

ITEM: 15

SUBJECT: City of Tracy Wastewater Treatment Plant, San Joaquin County

BOARD ACTION: *Consideration of Administrative Civil Liability Order*

BACKGROUND: The City of Tracy (hereafter Discharger) owns and operates the Tracy Wastewater Treatment Plant (WWTP), which provides sewerage services to the City of Tracy. On 21 October 2003, the WWTP experienced a dechlorination system failure resulting in the discharge of highly chlorinated effluent to Old River in violation of Waste Discharge Requirements Order No. 96-104 (NPDES No. CA0079154). The Discharger failed to provide adequate controls and redundancy to prevent the release of chlorinated effluent, failed to maintain adequate standard operating procedures and emergency/contingency plans, and failed to properly respond to the large release of chlorine. On 5 January 2005, the Executive Officer issued Administrative Civil Liability Complaint No. R5-2005-0500 to the Discharger proposing a \$120,000 Administrative Civil Liability considering the factors in the State Water Resources Control Board's Enforcement Policy and CWC section 13385.

ISSUES The Discharger contends that it responded appropriately following the chlorine release and an assessment of the mandatory minimum penalty (\$3,000), pursuant to CWC section 13385(h), is appropriate. Regional Board staff does not agree and recommends a larger penalty based on the factors in the State Water Resources Control Board's Enforcement Policy and CWC section 13385.

The Discharger has also proposed a supplemental environmental project (SEP) to offset a portion of the liability. The SEP proposal generally meets the Enforcement Policy criteria. However, since the Discharger is contesting the amount of the liability, there is not a firm amount to base approval of a SEP. Therefore, staff cannot recommend the SEP for approval at this time. The Regional Board may choose to approve a SEP based on evidence available at the hearing.

RECOMMENDATION: Adopt the proposed order.

Mgmt. Review _____
Legal Review _____

September 15/16 2005
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