

ENFORCEMENT HEARING

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

EXECUTIVE OFFICER SUMMARY REPORT
MEETING DATE: FEBRUARY 10, 2010

ITEM: 6

SUBJECT: **Uni Tile & Marble, Inc., Hayward, Alameda County** – Hearing to Consider Adoption of Order Imposing Administrative Civil Liability for Failure to Obtain NPDES Industrial Stormwater General Permit Coverage as Required by California Water Code Section 13376

CHRONOLOGY: July 2009 – Prosecution Staff issues ACL Complaint

DISCUSSION: If adopted by the Board, the Tentative Order (Appendix A) would impose administrative civil liability in the amount of \$26,250 against Uni Tile and Marble, Inc. (Uni Tile) for its failure to timely submit a Notice of Intent (NOI) to comply with the Statewide NPDES Industrial Stormwater General Permit (General Permit) as required under California Water Code (CWC) section 13376. Uni Tile is a stone countertop and kitchen cabinet retailer and installer with locations in San Francisco and Hayward. The Hayward location discharges stormwater associated with industrial activities. The San Francisco location is not required to obtain General Permit coverage because it is located in the City's combined-sewer area.

CWC section 13376 requires any person discharging pollutants to submit a report of waste discharge. Submission of an NOI for coverage under and compliance with the General Permit satisfies the requirements of section 13376. Uni Tile has exposure of industrial materials and processes that require it to obtain General Permit coverage. Pollutants discharged at Uni Tile's Hayward location include stone cutting slurry and plastic debris.

During a 2006, inspection, City of Hayward staff notified Uni Tile of its obligation to comply with General Permit requirements and subsequently referred the case to the Board for enforcement. By certified mail in 2007, Board staff notified Uni Tile of its obligation to file an NOI and subsequently issued a Notice of Violation to Uni Tile when it did not submit an NOI and did not otherwise respond.

In July 2008, Board staff inspected the Hayward location and verbally notified one of Uni Tile's owners that the Board was anticipating imposing administrative civil liability due to Uni Tile's continuing violation. During the inspection, staff also noted that there was stone dust and slurry

discharging from the facility's stone cutting area and that the plastic sheeting covering the marble stored outside was disintegrating and discharging to the storm drain. While, during the inspection, staff was told Uni Tile would file an NOI and implement best management practices at the facility, Uni Tile has neither filed an NOI nor controlled the discharge from its stone-cutting operation.

On July 17, 2009, the Assistant Executive Officer issued Administrative Civil Liability Complaint No. R2-2009-0030 (Attachment 1 of Appendix A) in the amount of \$26,250 for Uni Tile's failure to submit an NOI. The Discharger neither responded to the Complaint nor filed an NOI.

On August 12, 2009, staff again met at the Hayward location to discuss the Complaint and conduct a second site inspection. The meeting was scheduled as a courtesy to one of Uni Tile's owners, Mr. Henry Pan, to provide Cantonese translation, as Mr. Pan's primary language is Cantonese, and because Uni Tile had not responded to the Complaint. During the meeting, Mr. Pan re-committed Uni Tile to complete stormwater-related work, including covering the facility's stone cutting operation with a roof and engaging the services of an environmental consultant. However, the brief site inspection after the meeting revealed that Uni Tile was continuing to discharge stone slurry directly to the storm drain. A September 9, 2009, settlement meeting did not result in a settlement. Uni Tile has not submitted written evidence or comments in response to the Complaint.

The Tentative Order would impose the \$26,250 liability proposed in the Complaint. At the Hearing, the Board will have the opportunity to affirm, reject, or modify the proposed civil liability, or refer the matter to the California Attorney General. Note that, as part of the separation of staff functions for this matter, the Executive Officer heads the Board's Advisory Team, and Assistant Executive Officer Dyan Whyte heads the Board's Prosecution Team.

RECOMMENDATION: I will have a recommendation at the close of the Hearing.

Appendix A: Tentative Order for Administrative Civil Liability