

**STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION**

STAFF REPORT FOR REGULAR MEETING OF JULY 9, 2004

Prepared on May 24, 2004

ITEM: 18

**SUBJECT: ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R3-2004-0086;
Sonoma Pacific Company, 1180 Fremont Drive, Sonoma, California**

KEY INFORMATION

Discharger: Sonoma Pacific Company
Location: 261 Rianda Circle, Salinas, Monterey County
Discharge Type: Storm Water
Existing Order: NPDES No. CAS000001, State Board Order No. 97-03-DWQ, WDID No. 3 27I017509

SUMMARY

Sonoma Pacific Company (hereinafter, Discharger) is required to submit an Annual Report each year in accordance with the General Storm Water Permit for Industrial Activity (General Permit). Two Notice of Violation letters were sent regarding the need for submittal of the Annual Report and the possible enforcement actions for failure to do so. The discharger has failed to provide the Annual Report. Section 13399.33(c) of the California Water Code (CWC) directs the Regional Board to impose a mandatory minimum penalty of \$1,000 for failure to submit a Storm Water Annual Report. The Executive Officer issued a Complaint for failure to submit the Annual Report; the Annual Report has not yet been submitted. The Discharger is in violation of the General Permit and California Water Code sections 13399.31 and 13383 and is subject to penalties put forth in California Water Code sections 13399.33 and 13385.

DISCUSSION

Background

On September 25, 2002, the Discharger filed a Notice of Intent (NOI) to comply with the terms of the General Permit. By filing an NOI, the

Discharger is required to comply with all terms and conditions of this General Permit, which includes submission of an Annual Report to the Regional Board.

Violation Timeline

September 2002 – June 2003 – 10 months of active permit coverage during 12 month reporting period (July 2002 to June 2003) The General Permit requires that an Annual Report be submitted to the Regional Board by July 1 of each year.

August 2003 – September 2003 - On August 5, 2003, and September 9, 2003, Regional Board staff issued Notice of Violation (NOV) letters for failure to submit the Annual Report. Both Notice of Violation letters warned of potential penalties pursuant to provisions of the CWC.

November 2003 – Sonoma Pacific transfers ownership of the facility to a new owner.

January 2004 - Regional Board staff called the discharger on January 15, 2004 to inform Sonoma Pacific that unless their Annual Report was received by January 20, 2004, an administrative civil liability complaint would be issued.

Administrative Civil Liability Complaint No. R3-2004-0025 was sent to the Discharger by certified mail on January 21, 2004.

On January 26, 2004, Jeremy Foutch of Sonoma Pacific called Regional Board staff saying that he had sent an NOT and would fax a copy that day. A faxed copy of the NOT was received on January 26, 2004. Jeremy Foutch certified under penalty of law on the Notice of Termination form he signed that he understood "that the facility operator is still required to submit an annual report to the Regional Water Board by July 1. I also understand that the submittal of the Notice of Termination does not release a facility operator from liability for any violations of the General Permit or the Clean Water Act."

March 2004 – A hearing was scheduled for March 19, 2004; however, because the Discharger was not present a hearing was not convened. The Board rejected Order No. R3-2004-0025 on the basis that the penalty amount could not be increased and directed staff to reissue the Complaint.

May 2004 - Administrative Civil Liability Complaint No. R3-2004-0086 was sent to the Discharger by certified mail on May 11, 2004.

Conclusion

The Discharger is in violation of the General Permit, for failure to submit their annual report. Section 13399.33(c) of the California Water Code provides that a person that fails to submit an Annual Report in accordance with Section 13399.31, shall be civilly liable, and civil liabilities must be imposed in an amount that is not less than \$1,000. Section 13385 of the CWC provides that a person who violates Section 13383 of the CWC may be civilly liable for up to \$10,000 for each day in which the violation occurs. The total maximum liability that may be assessed for this violation is \$3,070,000.

RECOMMENDATION

Staff recommends the Board adopt order no. R3-2004-0086 for assessment of **Three Thousand Dollars (\$3,000)** in administrative liability against Discharger.

ATTACHMENTS

1. Administrative Civil Liability Complaint No. R3-2004-0086
2. Administrative Civil Liability Order No. R3-2004-0086

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