

EXECUTIVE OFFICER SUMMARY REPORT
November 12, 2014

- ITEM: 10
- SUBJECT: Rescission of Order No. R9-2009-0147, Waste Discharge Requirements for Rite Time Pharmaceuticals Inc., Anza Commercial Center Onsite Wastewater Treatment System, Riverside County. (Tentative Order No. R9-2014-0001) *(Alex Cali)*
- PURPOSE: To consider adopting Tentative Order No. R9-2014-0001, rescinding Order No. R9-2009-0147.
- RECOMMENDATION: Staff recommends adoption of Tentative Order No. R9-2014-0001. (Supporting Document 1).
- KEY ISSUES:
1. The Tentative Order rescinds Order No. R9-2009-0147 for non-payment of annual waste discharge requirement (WDR) fees. The delinquent fees currently owed to the State Water Resources Control Board (State Water Board) total \$11,211.
 2. The San Diego Water Board was prepared to rescind Order No. R9-2009-0147 for non-payment of fees at its February 2014 meeting. That item was removed from the agenda, however, when Rite Time Pharmaceuticals' owner, Mr. Soji Akanwo, indicated to State Water Board staff that he would make monthly payments until the delinquent fees were paid in full. Mr. Akanwo made one payment in the amount of \$2,759, which was posted on February 4, 2014.
 3. State Water Board staff reported to the San Diego Water Board, on August 21, 2014, that the February 4, 2014 payment was the only payment received for the delinquent fees.
- Practical Vision: This action is one of routine enforcement of the Water Code. Prior to bringing this action to the Board for consideration, the Staff communicated regularly with the Discharger in an attempt to resolve the fee

payment issue. In taking this approach, the Staff implemented the San Diego Water Board values of communication and transparency as espoused in the Practical Vision.

DISCUSSION:

Order No. R9-2009-0147, adopted on November 19, 2009, prescribes WDRs for the discharge of domestic wastewater from the proposed onsite wastewater treatment system (OWTS) for the proposed Anza Commercial Center. The OWTS will include a grease receptor, a primary equalization tank, a recirculation/blending tank, Advantex AX 100 trickling biofilter units, and a post anoxic dosing tank. According to Mr. Akanwo, the OWTS has not been built or operated at this time. The proposed commercial center will be located on the southwest corner of Highway 371 (Cahuilla Road) and Maze Stone Road in Anza, Riverside County (Supporting Document 2- Map). The proposed commercial center and its OWTS will be located in the Cave Rocks Hydrologic Area (HA 902.70) of the Santa Margarita Hydrologic Unit (HU 902.00).

San Diego Water Board staff has been in contact with the Mr. Akanwo by telephone and email to discuss the payment of overdue fees and possible rescission of the WDRs (Order No. R9-2009-0147). The conversation began with a teleconference on October 24, 2013 when staff advised Mr. Akanwo that the WDR could be rescinded if annual WDR fees were not paid. This conversation was followed up with a letter dated October 24, 2013 (Supporting Document 3).

The San Diego Water Board notified Mr. Akanwo and the public by a notice, dated December 5, 2013 (Supporting Document 4), that Tentative Order No. R9-2014-0001 rescinding Order No. R9-2009-0147 would be considered for adoption on February 12, 2014. A second teleconference with Mr. Akanwo occurred on December 6, 2013, when staff informed Mr. Akanwo that the San Diego Water Board would consider adopting the Tentative Order on February 12, 2014. A final attempt to discuss the fee payment issue with Mr. Akanwo via teleconference was made on December 23, 2013. This teleconference included the San Diego Water Board Executive Officer, however Mr. Akanwo was unavailable and a message was left with an assistant who answered the telephone.

Mr. Akanwo requested an extension of the written comment period via email (Supporting Document 5) on January 3, 2014. The San Diego Water Board notified Mr. Akanwo by letter and transmitted an electronic copy of the letter to Mr. Akanwo via email dated January 3, 2014 (Supporting Document 6) that an extension of the written comment period would be granted until 5 P.M., January 10, 2014. Mr. Akanwo provided the San Diego Water Board with written comments dated January 9, 2014 on the Tentative Order (Supporting Document 7).

Shortly thereafter, Mr. Akanwo indicated to State Water Board staff that monthly payments would be made until delinquent fees were paid in full. On February 4, 2014 a payment of \$2,759 was posted by Mr. Akanwo. Subsequently, the State Water Board Fee Unit staff reported to the San Diego Water Board, on August 21, 2014, that only one payment had been received for the delinquent annual WDR fees.

On September 8, 2014 a Notice of Availability (Supporting Document 8) was sent via email and by U.S. mail to Mr. Akanwo informing him that Tentative Order No. R9-2014-0001 was scheduled for consideration and adoption at the November 12, 2014 Board Meeting. The San Diego Water Board staff had subsequent telephone conversations with Mr. Akanwo between September 15, 2014 and September 29, 2014 to discuss the payment of overdue fees and advised Mr. Akanwo that an agenda item would be scheduled in November for the Board to consider rescission of Order No. R9-2009-0147.

Mr. Akanwo submitted a comment letter dated October 7, 2014 (Supporting Document 9). Supporting Document 10 is staff's response to Mr. Akanwo's comment letter. Mr. Akanwo's position is that he should not have to pay the delinquent annual fees because he never discharged treated wastewater. Staff pointed out that the Water Code requires the payment of an annual fee for WDRs whether or not the discharge has occurred.

The Tentative Order, if adopted, would rescind the waste discharge requirements associated with Order No. R9-2009-0147.

LEGAL CONCERNS: The delinquent fees owed to the State Water Board total \$11,211 for Order No. R9-2009-0147. Payment of Annual WDR fees is necessary to keep Order No. R9-2009-0147 active.

SUPPORTING DOCUMENTS:

1. Tentative Order No. R9-2014-0001.
2. Map showing location of the property.
3. Non-Payment Letter October 24, 2013.
4. Transmittal Letter for Tentative Order R9-2014-0001, December 5, 2013.
5. Email Requesting Written Comment Extension.
6. Written Comment Extension Letter.
7. Mr. Akanwo's Comment Letter January 9, 2014.
8. Transmittal Letter for Tentative Order September 8, 2014.
9. Mr. Akanwo's Comment Letter October 7, 2014.
10. Response to Comment Letter.

SIGNIFICANT CHANGES: None

COMPLIANCE RECORD: Aside for the fee payment issue, there are no other outstanding compliance issues.

PUBLIC NOTICE: Notification of this action was posted on the San Diego Water Board web page and an email including the notification was sent to Mr. Akanwo on September 8, 2014 (Supporting Document 8). These actions satisfy the public notification requirements of Water Code, division 7 section 13167.5 for a 30 day notice.