

Regional Water Quality Control Board  
North Coast Region

Executive Officer's Summary Report  
Thursday, January 30, 2014  
Regional Water Board Office  
Santa Rosa, California

- ITEM: 5
- SUBJECT: Public Hearing to consider Administrative Civil Liability Complaint No. R1-2013-0085 against Joung Min Yi aka Scott Yi, 29980, and 30010 Highway 101, Mendocino County (Stormer Feiler, Laura Drabandt, Diana Henrioulle)
- BACKGROUND: Administrative Civil Liability Complaint No. R1-2013-0085 (Complaint) was issued on December 18, 2013 to Joung Min Yi (Discharger), for the properties located at 29980 and 30010 Highway 101 North, near Willits, Mendocino County. The Complaint alleges discharges of sediment from the properties into tributaries to Outlet Creek and the Eel River without complying with the federal Clean Water Act on four occasions in September and November, 2011. The Complaint proposes that the Regional Water Board assess discretionary penalties in the amount of \$56,404 pursuant to California Water Code section 13385, subdivisions (a)(5) and (c).
- On January 8, 2014, in response to the Complaint, the Discharger waived his right to a hearing before the Regional Water Board within 90 days after service of the Complaint and requested an additional six months to prepare for the hearing. The Prosecution Team refused the waiver request and placed this matter on the hearing calendar for March 13, 2014.
- DISCUSSION: The Discharger owns the land parcels located at 29980 and 30010 Highway 101 North, near Willits, California (Site). The Complaint asserts that the Discharger and/or his agents excavated earthen materials and constructed two large earthen pads, which resulted in placing 17,500 or more cubic yards of earthen and woody materials in a manner and at locations that discharge and threaten to discharge to unnamed tributaries to Outlet Creek and the Upper Main Eel River.
- The Regional Water Board issued Cleanup and Abatement and 13267 Order No. R1-2011-0089 on August 23, 2011. The CAO required the Discharger to (1) immediately cease all activities that cause or threaten the discharge of sediment to all waters of the State or United States, (2) develop an Emergency Plan by September 15, 2011 to remove and/or properly stabilize all unstable earthen and woody material, and (3) implement the Emergency Plan, by completing the work necessary to restore the site by November 1, 2011.
- The Regional Water Board Executive Officer issued a Notice of Violation (NOV) to the Discharger on October 10, 2011 for failing to submit the Emergency Plan by September 15, 2011.

The Discharger submitted the Emergency Erosion Control Plan ("Plan") for the Site on December 13, 2011 prepared by Pacific Watershed Associates. The Regional Water Board Executive Officer approved the Plan with conditions on December 16, 2011. The conditions were that the Discharger was still required to develop and implement a long term erosion control plan to meet the requirements of the CAO.

The Discharger states in the hearing exhibits that he is an absentee owner who leased the Site to Anastasio Arturo Payan and Jason Brandt Gregg, who with the Dischargers' knowledge and consent applied with the Mendocino County Sheriff's Department for a legal medical marijuana grow pursuant to Mendocino County ordinance. The Discharger maintains that, without his knowledge or consent, these tenants began excavation and cultivation activities prior to the permits being obtained.

The Discharger maintains that there is no evidence that he was involved in the subject grading and did not give consent and had no knowledge that these clearings would be expanded by his tenants. It is the Discharger's position that the tenants are the responsible party under the CAO. The Discharger also maintains that approximately 50% of the cleared areas and 100% of the road identified in the CAO preexisted his ownership of the Site, that neither he or his tenants introduced waste into a stream or watercourse, and that any discharge was not in an amount that could be considered deleterious to fish, wildlife, or other beneficial use of the stream or watercourse.

**PRELIMINARY STAFF  
RECOMMENDATION:**

To help ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence to the Regional Water Board (Prosecution Team) have been separated from those who will provide legal and technical advice to the Board (Advisory Team).

Advisory Team recommends that Board members review the evidence and hear testimony provided at the hearing to determine whether to issue an administrative civil liability order assessing the penalty proposed by Prosecution Team, or a higher or lower amount.

**SUPPORTING  
DOCUMENTS:**

1. Complaint R1-2013-0085
2. Prosecution Team Case in Chief
  - List of exhibits
  - List of experts
3. Dischargers' Case in Chief
  - List of exhibits
  - List of experts
4. Prosecution Team's Rebuttal
5. Proposed Order No. R1-2014-0017
6. Public Notice