CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

ORDER NO. R2-2009-0058

ADMINISTRATIVE CIVIL LIABILITY FOR:

C&H SUGAR COMPANY, INC.
CROCKETT
CONTRA COSTA COUNTY

This Order is issued in reference to an adjudicative proceeding initiated by the California Regional Water Quality Control Board, San Francisco Bay Region's (Regional Water Board) issuance of Administrative Civil Liability Complaint No. R2-2008-0100, dated December 12, 2008 (Complaint), which proposed to assess a total of $490,000 against the C&H Sugar Company, Inc. (Company) for certain alleged discharges that occurred from July 1, 2005, through to October 31, 2008, in violation of Order Nos. 00-025 and R2-2007-0032 (NPDES No. CA0005240). The parties to this proceeding are the Regional Water Board's Prosecution Team and the Company.

The Regional Water Board has been presented with a proposed settlement of the claims alleged in the Complaint, which was developed during negotiations between the parties. The proposed settlement ("Settlement") is provided as Attachment 1, and represents a mutually agreed-upon resolution of the Prosecution Team's claims alleged in the Complaint, and other alleged violations by the Company from November 1, 2008, to March 31, 2009, as shown in the attachments to the Settlement. The Settlement includes the Company's payment of a total administrative civil liability penalty in the amount of $490,000. The Parties recommend that the Regional Water Board or the Executive Officer under his delegated authority issue this Order to effectuate their proposed settlement.

Having provided public notice of the proposed settlement and not less than thirty (30) days for public comment**,** the Executive Officer finds that:

1. The Company owns and operates the C&H Sugar Company, Inc., sugar refinery in Crockett, which is located adjacent to the Carquinez Strait in Contra Costa County. The Company also operates a wastewater treatment plant, known as the Joint Treatment Plant (JTP), which treats sanitary waste from the Crockett Community Services District as well as sanitary waste and process wastewater from the sugar refinery.

2. The Complaint asserts that during the reporting periods between July 1, 2005, and October 31, 2008, the Company reported 54 effluent discharges that did not meet permit limits.

3. The Executive Officer has considered the exhibits and information in the record and comments provided by the Parties and the public and finds that the Company is subject to civil penalties. In determining the amount of civil liability to be assessed against the Company, the Executive Officer has taken into consideration the factors described in California Water Code (CWC) Section 13385(e).

4. The Executive Officer finds that the penalty amount agreed to by the Parties in the Settlement is reasonable based on the factors in CWC Section 13385(e). In addition to these factors, the civil liability recovers the costs incurred by the staff of the Regional Water Board in evaluating the claims alleged in the Complaint, and preparing the Complaint and related documents.

5. A notice of this Order and assessment of civil liability was published on the Regional Water Board's website notifying the public of a 30-day review period and soliciting public comments. The Settlement supports the total assessment of administrative civil liability in the amount of $490,000 for the claims alleged in the Complaint and the other alleged violations by the Company from November 1, 2008, to March 31, 2009. This Order provides for the full and final resolution of each of these claims.

6. The Settlement is in the public interest.

7. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000 *et seq.*) in accordance with section 15321, Chapter 3, Title 14, California Code of Regulations.

IT IS HEREBY ORDERED that:

1. The Settlement is approved.

2. The Company shall pay a total penalty of $490,000 as follows:

   A. The Company shall pay administrative civil liability of $258,500 to the State Water Resources Control Board's Cleanup and Abatement Account.

   B. In lieu of the remaining $231,500 penalty, the Company shall complete a Supplemental Environmental Project (SEP) as described in Attachment C of the Settlement at a cost of no less than $231,500 towards acquisition and restoration projects proposed by the Muir Heritage Land Trust.

3. In the event that the Company does not complete the SEP by October 31, 2010, then the Company shall pay $231,500 in accordance with the terms of the Settlement.

4. Fulfillment of the Company's obligations under this Order constitutes full and final satisfaction of any and all liability for each Claim in the Complaint and additional claims of discharges exceeding permit limits prior to March 31, 2009, in accordance with the terms of the Settlement.

Digitally signed by Bruce Wolfe
Date: 2009.08.27 12:32:47 -07'00'

Date: August 27, 2009

Bruce H. Wolfe
Executive Officer

Attachments
Attachment 1: Settlement Agreement