State of California
Regional Water Quality Control Board
San Diego Region

EXECUTIVE OFFICER SUMMARY REPORT
September 11, 2002

ITEM: 10. F.

SUBJECT: **PUBLIC HEARING:** Administrative Assessment for Civil Liability against Richmond American Homes (41500 Margarita Road, Escondido) for failure to pay storm water annual fees in violation of California Water Code section 13260. If the discharger elects to waive their right to a hearing, the matter will be removed from this agenda to allow for a 30-day public review period. (Tentative Order No. R9-2002-0289) *(Vicente Rodriguez)*

PURPOSE: To accept testimony from the public, the discharger, and Regional Board staff regarding allegations and proposed assessment of civil liability contained in Complaint number R9-2002-0199. The Regional Board may decide to adopt tentative Order No. R9-2002-0289. The Regional Board may rely on the Complaint recommendation with or without modification or the Regional Board may reject the Complaint or refer the matter to the Attorney General's Office.

PUBLIC NOTICE: The Complaint was sent to interested parties on August 2, 2002 and posted on the Regional Board web page. This public hearing is also listed on this meeting's agenda which was mailed on August 23, 2002.

DISCUSSION: Richmond American Homes is being assessed a civil liability of $719 for failure to pay outstanding fees of $250.

Richmond American Homes is alleged to have violated Section 13260(d) of the California Water Code which requires that each person for whom waste discharge requirements have been prescribed pursuant to Water Code Section 13263 shall pay an annual fee according to a fee schedule established by the State Water Resources Control Board (State Board). The initial outstanding fees not paid are $250 for Fiscal Year 2001-2002 for the facility located at 41500 Margarita Road, Escondido.

The violation for non-payment is deemed to have occurred for a total of 269 days based on the following days:

Fiscal Year 2001-2002 from November 4, 2001 to July 31, 2002, or 269 days.

The proposed amount of civil liability attributed to each violation was determined by taking into consideration the factors specified in Section 13367, economic savings, as well as the maximum civil liability that the Regional Board may assess.

The discharger has contacted the Regional Board by phone regarding this matter, but the Regional Board has not received any written correspondence on the item.

Civil liability should be imposed on Richmond American Homes by the Regional Board in the amount of $719 for the violations cited above. The civil liability is based on a greater emphasis for the first 90 days after the fee was due (assessed at $5 per day for the first 90 days and $2 per day from 90 to 180 days late). The proposed liability is further reduced after the annual fee was delinquent longer than 180 days ($1 per day for the remaining days over 180 days late). The approximate average is summarized below:

Fiscal Year	Approx. Average	Sub-Total
2001-2002	$2.67/day	$719
	TOTAL	**$719**

LEGAL CONCERNS: None.

SUPPORTING DOCUMENTS:
1. Complaint R9-2002-0199
2. Tentative Order R9-2002-0289 **(To be provided in the Supplemental Mailing)**

RECOMMENDATION: Adopt Tentative Order R9-2002-0289