

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING/WORKSHOP SESSION – OFFICE OF CHIEF COUNSEL
JANUARY 21, 2014**

ITEM 9

SUBJECT

WORKSHOP TO RECEIVE ORAL COMMENTS REGARDING A PROPOSED ORDER ADDRESSING THE PETITIONS OF (A) CALIFORNIA DEPARTMENT OF TRANSPORTATION (DEPARTMENT); AND, (B) MCM CONSTRUCTION, INC. (MCM) (ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R1-2012-0034 IN THE MATTER OF CALIFORNIA DEPARTMENT OF TRANSPORTATION, CONFUSION HILL BYPASS PROJECT), NORTH COAST REGIONAL WATER QUALITY CONTROL BOARD (NORTH COAST WATER BOARD) (SWRCB/OCC FILES A-2208 (A) AND (B).)

DISCUSSION

In March 2012, the North Coast Water Board issued an Administrative Civil Liability Order to the Department (ACL Order). The ACL Order assessed overall liability to the Department in the amount of \$540,182 (including \$70,182 in initial staff costs), but rejected the prosecution's request for an additional \$235,500 for on-going staff costs on the basis that those costs had not been included in the ACL Complaint. The North Coast Water Board's assessment of liability amounted to a nearly 65% decrease in liability from the \$1,524,000 prosecution request.

The Department and its construction contractor, MCM, each filed timely petitions requesting State Water Board review of the ACL Order. The State Water Board consolidated their petitions for review, and in September 2013, adopted an order to review the ACL Order on its own motion. On December 4, 2013, the State Water Board issued a [proposed order](#) resolving the petitions.

The proposed order upholds most of the ACL Order, but holds that three previously withdrawn charges should be stricken from the ACL Order, along with the amount of liability assessed for those three violations. The proposed order also takes the opportunity to correct the ACL Order's requirement that all penalties be paid to the Cleanup and Abatement Account, because the relevant statutes provide that most of these penalty amounts should be deposited into the Waste Discharge Permit Fund.

Written comments on the proposed order were due by 12 noon on January 7, 2014. The purpose of the workshop is to receive oral comments from parties and interested persons regarding the proposed order; no final action will be taken.

POLICY ISSUE

None at this time because this is a workshop only; no final action will be taken. Final action of the State Water Board will be scheduled for a subsequent date.

FISCAL IMPACT

None at this time because this is a workshop only; no final action will be taken. Final action of the State Water Board will be scheduled for a subsequent date.

REGIONAL BOARD IMPACT

None at this time because this is a workshop only; no final action will be taken. Final action of the State Water Board will be scheduled for a subsequent date.

STAFF RECOMMENDATION

N/A

State Water Board action on this item will assist the Water Boards in reaching Goal 6 of the Strategic Plan Update: 2008-2012 to enhance consistency across the Water Boards, to ensure our processes are effective, efficient, and predictable, and to promote fair and equitable application of laws, regulations, policies, and procedures.
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