

EXECUTIVE OFFICER SUMMARY REPORT
December 14, 2010

- ITEM: 10
- SUBJECT: Administrative Civil Liability against San Diego Truck Body and Equipment, Inc. The San Diego Water Board will consider adoption of a tentative Order that would impose a \$4,916 penalty recommended in Complaint R9-2010-0129 for failure to submit the Fiscal Year (FY) 2007-08 and FY 2008-09 annual storm water monitoring reports (annual report); and FY 2008-09 Annual Storm Water Fee of State Water Resources Control Board Order No. 97-03-DWQ, NPDES No. CAS00001, *Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities*. (Tentative Order R9-2010-0151) (Laurie Walsh)
- PURPOSE: The San Diego Water Board may approve, modify, or reject assessment of a \$4,916 in civil liability as recommended in Complaint No. R9-2010-0129.
- PUBLIC NOTICE: On October 11, 2010, a notice of the public hearing was posted on the San Diego Water Board website and distributed to known interested parties.
- DISCUSSION: The State Water Resources Control Board's NPDES statewide general industrial storm water permit (Order No. 97-03-DWQ) requires the submittal of an annual report to document an industrial facility's status of compliance and results of water quality monitoring. The annual reports are due by July 1 of each year. San Diego Truck Body and Equipment, Inc. failed to submit the Fiscal Year 2007-08 and 2008-09 annual reports. On September 8, 2008 and October 17, 2008 the San Diego Water Board issued Notices of Violation notifying the discharger that the 2007-08 report had not been received and that the violation could subject them to administrative civil liability. On December 1, 2009 and March 9, 2010 the San Diego Water Board issued Notices of Violation notifying the discharger that the 2008-09 annual report had not been received and that the violation could subject them to administrative civil liability. San Diego Truck Body and

Equipment, Inc. submitted the FY 2007-08 annual report on December 12, 2008. The submission was 155 days past the initial due date of July 1, 2008 and 95 days after the initial Notice of Violation. San Diego Truck Body and Equipment, Inc. submitted the FY 2008-09 annual report on June 21, 2010. The submission was 355 days past the initial due date of July 1, 2009, and 203 days after the initial Notice of Violation. The recommended liability for failure to submit the FY 07-08 and 08-09 annual reports is \$2,450. This includes the minimum penalty of \$1,000 for each year plus staff costs to date of \$450.

Order No. 97-03-DWQ requires submittal of a \$1,008 annual fee to maintain coverage under the Order. San Diego Truck Body and Equipment, Inc. failed to submit the FY 2008-09 annual fee. The State Water Resources Control Board notified San Diego Truck Body and Equipment Inc. of the fee delinquency with a Demand for Payment letter on December 12, 2008 and a Notice of Violation on January 27, 2009. Pursuant to California Water Code section 13261(b)(1), the maximum administrative civil liability which could be imposed by the San Diego Water Board for the failure to pay a required fee is one thousand dollars (\$1,000) for each day in which the violation occurs. As of the date the Complaint was issued, San Diego Truck Body and Equipment Inc. had violated California Water Code section 13260 for 675 days (November 30, 2008 to October 6, 2010). The maximum administrative civil liability for failing to pay the annual fee is six hundred seventy five thousand dollars (\$675,000). The recommended liability for failure to submit the FY 2008-09 annual fee is \$2,466 (Tentative Order Exhibit 1).

On October 7, 2010 the Assistant Executive Officer issued Complaint No. R9-2010-0129 recommending civil liability of \$4,916 pursuant to California Water Code sections 13399.33 and 13261. The total recommended liability includes \$4,016 in civil liability and recovery of \$900 in San Diego Water Board staff costs.

The discharger has not responded to the complaint and no comments concerning this matter have been received to date.

LEGAL CONCERNS: None.

SUPPORTING DOCUMENTS:

- (1) Location Map
- (2) Tentative Order No. R9-2010-0151

- (3) Complaint No. R9-2010-0129 with Technical Analysis
- (4) September 8, 2008 Notice of Violation Failure to submit FY07-08 Annual Report
- (5) October 17, 2008 Second Notice of Violation Failure to submit FY07-08 Annual Report
- (6) December 1, 2009 Notice of Violation Failure to submit FY08-09 Annual Report
- (7) March 9, 2010 Second Notice of Violation Failure to submit FY08-09 Annual Report
- (8) December 12, 2008 State Board Demand for Payment
- (9) January 27, 2009 State Board Fee Notice of Violation
- (10) Prosecution Team Evidence and Policy Statement dated November 10, 2010
- (11) November 16, 2010 Complaint Correction Memo

RECOMMENDATION: Recommendations from the Advisory and Prosecution staff will be provided at the hearing.