

ENFORCEMENT SUMMARY REPORT
August 12, 2009

ITEM: 6

SUBJECT: CONSIDERATION OF SETTLEMENT: William and Heidi Dickerson; Larry and Penelope Gunning; and Perry and Papenhausen, Inc. (Dischargers). Written public comments will be accepted until 5 p.m. on August 3, 2009. If the Regional Board rejects either proposed settlement, then the Petition for Writ of Mandate matter will return to Superior Court and consideration of Administrative Civil Liability (ACL) will be rescheduled for a future public hearing. (Frank Melbourn)

- a. Settlement of Petition for Writ of Mandate (San Diego County Superior Court Case No. 37-2007-00075848-CU-WM-CTL, September 27, 2007) (tentative Order No. R9-2009-0125) Dischargers challenged the Regional Board's adoption of Amended Cleanup and Abatement Order (CAO) Nos. R9-2006-0101 and R9-2006-0102. In the proposed settlement the Regional Board will rescind the CAOs in exchange for the Dischargers dismissing the Superior Court case with prejudice, paying the Regional Board \$67,000 in staff costs, replacing riprap, and replanting eelgrass; and
- b. Settlement of Administrative Civil Liability (Tentative Order No. R9-2009-0084). In the proposed settlement the Dischargers will pay a \$61,200 ACL that includes: \$24,000 in satisfaction of ACL Complaint No. R9-2008-0019 for eight alleged mandatory minimum penalty violations of the Dickerson's General NPDES Groundwater Dewatering Permit; and \$37,200 for alleged violations of Regional Board Basin Plan Prohibitions, the Clean Water Act, and Regional Board Water Quality Certification No. 05C-041.

DISCUSSION:

Separate summary reports are provided herein for Item 6a and 6b. The two items are being presented concurrently because each settlement is contingent upon approval of the other. The Dischargers are represented by attorneys Richard Opper and J. Michael Sowinski, Jr. of Opper and Varco, LLP. Deputy Attorney General Deborah Fletcher and Regional Board counsel Catherine Hagan will be available to answer questions concerning Item 6a; and Office of Enforcement Staff Counsel Yvonne West will be available to answer questions concerning Item 6b. Regional Board staff Frank Melbourn of the Compliance Assurance Unit is also available to answer any questions on both matters.