

REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL
APPEAL OF ADMINISTRATIVE CIVIL LIABILITY ORDER
ISSUED BY THE CALIFORNIA REGIONAL WATER QUALITY
CONTROL BOARD ASSESSING A FINE OF \$163,872.73

Arising out of the problems with Pump Station 64, The City of San Diego was issued Administrative Civil Liability Order No. 86-15 on July 28, 1986. The Administrative Civil Liability Order (hereinafter ACL) mandated stiff monetary penalties if any of the forty-four (44) compliance dates in Cease and Desist Order No. 86-69 were missed. On December 8, 1986 the City successfully petitioned the Board to extend the last two (2) compliance dates in Cease and Desist Order No. 86-69 for improvements at Pump Station 64 to November 15, 1987. Since the companion ACL was specifically not amended at that time, the City again petitioned in July 1987 to have the ACL amended to conform to the amended Cease and Desist Order. This, however, was denied.

As the Council is aware, Pump Station 64 was successfully renovated by October 13, 1987, some thirty-two (32) days before the November 15 compliance deadline. But because the ACL was not amended, the Executive Officer notified the City it owed \$163,872.73 in fines under ACL No. 86-15.

Within thirty (30) days of this notification, the City Attorney's office petitioned the State Water Resources Control Board for review under California Water Code section 13324(a) pointing out the inconsistency and unfairness of the two orders. Despite the appeal being initially denied on December 22, 1987, the City Attorney's Office sought a reconsideration of that decision on January 21, 1988.

The reward for this persistence is reflected in the attached order wherein the State Water Resources Control Board ruled on August 18, 1988 that "the City of San Diego has satisfied its obligations under Regional Board Order No. 86-15 and nothing further is owed...." This successfully discharges the fine of \$163,872.73 sought to be collected.

Chief Deputy City Attorney Ted Bromfield represented the Water Utilities Department at both the regional and state levels in the successful pursuit of this appeal.

Respectfully submitted,
JOHN W. WITT
City Attorney

TB:mb:920.20:(x043.1)

Attachment
RC-88-45