

State of California
Regional Water Quality Control Board
San Diego Region

ENFORCEMENT SUMMARY REPORT
February 11, 2009

- ITEM: 10
- SUBJECT: Administrative Assessment of Civil Liability: America Plaza Owners Association, One America Plaza Dewatering: The Regional Board will consider a tentative Order that would impose a \$12,000 Mandatory Minimum Penalty recommended in Complaint R9-2008-0127 for violations of effluent limitations established by Order No. 2000-90, NPDES No. CAG919001, *General Waste Discharge Requirements for Groundwater Extraction and Similar Waste Discharges to San Diego Bay and Storm Drains or Other Conveyance Systems Tributary Thereto*. (Tentative Order No. R9-2009-0019) (Rebecca Stewart)
- PURPOSE: The Regional Board will consider whether to accept America Plaza Owners Association's waiver of public hearing and adopt an Order to assess \$12,000 in mandatory minimum penalties for violations identified in Complaint No. R9-2008-0127.
- PUBLIC NOTICE: On January 10, 2009 a notice was published in the San Diego Union Tribune and on the Regional Board website soliciting public input on payment of the proposed liability. The written comment period ends on February 8, 2009.
- DISCUSSION: On November 25, 2008, the Assistant Executive Officer issued Complaint No. R9-2008-0127 for Administrative Civil Liability with mandatory minimum penalties in the amount of \$12,000 against America Plaza Owners Association for violations of effluent limitations contained in Order No. 2000-90 (Supporting Document No. 3). The violations included two violations of the total phenolic compounds daily maximum effluent limitation and two violations of the total phenolic compounds 6-month median effluent limitation that occurred between June 2007 and June 2008. The permanent dewatering discharge is located in downtown San Diego and discharges to San Diego Bay.

All of the violations are classified as serious violations¹, and, therefore, are each subject to the assessment of a mandatory minimum penalty of \$3,000 in accordance with California Water Code (CWC) section 13385(h).

On January 28, 2009, America Plaza Owners Association waived its' right to a public hearing and agreed to pay the recommended \$12,000 in mandatory minimum penalties to the State Water Resources Control Board's Cleanup and Abatement Account (Supporting Document No. 4).

LEGAL CONCERNS: None.

SUPPORTING
DOCUMENTS:

1. Location Map
2. Tentative Order No. R9-2009-0019
3. Administrative Civil Liability Complaint No. R9-2008-0127
4. Waiver of Public Hearing Form

RECOMMENDATION: The Prosecution Team recommends adoption of tentative Order No. R9-2009-0019. The Advisory Team will make its recommendation on February 11.

¹ A serious violation means any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 20 percent or more or for a Group I pollutant by 40 percent or more.