

ENFORCEMENT SUMMARY REPORT
November 14, 2007

ITEM:

8

SUBJECT:

PUBLIC HEARING: Administrative Civil Liability
Complaint recommending a \$128,000 assessment of civil liability against the San Diego Unified School District (District) for violations of California State Water Resources Control Board (State Board) Order No. 99-08-DWQ, National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction Activity (Permit). The Complaint alleges that the District failed to prepare complete inspection reports required by the Permit, failed to implement adequate Best Management Practices, as required by the permit, and violated discharge prohibitions of the Permit. If the discharger elects to waive their right to a hearing, the Regional Board will consider comments received during the public review period and decide on an order accepting payment of the proposed liability and waiver of hearing. (Tentative Order No. R9-2007-0210, Attachments 1 & 2) (Pete Peuron)

PURPOSE:

The Regional Board will review any comments received, on ACL Complaint No. R9-2007-0061 (Attachment 3), during the public review period and consider adoption of an order accepting the proposed settlement of liability and waiver of hearing.

PUBLIC NOTICE:

On October 6, 2007 a public notice was published in the Orange County Register (Attachment 5) and posted on the Regional Board website soliciting public input on the proposed administrative civil liability. Public notice was also published in the San Diego Union Tribune on October 7, 2007 (Attachment 6) and in the Riverside Press-Enterprise on October 8, 2007 (Attachment 7). To date, no comments on the subject matter have been received and the public comment period ended on November 7, 2007.

DISCUSSION:

On June 19, 2007, an Administrative Civil Liability complaint, Complaint No. R9-2007-0061, was issued recommending that the Regional Board impose a civil liability in the amount of \$128,000 for the following violations:

1. Failure to identify inadequate Best Management Practices (BMPs) and failure to include required signatures of inspectors on inspection reports. A total of 42 reports lacked information and signatures required by the Permit. (42 violations @ \$2,000 per violation = \$84,000), and
2. Failure to implement effective erosion control, stabilization, and sediment control BMPs, (7 days of violations @ \$2,000 per violation = \$14,000).
3. Unauthorized discharges of highly turbid water containing eroded soils/sediments directly into Carroll Canyon Creek and into an unnamed tributary of Carroll Canyon Creek. (3 days of violations @ \$10,000 per violation = \$30,000).

The Preliminary Technical Analysis (Attachment 4) discusses the evidence supporting each allegation.

On November 6, 2007, the District submitted a signed waiver of its right to a public hearing and agreed to pay the \$128,000 administrative civil liability (Attachment 8).

Background

Cleanup and Abatement Order (CAO) No. R9-2005-0116 was issued to the District on April 12, 2005 in response to violations noted during an inspection on March 18, 2005. The CAO required cleanup of eroded soils, from the construction site at the Scripps Ranch Middle School, discharged into waters of the State and required implementation and upgrades of BMPs, upgrades of sedimentation controls including implementation of pre-treatment when necessary, submittal of technical reports after significant rainfall events, and submittal of a technical report to demonstrate compliance with requirements of the CAO.

On March 20, 2007, the Regional Board issued Notice of Violation (NOV) No. R9-2007-0055 for failure to prevent

prohibited discharges, failure to implement and to maintain BMPs, and failure to pay the General Construction Permit fee. The NOV was issued in response to conditions observed during a compliance inspection on February 27, 2007, as documented in the preliminary technical analysis.

LEGAL CONCERNS:

None.

SUPPORTING DOCUMENTS:

- (1) Location Map
- (2) Tentative Order No. R9-2007-0210
- (3) ACL Complaint No. R9-2007-0061
- (4) Preliminary Technical Analysis
- (5) Public Notice for the Orange County Register
- (6) Public Notice for the San Diego Union-Tribune
- (7) Public Notice for the Riverside Press Enterprise
- (8) Waiver of Public Hearing

RECOMMENDATION:

The adoption of Tentative Order No. R9-2007-0210 is recommended.

The Executive Officer will provide a recommendation to the Regional Board on the assessment of civil liability at the conclusion of the item.