

ENFORCEMENT SUMMARY REPORT
January 12, 2011

- ITEM: 8
- SUBJECT: Administrative Assessment of Civil Liability, Russo Tile and Marble, Inc., Mandatory Administrative Civil Liability, for violations of Order No. 97-03-DWQ. The San Diego Water Board will consider adoption of a tentative Order that would impose a \$1,700 mandatory minimum penalty recommended in Complaint R9-2010-0128 for failure to submit the Fiscal Year 2009 Annual Report required by State Water Resources Control Board Order No. 97-03, NPDES No. CAS00001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities. Water Code section 13399.33 requires the San Diego Water Board impose a mandatory penalty of no less than \$1,000 plus staff costs for this alleged violation. The San Diego Water Board may approve, modify, or reject assessment of the recommended penalty. (Tentative Order R9-2011-0013) (*Pete Peuron*)
- PURPOSE: The San Diego Water Board will consider Russo Tile and Marble, Inc.'s wavier of a right to a hearing and settlement offer to pay the recommended liability in full. The San Diego Water Board may approve or reject the offer.
- PUBLIC NOTICE: On September 23, 2010, a notice of the public hearing was posted on the San Diego Water Board website and distributed to known interested parties. A revised public notice with today's meeting date was posted and distributed on December 13, 2010.
- DISCUSSION: The State Water Resources Control Board's NPDES statewide general industrial storm water permit (Order No. 97-03-DWQ) requires the submittal of an annual report to document an industrial facility's status of compliance and results of water quality monitoring. The annual reports are due by July 1 of each year. The Complaint alleges that Russo Tile and Marble, Inc. failed to submit the Fiscal Year 2008-09 annual report. On December 1, 2009 and March 9, 2010 the San Diego Water

Board issued Notices of Violation notifying the discharger that the report had not been received and that the violation could subject them to administrative civil liability. Russo Tile and Marble, Inc. did not respond to the Notices of Violation.

On September 20, 2010 the Assistant Executive Officer issued Complaint No. R9-2010-0128 recommending civil liability totaling \$1,700 which is the minimum required by Water Code section 13399.33. The recommended liability includes \$1,000 in civil liability and recovery of \$700 in staff costs.

No comments concerning this matter have been received from Russo Tile and Marble or from the public. On November 29, 2010, the San Diego Water Board received an executed waiver form in which Russo Tile and Marble waived its right to a hearing and a cashier's check payable to the State Water Board for the full liability amount.

LEGAL CONCERNS: None.

SUPPORTING DOCUMENTS:

- (1) Location Map
- (2) Tentative Order No. R9-2011-0013
- (3) Complaint No. R9-2010-0128
- (4) Executed Waiver of Right to Hearing on Complaint

RECOMMENDATION: Adopt Tentative Administrative Civil Liability Order No. R9-2011-0013.