

State of California  
Regional Water Quality Control Board  
San Diego Region

ADVISORY TEAM SUMMARY REPORT  
March 9, 2016

ITEM: 12

SUBJECT: Hearing on Administrative Civil Liability (ACL) Complaint No. R9-2015-0110 issued to San Altos Lemon Grove, LLC by the San Diego Water Board Prosecution Team alleging Noncompliance with the State Water Resources Control Board's Construction Storm Water General Permit (Order No. 2009-0009-DWQ, as amended), Water Code section 13376, the Water Quality Control Plan for the San Diego Basin, and Clean Water Act section 301 at the Valencia Hills Construction Site, San Diego County (*Beatrice Griffey*)

PURPOSE: The Designated Parties for this hearing are the San Diego Water Board Prosecution Team and San Altos-Lemon Grove, LLC (Discharger). The San Diego Water Board will receive evidence and testimony related to Administrative Civil Liability Complaint No. R9-2015-0110. The hearing will be conducted in accordance with the Order of Proceedings issued February 26, 2016 (Supporting Document 18), the Revised Final Hearing Procedure issued February 8, 2016 (Supporting Document 16) and applicable laws and regulations.

Upon the conclusion of the hearing, the San Diego Water Board may meet in closed session to consider the evidence and to deliberate on a decision to be reached based upon that evidence [Authorized under Government Code Section 11126(c)(3)]. Thereafter the Advisory Team may prepare a tentative order resolving the Complaint for Administrative Civil Liability to be released for public comment and scheduled for San Diego Water Board consideration at a future meeting.

RECOMMENDATION: The Advisory Team does not have a recommendation at this time.

SUPPORTING DOCUMENTS:

**Prosecution Team Submittals/Supporting Documents**

1. ACL Transmittal Letter and Notice of Hearing (10/19/2015)
2. ACL Complaint R9-2015-0110

3. ACL Complaint R9-2015-0110 Technical Analysis
  - a. Exhibits 1-18
  - b. Exhibits 19-29
4. ACL Complaint Fact Sheet
5. Evidence and Policy Statements (12/04/2015)
  - a. Exhibit 30
  - b. Exhibit 31
6. Supplemental Evidence (02/04/2016)
  - a. Exhibit 32
  - b. Exhibit 34
  - c. Exhibit 35
  - d. Exhibit 36
  - e. Exhibit 37
  - f. Exhibit 38
  - g. Exhibit 39
  - h. Exhibit 40
  - i. Exhibit 41
7. Rebuttal Brief (02/23/2016)

**San Altos-Lemon Grove, LLC (Discharger) Submittals/  
Supporting Documents**

8. Evidence and Policy Statements by San Altos-Lemon Grove, LLC (02/03/2016)
9. Legal and Technical Arguments and Analysis in Opposition to Administrative Civil Liability Complaint No. R9-2015-0110 (02/03/2016)
  - a. Declaration of Philip Dowley (02/02/2016)
  - b. Declaration of Scot Sandstrom (02/03/2016)
  - c. Declaration of Ben Anderson (02/03/2016)
  - d. Declaration of S. Wayne Rosenbaum (02/03/2016)
  - e. Declaration of Dee Dee Everett (02/03/2016)
  
  - f. Deposition Transcript of Chiara Clemente (01/22/2016)
  - g. Deposition Transcript of Brian Nemerow (12/29/2015)
  - h. Deposition Transcript of Frank Melbourn (01/13/2016)
  - i. Deposition Transcript of Frank Melbourn (01/14/2016)
  - j. Deposition Transcript of John Quenzer (12/29/2015)

- k. Deposition Transcript of Wayne Chiu (01/14/2016)
- l. Deposition Transcript of Gary Harper (12/28/2015)
- m. Deposition Transcript of Tad Nakatani (12/29/2015)
- n. Deposition Transcript of Malik Tamimi (12/28/2015)
- o. Deposition Transcript of Leon Firsht (12/28/2015)

Materials from the Water Board's Website

ACL Transmittal Letter (10/19/2015) - Refer to Item 1 above

ACL Complaint (10/19/2015) - Refer to Item 2 above

Technical Analysis (10/19/2015) - Refer to Item 3 above

- Exhibits 1 - 18 - Refer to Item 3a above
- Exhibits 19 - 29 - Refer to Item 3b above

State Water Resources Control Board, National Pollutant Discharge Elimination Systems (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order No. 2009-0009-DWQ, NPDES No. CAS000002 (07/01/2010) - Available at [http://www.waterboards.ca.gov/water\\_issues/programs/stormwater/docs/constpermits/wqo2009\\_0009\\_dwq.pdf](http://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/constpermits/wqo2009_0009_dwq.pdf)

State Water Resources Control Board, Water Quality Enforcement Policy (05/20/2010) - Available at [http://www.waterboards.ca.gov/water\\_issues/programs/enforcement/docs/enf\\_policy\\_final111709.pdf](http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf)

California Regional Water Quality Control Board, San Diego Region, Notice of Hearing and Issuance of Complaint No. R9-2013-0152 for Administrative Civil Liability Against the City of Encinitas and USS CAL Builders, Inc., for Violations of Order Nos. 2009-0009-DWQ and R9-2007-0001, and Basin Plan Waste Discharge Prohibition 14 (11/21/2013) - Available at [http://www.waterboards.ca.gov/sandiego/board\\_info/agendas/2016/Mar/item12/R9-2013-0152.pdf](http://www.waterboards.ca.gov/sandiego/board_info/agendas/2016/Mar/item12/R9-2013-0152.pdf)

California Regional Water Quality Control Board, San Diego Region, Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order, Order No. R9-2015-0047 (04/13/2015) - Available at [http://www.waterboards.ca.gov/sandiego/board\\_decisions/adopted\\_orders/2015/R9-2015-0047.pdf](http://www.waterboards.ca.gov/sandiego/board_decisions/adopted_orders/2015/R9-2015-0047.pdf)

State Water Resources Control Board, 2010 Integrated Report (Clean Water Act Section 303(d) List / 305(b) Report) - Available at [http://www.waterboards.ca.gov/water\\_issues/programs/tmdl/integrated2010.shtml](http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2010.shtml)

10. Evidentiary Objections to the Written Evidence and Exhibits Submitted by the Regional Water Quality Control Board's Prosecution Team and Submission of Rebuttal Evidence and Declaration of S. Wayne Rosenbaum (02/23/2016)

**Interested Party Non-Evidentiary Policy Statements**

11. Building Industry Association Policy Statement (02/19/2016)

**Advisory Team Documents**

12. Final Hearing Procedure (12/04/2015)
13. Prehearing Rulings (12/04/2015)
14. Chair's Ruling & Updated Hearing Procedure (12/28/2015)
15. Chair's Ruling on Prosecution Team's February 2, 2016, Request to Submit Additional Evidence and Transmitting Revised Final Hearing Procedure (02/08/2016)
16. Revised Final Hearing Procedure (02/08/2016)
17. Chair's Ruling on Request for Prehearing Conference, Addressing Matters Raised in Request, and Ruling on Objections to Advisory Team Consideration of Draft Enforcement Summary Report and Draft Tentative Order (02/26/2016)
18. Order of Proceedings for March 9, 2016 Hearing (02/26/2016)