

Executive Officer's Summary Report
8:30 a.m., January 29, 2009
North Coast Regional Water Board
David C. Joseph Room
5550 Skylane Blvd., Suite A
Santa Rosa, California

Item: 1 A

Subject: Order No. R1-2009-0009 Consideration of Order imposing liability pursuant to an agreement to settle Administrative Civil Liability Complaint No. R1-2008-0097 in the matter of **Evergreen Pulp, Inc.**, Humboldt County

DISCUSSION

ACL Complaint No. R1-2008 0097 was issued on August 1, 2008 for violations of Waste Discharge Requirements Order No. R1-2004-0047 (NPDES Permit No. CA 0005894), WDID No. 1B77005OHUM, from March 1, 2005 to December 31, 2007. The penalty amount was \$463,000 including mandatory penalties and economic benefit, and was the result of settlement negotiations with Evergreen Pulp Inc.

A public notice was issued inviting public comment on the settlement agreement. A 30-day comment period ended on September 2, 2008 and no comments were received.

The ACL Complaint included a payment schedule set forth in the waiver of hearing signed by Evergreen on August 28, 2008. In a letter dated September 9, 2008, a fifteen-day grace period was added to the schedule by the Assistant Executive Officer which required payment by September 24, 2008. The letter also stated that if payment in full was not received by September 24, 2008, a post-judgment interest rate of 10 percent per annum would accrue on the unpaid amount of the penalty. A call from Evergreen's attorney on November 24, 2008 informed staff that the payment would not be made as scheduled.

As of January 13, 2009, penalty payment had not been made.

The draft order is consistent with the settlement agreement contained in the Complaint, Waiver of Right to Public Hearing, and the September 9, 2008 letter from the Assistant Executive Officer finalizing the settlement. Adoption of the Order will formalize the settlement agreement. Formal collection proceedings through the Attorney General's Office may be necessary.

A copy of the draft was mailed to Evergreen and interested parties, and was placed on the Regional Water Board's website.

PRELIMINARY STAFF
RECOMMENDATION:

Adopt the Order as proposed.