

**STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
SAN FRANCISCO BAY REGION**

**STAFF SUMMARY REPORT (Cecilio Felix)  
MEETING DATE: August 13, 2008**

ITEM: 6

SUBJECT: **Alum Rock School District, 2930 Gay Ave., San Jose – Adoption of Administrative Civil Liability Order for Late Submittal of Annual Report**

CHRONOLOGY: The Board has not previously considered this item.

DISCUSSION: We have prepared a Tentative Order (Appendix A) for the Board's consideration that would impose an administrative civil liability (ACL) of \$9,175 on Alum Rock School District for delinquent submittal of the annual report required by its NPDES permit to discharge industrial stormwater.

Alum Rock School District (the discharger) operates a bus maintenance facility which is a facility associated with industrial activity required by federal law to have a NPDES permit for discharge of stormwater. Accordingly, the facility is covered by the state Industrial Stormwater General Permit. The permit requires implementation of a stormwater pollution prevention plan to manage sources and activities at the facility that may pollute stormwater discharges, a monitoring program, and an annual comprehensive site compliance evaluation. The permit requires submittal of an annual report by July 1 of each year that provides certification that the stormwater pollution prevention plan has been implemented and a summary of the compliance evaluation and monitoring observations and samples results. The annual report must be signed and certified by a responsible official who performs decision making functions for the facility.

The discharger did not submit its 2006/07 annual report by July 1, 2007. Consequently, we issued two notice of noncompliance letters and contacted the discharger by phone. The discharger finally submitted the annual report on February 13, 2008, 227 days late. Because of the delinquent submittal of the annual report, which is the primary means of ensuring that the facility is in compliance with permit requirements, the Assistant Executive Officer issued an ACL Complaint to Alum Rock School District in the amount of \$9,175 (Appendix B).

The discharger submitted a letter (Appendix C) in response to the Complaint requesting a hearing to contest the ACL amount. The letter acknowledges the reporting delinquency, and indicates that it was due to a personnel issue. However, this is not a viable excuse since the permit requires the discharger to

ensure that it's stormwater pollution prevention plan is up to date and is being implemented at all times. This includes ensuring that responsibility for its implementation is assigned to appropriate personnel. Upon discovery of a personnel issue, a responsible official should have taken action in a timely manner to ensure compliance with permit requirements.

We acknowledge as pointed out in the letter that prior to this year the discharger had submitted timely annual reports. However, such past performance does not justify subsequent noncompliance with permit requirements and no response by the discharger to our noncompliance notices. The discharger also claims it is financially strapped but provides no documentation as to how this affects the operation and budget of the bus maintenance facility.

The proposed penalty is reasonable, accounts for cost savings by the discharger, and accounts for the eventual submittal of the required report as compared to other dischargers that failed to submit a report. It also accounts for our staff costs to prepare the Complaint and supporting information. It does not account for our staff costs associated with preparing documents and testimony for the hearing.

RECOMMEN-  
DATION:

Prosecution staff recommends adoption of the Tentative Order. The Executive Officer who has had no involvement with the prosecution of this case will advise the Board at the hearing.

ATTACHMENTS

Appendix A - Tentative Order  
Appendix B - Administrative Civil Liability Complaint  
Appendix C - Comment Letter in response to the ACL Complaint

File No. 2158.11 (CSF)

# APPENDIX A

Tentative Order

# APPENDIX B

## Administrative Civil Liability Complaint

# APPENDIX C

Comment Letter