

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

**TENTATIVE ORDER**

**ORDER SETTING ADMINISTRATIVE CIVIL LIABILITY FOR:**

**HYUNG KEUN SUN AND YEO NAM SUN  
DOING BUSINESS AS ART CLEANERS  
400 EAST SANTA CLARA STREET  
SAN JOSE, SANTA CLARA COUNTY**

This Order for Administrative Civil Liability (“Order”) is issued in reference to an adjudicative proceeding initiated by the issuance of Administrative Civil Liability Complaint No. R2-2009-0048, dated October 15, 2009 (“Complaint”) (Attachment 1). This Order is issued pursuant to California Water Code (“CWC”) sections 13268 and 13323. The parties to this proceeding are the California Regional Water Quality Control Board, San Francisco Bay Region’s (“Regional Water Board’s”) Prosecution Team and the Dischargers. The Complaint proposes to assess a total liability of \$25,646 against Mr. Hyung Keun Sun and Mrs. Yeo Nam Sun (“Dischargers”) for violating two CWC section 13267 orders by failing to timely submit the technical reports required by the orders.

The Regional Water Board finds that:

1. The Dischargers owned the property located at 400 East Santa Clara Street, San Jose (“Site”), during the relevant violation period.
2. The Dischargers violated two CWC section 13267 orders issued by the Regional Water Board Executive Officer in letters dated February 21, 2008, and April 7, 2009, and sent via certified mail to the Dischargers. The Dischargers failed to timely submit a required Site Investigation Work Plan, Site Investigation Completion Report, and Site History Technical Report. The Complaint proposes an administrative civil liability of \$25,646 for these violations.
3. On February 21, 2008, the Executive Officer issued a CWC section 13267 order requiring the Dischargers to submit a Site Investigation Workplan by March 31, 2008, and a Site Investigation Completion Report by June 15, 2008. These reports are essential for determining the extent of contamination at the Site, and failure to submit the reports is delaying Site cleanup. Regional Water Board staff mailed the February 21, 2008, 13267 order by certified mail, and received a return receipt confirming delivery to the Dischargers. To date, the Dischargers have not submitted the required technical reports.

4. On December 9, 2008, Regional Water Board staff issued a Notice of Violation (“NOV”) to the Dischargers. The NOV stated that Regional Water Board staff had not received the Site Investigation Work Plan required by the February 2008 13267 order, and informed the Dischargers to submit it. Regional Water Board staff mailed the NOV by certified mail, and received a return receipt confirming delivery to the Dischargers. To date, the Dischargers have not submitted the required Site Investigation Work Plan or responded to the NOV.
5. On April 7, 2009, the Executive Officer issued another CWC section 13267 order to the Dischargers requiring submittal of a Site History Technical Report by May 15, 2009. Regional Water Board staff mailed the April 7, 2009, CWC section 13267 order by certified mail, and received a return receipt confirming delivery to the Dischargers. To date, the Dischargers have not submitted the required Site History Technical Report.
6. On October 15, 2009, the Regional Water Board’s Assistant Executive Officer issued the Complaint. The Complaint alleges that the Dischargers violated CWC section 13267 by failing to submit both the required Site Investigation Work Plan from the February 21, 2008, order, and the Site History Technical Report from the April 7, 2009, order. The Complaint proposes administrative civil liability of \$25,646 for these two violations.
7. Pursuant to CWC section 13268(b) (1), the Regional Water Board can impose a maximum civil liability for a violation in the amount of \$1,000 for each day in which the violation occurs. This Complaint addresses the two violations that occurred for a total of 564 days during the period from April 1, 2008, through August 1, 2009, for failing to submit the required Site Investigation Work Plan and Site History Technical Report. The statutory maximum limit of the liability is \$564,000.
8. In imposing administrative civil liability, the Regional Water Board has considered each of the factors prescribed in CWC section 13327. The Regional Water Board’s consideration of these factors is based upon information obtained by the Regional Water Board in investigating the allegations in the Complaint (Attachment 1) or otherwise provided to the Regional Water Board. In addition to these factors, the administrative civil liability recovers staff costs the Regional Water Board incurred for this matter.
9. This Order only resolves liability that the Dischargers incurred from April 1, 2008, through August 1, 2009, for the two violations specifically alleged in the Complaint, and does not relieve the Dischargers of liability for any violations not alleged in the Complaint.
10. This Order is an action to enforce the laws and regulations administered by the Regional Water Board. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, sections 21000

et seq.), in accordance with section 15321(a)(2), Title 14, of the California Code of Regulations.

11. The Regional Water Board is authorized to refer this matter directly to the Attorney General for enforcement if the Dischargers fail to perform any of their obligations under the Order.
12. A hearing on this matter was held before the Regional Water Board on January 13, 2010, at the Elihu M. Harris State Building, 1515 Clay Street, Oakland. The Dischargers, or the Dischargers' representative(s), had the opportunity to be heard and to contest the allegations in the Complaint, which recommended the imposition of civil liability by the Regional Water Board.

IT IS HEREBY ORDERED, pursuant to section 13268 of the California Water Code, that:

1. The administrative civil liability of \$25,646 is approved;
2. The Dischargers shall pay the sum of \$25,646 in full to the State Water Resource Control Board's Waste Discharge and Permit Fee Account within 30 days of the date this Order is adopted;
3. The Dischargers are subject to administrative civil liability and other penalties as allowed under the CWC for any continuing or future failure to submit acceptable reports required by the CWC 13267 orders referenced in this Order, beyond the periods of non-submittal referenced herein.

I, Bruce H. Wolfe, Executive Officer, do hereby certify that the foregoing is a full, complete, and correct copy of an Order adopted by the Regional Water Board on January 13, 2010.

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Bruce H. Wolfe  
Executive Officer

**Attachment 1:** Administrative Civil Liability Complaint No. R2-2009-0048, including errata sheet