

EXECUTIVE OFFICER'S SUMMARY REPORT  
9:00 a.m., April 23, 2009  
Fortuna River Lodge Conference Center  
Chinook Room  
1800 Riverwalk Drive  
Fortuna, California

ITEM: 6

SUBJECT: Order No. R1-2009-0032 to consider adoption of Administrative Civil Liability Order in the matter of **Evergreen Pulp, Inc., Samoa Pulp Mill**, WDID No. 1B77005OHUM (*William Rodriguez*)

#### DISCUSSION

On January 27, 2009 Administrative Civil Liability Complaint No. R1-2009-0012 (Complaint) with a civil penalty of \$453,000 was issued to Evergreen Pulp Inc. (Evergreen). The Complaint was issued for violations of effluent limitations contained in Waste Discharge Requirements Order No. R1-2004-0047 and covered a period beginning January 1, 2008 and ending December 31, 2008. Evergreen was given an opportunity to settle the matter or submit comments, testimony or other evidentiary material during a 30 day comment period ending on March 4, 2009.

The Complaint was originally scheduled for public hearing on March 12, 2009 but was postponed to April 23, 2009. No response had been received from Evergreen as of March 19, 2009. Certified receipts verify that Evergreen and its "agent for service of process" received the Complaint.

The proposed Order R1-2009-0032 imposes a civil penalty of \$453,000 which is the mandatory minimum penalty pursuant to Water Code section 13385, subsections(h)(1) and (i)(1).

Evergreen was also issued Administrative Civil Liability Complaint No. R1-2008-0097 on August 1, 2008. The Complaint assessed a civil penalty of \$463,000 for discretionary penalties, mandatory minimum penalties and recovery of economic benefit for the period beginning on March 1, 2005 and ending on December 31, 2007. A settlement was reached and memorialized by a letter signed by the Assistant Executive Officer. Evergreen agreed to pay the civil penalty following the completion of a 30-day comment period and a 15-day grace period that ended on September 24, 2008. Due to the pending sale of the mill, an additional 60 days was granted which required payment by November 24, 2008. No payment was received and on January 29, 2009 the Regional Water Board adopted Administrative Civil Liability Order No. R1-2009-0009. The Order was consistent with the settlement agreement contained in the Complaint and required

payment within 30 days of the date of the Order. After hearing no word from Evergreen the matter was referred to the office of the Attorney General on February 19, 2009 for collection.

Evergreen ceased operation of the mill on October 17, 2008 in response to unfavorable economic conditions in the pulp and paper market, with the stated intention to resume operations in three to six months. Since the shutdown, the mill has been sold to Samoa Acquisition Corp. which has transferred the asset to the Freshwater Pulp Company LLC. The latest information indicates the mill will not reopen for at least two years.

Evergreen has not responded to the Complaint issued on January 27, 2009. The proposed order reiterates the violations in the Complaint and requires payment 30 days from the date of adoption. If past history is an indication of Evergreen's intent to pay, the matter will referred to the Attorney General for collection after the 30 day wait period.

PRELIMINARY STAFF  
RECOMMENDATION:

Adopt Order No. R1-2009-0032 as proposed

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