

State of California
Regional Water Quality Control Board
San Diego Region

ENFORCEMENT SUMMARY REPORT
November 13, 2013

ITEM: 7

SUBJECT: Administrative Civil Liability: Settlement Agreement and Stipulation for Order, Enniss Inc., Lakeside. Settlement to resolve by consent, mandatory penalties for violation of Order No. 97-03-DWQ, National Pollutant Discharge Elimination System General Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities, as set forth in Complaint No. R9-2013-0051. (*Vicente Rodriguez*)

PURPOSE: The San Diego Water Board will consider accepting a settlement agreement by adopting Tentative Order No. R9-2013-0135 (Supporting Document 1) to resolve, without formal administrative proceedings, all alleged violations set forth in Complaint No. R9-2013-0051 (Supporting Document 2). If the San Diego Water Board decides not to adopt the Tentative Order, the Prosecution Staff may re-open settlement discussions with Enniss Inc. or proceed with a contested evidentiary hearing before the San Diego Water Board to determine if it will assess administrative civil liabilities against Enniss Inc. for the alleged violations.

RECOMMENDATION(S): The Advisory and Prosecution Staff recommend adoption of Tentative Order No. R9-2013-0135.

KEY ISSUES: Adoption of the Tentative Order (Supporting Document 1) will approve the terms of the settlement agreement to resolve the alleged violations described in the Complaint and Technical Analysis (Supporting Document 2). The Prosecution Staff asserts that the resolution of the alleged violations is fair, reasonable, fulfills its enforcement objectives, that no further action is warranted concerning the alleged violations, and is in the best interest of the public.

DISCUSSION: Enniss Inc. located at 12535 Vigilante Road, Lakeside, California (Supporting Document 3) operates a diversified construction company with areas of specialization including

aggregate material sales, construction material recycling and reclamation, steel design, fabrication, assembly and erection, earth moving, grading, and demolition work. The operations are conducted at an industrial facility that is required to obtain coverage under the State Water Resources Control Board's NPDES statewide general industrial storm water permit (Order No. 97-03-DWQ).

Order No. 97-03-DWQ requires the discharger to submit an annual report to document an industrial facility's status of compliance with the permit and results of water quality monitoring. The annual reports are due to the San Diego Water Board by July 1 of each year. Enniss Inc. failed to submit their annual report for Fiscal Year 2010-11 by the July 1, 2011 due date.

On September 29, 2011, the San Diego Water Board issued a Notice of Violation notifying Enniss Inc. that the 2010-11 annual report had not been received and that the violation could subject them to administrative civil liability. On December 20, 2011, the San Diego Water Board again notified Enniss Inc. during a site inspection that it had failed to submit the annual report.

Enniss Inc. submitted their annual report for FY2010-11 on March 7, 2012 or 250 days after the due date on July 1, 2011.

On July 24, 2013, Enniss Inc. waived their right to a public hearing before the San Diego Water Board, within 90 days of issuing Complaint No. R9-2013-0125, in order to engage in settlement discussions. On July 29, 2013 the parties came to a tentative settlement agreement for a total liability of \$4,251.

On August 8, 2013 Enniss Inc. and the San Diego Water Board Prosecution Staff agreed in principle to a settlement regarding ACL Complaint R9-2013-0051. Ennis Inc. agreed to pay a liability of \$4,251 to settle the matter.

On September 5, 2013, the Prosecution Staff and Enniss Inc. agreed to the terms of a draft Stipulated Order.

LEGAL CONCERNS: None.

SUPPORTING
DOCUMENTS

1. Tentative Settlement Agreement and Stipulation Order
No. R9-2013-0135
2. Complaint No. R9-2013-0051 with Technical Analysis
3. Location Map

PUBLIC NOTICE:

Notice of the Proposed Settlement, the San Diego Water Board's planned consideration of the Tentative Order, the amount of the proposed settlement, and the opportunity for public comment was sent electronically to known interested parties on September 5, 2013 and posted on the San Diego Water Board's website on September 13, 2013. Interested parties and the public were provided 30 days to submit comments to the San Diego Water Board. No comment letters were received.