

State Water Resources Control Board

May 25, 2012

Sent via U.S. Mail only

Mr. David R. Isola
Isola Law Group, LLP
405 West Pine Street
Lodi, California 95240

SUBJECT: TENTATIVE RESOLUTION R2-2012-0026 TO REFER TO ATTORNEY GENERAL TO ENFORCE VIOLATIONS OF CLEANUP AND ABATEMENT ORDER R2-2011-0034 AND ADMINISTRATIVE CIVIL LIABILITY ORDER R2-2010-0003

Dear Mr. Isola,

This letter responds to your comments submitted to the Regional Water Quality Control Board, San Francisco Bay Region (Regional Water Board), on May 14, 2012, regarding the above referenced tentative referral to the California Attorney General's Office for enforcement. The Regional Water Board is scheduled to hear the matter at its June 13, 2012 meeting. In your letter, you requested removing the item from the agenda on behalf of Heyung Sun and Yeo Nam Sun. Regional Water Board staff opposes your request.

As you explained, you are looking into whether there is an insurance policy that may assist the Suns in finding a means to fund the investigation and remediation at Art Cleaners. We appreciate your efforts and encourage you and the Suns to continue in your endeavors.

However, recent efforts to investigate past insurance policies do not merit delaying the agenda item to consider referring the enforcement matter to the Attorney General's Office. Should the Regional Water Board decide to refer enforcement to the Attorney General's Office, there is no reason why your insurance investigation cannot continue while referring and transferring the matter occurs. No imminent decision is pending from an insurance company to pay for site investigation and cleanup.

There is no reason to further delay the Regional Water Board's efforts in regulating and enforcing the laws of the State to ensure better water quality for the community surrounding Art Cleaners.

The Tentative Resolution R2-2012-0026 addresses both the Suns' failure to comply with Cleanup and Abatement Order R2-2011-0034, and the Suns' failure to pay administrative civil liability in the amount of \$25,646 in order R2-2010-0003. Any insurance coverage found would not address the Suns' failure to pay the \$25,646 imposed by the Regional Water Board. The Regional Water Board imposed the administrative civil liability after a hearing finding that the

Suns failed to comply with two California Water Code section 13267 investigative orders issued February 21, 2008, and April 7, 2009. Your May 14, 2012 letter fails to address the \$25,646 liability past due since February 22, 2010. Therefore, no reason has been presented to delay referring this portion of the matter to the Attorney General's Office.

In light of the Sun's history of non-responsiveness with the Regional Water Board, staff recommends that the Board reject any request for a continuance. The Suns have demonstrated a lack of due diligence to comply with Regional Water Board orders for over four years now.

Again, staff encourages you and the Suns to look further into potential insurance coverage that may assist in investigating and cleanup on the site at Art Cleaners. In the future, the Regional Water Board may consider the Suns' efforts to comply with Board orders when contemplating enforcement actions and would likely want to see improvement.

Thank you for submitting your comments. Please feel free to contact me if you would like to discuss this further. You can reach me by telephone at (916) 341-5180, or by email at ldrabandt@waterboards.ca.gov.

Sincerely,



Laura J. Drabandt
Staff Counsel
Office of Enforcement