

ITEM: 7

SUBJECT: James G. Sweeney and Amelia M. Sweeney,
Sweeney Dairy, Tulare County

BOARD ACTION: Consideration of an Administrative Civil Liability Order

BACKGROUND: James G. Sweeney and Amelia M. Sweeney (Discharger) own and operate the Sweeney Dairy (Dairy) in Tulare County. The Dairy is regulated by Waste Discharge Requirements General Order for Existing Milk Cow Dairies, Order R5-2007-0035 (General Order), which was adopted in May 2007. The General Order contains reporting requirements for dairies regulated by the General Order, including timely submission of technical reports. The reports are required to document that the dairies are operating in compliance with the General Order and are not unreasonably affecting groundwater and/or surface water quality. Pursuant to the General Order, the Executive Officer issued a California Water Code section 13267 Order on 4 May 2012 directing the Discharger to implement groundwater monitoring at the Dairy. The Discharger failed to submit the following technical reports by the respective due dates: 1) an Annual Report for the calendar year 2011, due by 1 July 2012; and 2) a groundwater monitoring plan, due by 29 June 2012. Central Valley Water Board staff issued notices of violation to the Discharger for failure to submit these required reports. A pre-filing settlement letter was issued notifying the Discharger that staff was in the process of assessing civil liability for failure to submit these required reports. The pre-filing letter provided the Discharger with the opportunity to meet with Central Valley Water Board staff to discuss the alleged violations and enter into settlement negotiations. To date, the Discharger has not submitted the reports.

ISSUES: On 9 May 2013, the Executive Officer issued Administrative Civil Liability (ACL) Complaint R5-2013-0539 pursuant to California Water Code (CWC) section 13268, proposing that the Discharger be assessed monetary penalties in the amount of \$20,400 for failure to submit the technical reports. The ACL Complaint provided the opportunity for the

Discharger to reduce the full amount of the assessed monetary penalty by \$2,000 for each missing report that is submitted by 24 May 2013, in an effort to stimulate compliance. The ACL Complaint was accompanied by Hearing Procedures which describe the process that must be followed if the matter proceeds to a hearing. The Discharger did not submit a signed form by the deadline provided in the Hearing Procedures (24 May 2013) to waive its right to a hearing within 90 days after being served with the ACL Complaint. The Discharger submitted evidence and argument by the 24 June 2013 deadline provided in the Hearing Procedures.

RECOMMENDATION: Prosecution Team recommends that the Central Valley Water Board adopt the Administrative Civil Liability Order as proposed.

25/26 July 2013

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