

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

**EXECUTIVE OFFICER SUMMARY REPORT
MEETING DATE: JANUARY 13, 2010**

ITEM: 7

SUBJECT: **Hyung Keun Sun and Yeo Nam Sun, doing business as Art Cleaners, San Jose, Santa Clara County** – Hearing to Consider Adoption of Order Imposing Administrative Civil Liability for Failure to Submit Reports Required Pursuant to California Water Code Section 13267

CHRONOLOGY: October 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 \$25,646 for the Suns' failure to submit two required technical reports related to investigation of groundwater and soil contamination on their property. The Suns own property located at 400 East Santa Clara St., San Jose ("Site") that was historically an automotive service station and is presently a dry cleaning facility named Art Cleaners, operated by a separate party.

A 2002 environmental subsurface investigation conducted by the Suns' consultant determined that soil and groundwater beneath the Site is contaminated by petroleum and chlorinated hydrocarbons. Between December 2002 and June 2005, the Santa Clara County Valley Water District (Water District) attempted to work with the Suns to determine the extent of contamination and to cleanup the Site. In February 2003 and April 2004, the Suns submitted two separate site workplans to the Water District. However, the work outlined in these workplans was never implemented. In June 2005, the Water District transferred oversight of the Site to the Board.

In February 2008, Board staff issued the Suns an order for technical reports under Water Code section 13267. The order required submittal of a Site Investigation Workplan and a Site Investigation Completion Report. In December 2008, Board staff issued a Notice of Violation to the Suns for their failure to submit the reports required by the February 2008 order. In April 2009, Board staff issued an order for technical reports under Water Code section 13267. The order required submittal of Site History Reports from both the Suns and the current facility operator by May 15, 2009. The operator submitted his report by the deadline. To date, the Suns have not submitted the required reports or otherwise responded to any of these Board communications.

On October 15, 2009, the Assistant Executive Officer issued Administrative Civil Liability Complaint No. R2-2009-0048 (Attachment 1 of Appendix A) in the amount of \$25,646 for the Suns' failure to submit the technical reports required by the February 2008 and April 2009 orders. While the Board's Prosecution Team has spoken with the Suns and their attorney, the Suns did not submit written comments, the Complaint waiver, or any other written evidence in response to the Complaint. The Prosecution Team's understanding is that the Suns will appear at the Hearing. No public comments were received on the Complaint.

The Tentative Order would impose the \$25,646 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

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