

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

EXECUTIVE OFFICER SUMMARY REPORT
MEETING DATE: July 10, 2013

ITEM: 5

SUBJECT: **Alcoa Construction Systems, Inc., Alcoa Properties, Inc., AP Construction Systems, Inc., Challenge Developments, Inc., Dr. Collin Mbanugo, F.M. Smith And Evelyn Ellis Smith, Leona Chemical Company, Ocean Industries, Inc., Realty Syndicate, Ridgemont Development, Inc., Watt Housing Corporation, Watt Industries Oakland, Watt Residential, Inc., Leona Heights Sulfur Mine, Oakland, Alameda County –Time Schedule Order Prescribing Administrative Civil Liability for non-compliance with Cleanup and Abatement Order Amendment Order No. R2-2013-0021**

CHRONOLOGY: 1992 - Waste Discharge Requirements adopted
1998 - Cleanup Abatement Order adopted
2003 - Amendment of Cleanup Abatement Order adopted
2008 - Administrative Civil Liability issued (Dr. Mbanugo only)
2013 - Amendment of Cleanup Abatement Order adopted

DISCUSSION: The Revised Tentative Time Schedule Order (TSO) (Appendix A) would prescribe administrative civil liabilities for non-compliance with the tasks and schedule in the Cleanup and Abatement Order (CAO) Amendment for the Leona Heights Sulfur Mine adopted by the Board at its May 2013 meeting. The Revised Tentative TSO was requested by the Board to address a legal deficiency noted in the version heard at the May meeting. At that meeting, Cleanup Team staff presented a Tentative CAO Amendment, along with a Tentative TSO that would have prescribed penalties of "up to \$10,000 each day" for noncompliance with the CAO Amendment. Based on my recommendation, the Board adopted the CAO Amendment (Appendix B) but voted to continue the Tentative TSO after determining that it was deficient in that it would allow a range of penalties, rather than specifying the penalty amount as required by the Water Code.

This Revised Tentative TSO addresses that deficiency by specifying a penalty amount for each instance of non-compliance. A finding (6.f) was also added to demonstrate that the maximum penalty is necessary in each instance to compel cleanup of the Leona Heights Sulfur Mine.

The Revised Tentative TSO was circulated on May 15 and the comment period closed June 14, 2013. Written comments (Appendix C) were received from the following parties:

1. Ocean Industries, Inc. (and subsidiaries)
2. Alcoa Inc. (for subsidiaries)

Cleanup Team responses to these comments are provided in Appendix D. The Revised Tentative TSO was further modified as appropriate to address the comments received. The Cleanup Team also incorporated self-initiated editorial revisions into the Revised Tentative TSO during this process.

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

CIWQS PLACE ID: 645714

APPENDICES:

- A. Revised Tentative Time Schedule Order
- B. Amended Cleanup and Abatement Order No. R2-2013-0021
- C. Comments Received
- D. Staff Responses to Comments Received