2008-0076 was sent to the City of San Diego (Discharger) on July 16, 2008 to expedite payment of \$69,000 for 23 effluent limitation violations of the NPDES Order from 2004 to 2007 subject to mandatory minimum penalties of \$3,000 each pursuant to Water Code Section 13385(h) and (i) (Supporting Document 3).

The early settlement offer process was developed by the State Water Board as part of an initiative to efficiently reduce the statewide MMP enforcement backlog. The early settlement offers are intended to resolve uncontested MMP violations without issuing traditional assessment of civil liability Complaints by sending letters to facilities with MMPs and offering them the opportunity to resolve their violation(s) by acknowledging them and providing full payment of any accrued mandatory penalties.

On August 13, 2008, the City notified the Regional Board it would accept the terms of the Settlement Offer and pay the \$69,000 penalty (Supporting Document 4). Notice of the City's acceptance was then posted on the Regional Board's website for a 30-day public comment period.

The item is being brought before the Board because comments were received from concerned members of the public. Ms. Karan L. Zopatti and Ms. Cynthia Conger raised concerns about the amount of the proposed penalty and the City's current use of the sanitary sewer to dispose of the Convention Center's dewatering effluent (Supporting Document 5). Ms. Zopatti and Ms. Conger were informed that a public discussion of the item would occur at today's meeting.

The Regional Board's prosecution team reviewed the comments and determined the issues raised do not support changing the recommended penalty. The MMP of \$69,000 is an appropriate liability for the circumstances of the effluent limitation violations for the discharge of groundwater extracted from beneath the Convention Center. There is no evidence of significant ecological or economic damage caused by the violations. The City has terminated the direct discharge to the Bay, and The City's treatment plant is meeting its discharge effluent limitations for the constituents of concern. A more thorough analysis and recommendation is provided in Supporting Document 6.

LEGAL CONCERNS: None

SUPPORTING  
DOCUMENTS:

- 1) Project Vicinity
- 2) Transmittal letter and Tentative Order No. R9-2008-0140
- 3) Conditional Early Settlement Offer No. R9-2008-0076 and Summary of Effluent Violations
- 4) Acceptance of Conditional Resolution and Waiver of Right to Hearing, signed by Discharger
- 5) Two Comment Letters
- 6) Recommendation Memo from Prosecution Staff to Assistant Executive Officer

RECOMMENDATION: The approval of Tentative Order No. R9-2008-0140 is recommended.