

State of California
Regional Water Quality Control Board
San Diego Region

EXECUTIVE OFFICER SUMMARY REPORT
August 16, 2006

- ITEM: 18
- SUBJECT: **PUBLIC HEARING:** Excellent Coatings, Inc. 1285 Distribution Way, Vista: Administrative Assessment of Civil Liability for Failure to Submit the Fiscal Year 2004-05 annual storm water monitoring report required by Order No. 99-07-DWQ, National Pollutant Discharge Elimination System General Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities (General Permit). If the discharger elects to waive their right to a hearing, the Regional Board will consider comments received during the public review period and decide on an order accepting payment of the proposed liability and waiver of hearing. (Tentative Order No. R9-2006-0099) (Rebecca Stewart)
- PURPOSE: Excellent Coatings, Inc. has requested a public hearing. The Regional Board will hear testimony regarding the violation alleged in Complaint No. R9-2006-0077 and consider the imposition of administrative civil liability.
- PUBLIC NOTICE: On July 17, 2006 a notice was published in the San Diego Union-Tribune and on the Regional Board website soliciting public input on the violation alleged and the proposed liability contained in Complaint No. R9-2006-0077. The public comment period ends on August 16, 2006.
- DISCUSSION: Excellent Coating, Inc. submitted a Notice of Intent for coverage under Order No. 97-03-DWQ on October 26, 2004. The first annual storm water monitoring report required by Excellent Coatings, Inc. was due on July 1, 2005. When the report was not received, the Regional Board issued a Notice of Violation, on August 5, 2005, notifying the discharger that the violation could subject them to administrative civil liability (Supporting Document No. 3). An additional

Notice of Violation was issued on September 19, 2005 (Supporting Document No. 4). The discharger did not contact the Regional Board regarding the Notices of Violation.

On June 6, 2006 the Executive Officer issued Administrative Civil Liability Complaint No. R9-2006-0077 recommending civil liability totaling \$3,500 for failure to submit the Fiscal Year 2004-05 annual storm water monitoring report (Supporting Document No. 5).

On July 21, 2006 Excellent Coatings, Inc. submitted a written response to the Complaint (Supporting Document No. 6). In the response the discharger acknowledged that the report was not submitted. They requested a public hearing to plea for a reduced penalty based on personal hardships experienced by several key personnel and an extreme negative cash flow which will be exacerbated by a monetary penalty.

In a letter dated August 1, 2006 (Supporting Document No. 7) the Regional Board explained to Excellent Coating, Inc. that in order for the Regional Board to fully understand the facts of the case and the merits of its defense, it is necessary to request specific information regarding their position. This included information about effects of employee hardship on the compliance with storm water regulations, and documentation to support the financial hardship to support ability to pay the civil liability. The information is due by August 10, 2006. Any information received from the discharger will be provided in the last mailing of agenda material to the Board members.

No comments concerning this matter have been received to date.

LEGAL CONCERNS: None.

SUPPORTING DOCUMENTS:

- (1) Location Map
- (2) Tentative Order No. R9-2006-0099
- (3) August 5, 2005 Notice of Violation
- (4) September 19, 2005 Notice of Violation
- (5) Complaint No. R9-2006-0077

- (6) Excellent Coatings, Inc. Letter July 21, 2006
- (7) Regional Board Letter August 1, 2006
- (8) City of Vista Inspection Report March 13, 2006

COMPLIANCE
RECORD:

The City of Vista conducted an industrial storm water inspection on March 13, 2006 and identified several violations of the General Permit. The violations include no Storm Water Pollution Prevention Plan, no monitoring plan, extensive staining from spills in the work area, exposed drums, and a large tank with no secondary containment. Follow-up information has been requested from the City to determine if compliance has been attained.

RECOMMENDATION:

Absent receipt and review of financial documentation, adoption of tentative Order No. R9-2006-0099 is recommended.