

EXECUTIVE OFFICER SUMMARY REPORT  
December 14, 2010

ITEM: 9

SUBJECT: Administrative Civil Liability against Russo Tile and Marble, Inc. The Regional Board will consider adoption of a tentative Order that would impose a \$1,700 penalty required by California Water Code Section 13399.33 and recommended in Complaint R9-2010-0128 for failure to submit the FY 2008/2009 annual storm water monitoring report of State 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 R9-2010-0150) (*Pete Peuron*)

PURPOSE: The Regional Board may approve, modify, or reject assessment of a \$1,700 in civil liability as recommended in Complaint No. R9-2010-0128.

PUBLIC NOTICE: On September 23, 2010, a notice of the public hearing was posted on the Regional 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. The Complaint alleges that Russo Tile and Marble, Inc. failed to submit the Fiscal Year 2008-09 annual report. On December 1, 2009 and March 9, 2010 the Regional Board issued Notices of Violation notifying the discharger that the report had not been received and that the violation could subject them to administrative civil liability. Russo Tile and Marble, Inc. did not respond to the Notices of Violation.

On September 20, 2010 the Assistant Executive Officer issued Complaint No. R9-2010-0128 recommending civil liability totaling \$1,700 which is the minimum required by California Water Code (CWC) section 13399.33. The recommended

liability includes \$1,000 in civil liability and recovery of \$700 in Regional Board staff costs.

No comments concerning this matter have been received from Russo Tile and Marble or from the public. On November 29, 2010, the San Diego Water Board received an executed waiver form in which Russo Tile and Marble waived its right to a hearing and a cashier's check payable to the State Water Board for the full liability amount.

LEGAL CONCERNS: None.

SUPPORTING  
DOCUMENTS:

- (1) Location Map
- (2) Tentative Order No. R9-2010-0150
- (3) Complaint No. R9-2010-0128
- (4) Notice of Violation No. R9-2009-0192
- (5) Notice of Violation No. R9-2010-0048
- (6) Administrative Civil Liability Complaint Fact Sheet
- (7) Waiver Form for Administrative Civil Liabilities Complaint
- (8) Proposed Draft Hearing Procedure for Administrative Civil Liability Complaint R9-2010-0128 Issued to Russo Tile and Marble, Inc.
- (9) Executed Waiver of Right to Hearing on Complaint

RECOMMENDATION: In light of receipt of the executed waiver form and payment of the liability in full, the Advisory Team recommends that the Board not convene a hearing. The Advisory Team has been informed by the Prosecution Team that it does not intend to make a presentation and will recommend adoption of the tentative Order.