

ITEM:	21
SUBJECT:	James G. Sweeney and Amelia M. Sweeney, Sweeney Dairy, Tulare County
BOARD ACTION:	<i>Consideration of an Administrative Civil Liability Order (ACLO)</i>
BACKGROUND:	<p>James G. Sweeney and Amelia M. Sweeney (Sweeney) own and operate the Sweeney Dairy (Dairy) in Tulare County. The Dairy is regulated by Reissued Waste Discharge Requirements General Order for Existing Milk Cow Dairies, Order R5-2013-0122 (Reissued General Order) and accompanying Monitoring and Reporting Program (MRP), which was adopted in October 2013. The Reissued General Order and accompanying MRP contain reporting requirements for dairies regulated by the Reissued General Order, including timely submission of technical reports. The reports are required to document that the dairies are operating in compliance with the Reissued General Order and are not unreasonably affecting groundwater and/or surface water quality.</p> <p>Sweeney failed to submit an Annual Report for the calendar year 2015, which was due by 1 July 2016. Central Valley Water Board staff issued a Notice of Violation to Sweeney for failure to submit the required report. To date, Sweeney has not submitted the report.</p>
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT	<p>On 13 January 2017, the Assistant Executive Officer issued Administrative Civil Liability (ACL) Complaint R5-2017-0504 pursuant to California Water Code section 13268, proposing that Sweeney be assessed monetary penalties in the amount of \$75,600 for failure to submit the technical report. The ACL Complaint alleges Sweeney failed to submit a 2015 Annual Report as required by the Reissued General Order and MRP.</p> <p>The maximum penalty for the alleged violation is \$196,000. The minimum penalty recommended by the Enforcement Policy is the economic benefit plus 10% which amounts to \$3,352. The Enforcement Policy's penalty calculation methodology resulted in a liability of \$75,600, and is the amount of administrative civil liability proposed by the Prosecution Team.</p>
ISSUES:	<p>Sweeney's position is that the Reissued General Order is stayed and therefore the Prosecution Team has not met its burden of proof under Water Code section 13267 to require the technical report.</p> <p>The Prosecution Team submitted a rebuttal with the position that the stay does not affect the enforceability of the Reissued General Order and therefore the requirement under Water Code section 13267 is met.</p>
ACLO RECOMMENDATION:	The Prosecution Team recommends that the Board adopt the ACL Order for \$75,600 as proposed.

Mgmt. Review _____
 Legal Review SNL

6/7 April 2017
 Clovis Veterans Memorial Hall
 808 4th Street, Clovis, CA 93612