



STORMWATER ENFORCEMENT AND DISTRICT ATTORNEY CASE STUDIES

DISTRICT ATTORNEY OPTIONS

- CRIMINAL (State law violations and one provision of CCC Ordinance Code)
- CIVIL
- NO FORMAL ACTION

Case Study – A.G. (an individual)

- Citizen call to Oakley police (911)
- Police were first at scene
- Police questioned suspect, found evidence of dumping of crankcase oil in storm drain, took photos, arrested A.G.
- CCHSHMP responded and evaluated site
- Clean-up company called
- Reports written by police and CCHSHMP
- Misdemeanor criminal complaint filed by DA









CRIMINAL CONSIDERATIONS

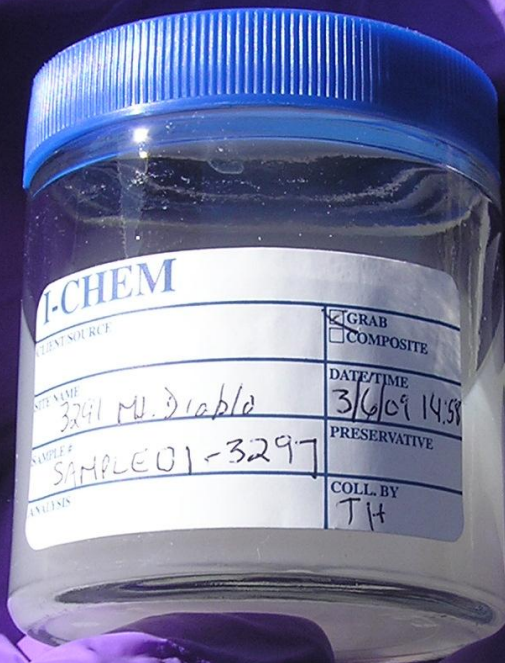
- JAIL (except for infractions)
- FINE
- PROBATION
- HIGHER STANDARD OF PROOF FOR PROSECUTION
- LIMITED PRETRIAL "DISCOVERY" FOR PROSECUTION
 - NO DEPOSITIONS
 - NO DOCUMENT PRODUCTION

Case Study – LAB – Corp.

- Citizen call to HAZMAT
- DDA Inspector first on scene
- CCHSHMP, Central San and Police arrive
- Evidence of dumping of latex paint into the storm drain, and oil based paint containers in dumpster
- Site evaluated, photos and samples taken
- Violator and witnesses interviewed
- Reports written by all the agencies
- Civil complaint filed by DA







I-CHEM

CLIENT SOURCE

SITE NAME
3291 M. Diablo

SAMPLE #
SAMPLE01-3297

ANALYSIS

☒ GRAB
☐ COMPOSITE

DATE/TIME
3/6/09 14:58

PRESERVATIVE

COLL. BY
TH

















ALLIED WASTE SERVICES
925-603-1383

www.disposal.com

200289



LAFAYETTE A18
R045640

WORLD A
727-867-882

CASE STUDY- Q&C- Corp.

- Central San inspector views incident
- Witnesses interviewed, no samples, no photos
- Photos taken two days later
- DA inspector conduct follow up investigation - interview suspects etc.
- Administrative subpoena for business records
- DDA meet and confer with suspects
- Civil Complaint filed.









GEORGE R. GORDON
EDUCATION CENTER



SOME POSSIBLE CRIMINAL CHARGES

- Penal Code section 374.3 (dumping of waste matter on public property or private property without consent)
- Penal Code section 374.4 (littering)
- Penal Code section 374.7 (dumping of waste matter in waters or shore)
- Health and Safety Code section 25189.5(a) (disposal of hazardous waste at unpermitted facility)
- Fish and Game Code section 5650 (deposit of certain pollutants in waters of state or at a place where pollutants can enter waters of state)
- Water Code section 13387 (knowingly or negligently discharging pollutants to waters of U.S.)

CIVIL

- BUSINESS AND PROFESSIONS CODE
SECTION 17200
- As used in this chapter, unfair competition shall mean and include any **unlawful**
business act or practice

“UNLAWFUL” ACT OR PRACTICE

- CALIFORNIA PENAL CODE,
FISH AND GAME CODE, HEALTH AND
SAFETY CODE, and WATER
CODE VIOLATIONS (see above)
- MUNICIPAL CODES OR ORDINANCES

MUNICIPAL CODE VIOLATIONS

- For Example: CONTRA COSTA COUNTY ORDINANCE CODE

“1014-4.006 Prohibited discharges.

(a) The release of illicit discharges to the county stormwater system is prohibited”

- “Stormwater system” means ... city streets, catch basins, curbs, gutters, ditches ... storm drains

BUSINESS AND PROFESSIONS CODE

- SECTION 17206. Civil Penalty for Violation of Chapter
- (a) Any person who engages, has engaged, or proposes to engage in unfair competition shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation....

JUDGMENT LANGUAGE

- Defendants are hereby ordered:
- a. to refrain from discharging and permitting the discharging of waste water or other waste matter to paved surfaces, catchbasins, curbs, and gutters leading to storm drains and storm drain systems in this state;
- b. to refrain from allowing pollutants to become exposed during subsequent rainfall events to being released to any storm drain system in this state;
- c. to develop at all Defendant's locations in this state a spill prevention and response program to minimize the deposit of food matter, grease, and other solid waste material to each facility's outdoor asphalt surface, as well as to minimize the spillage of liquid waste material to those surfaces, and to promptly clean up any spilled or discarded waste matter when a spill or release occurs;

JUDGMENT LANGUAGE (cont)

- d. to train all employees in acceptable procedures for the prevention of spills and discharges of waste water and waste matter to outdoor paved surfaces; to train such employees in acceptable procedures for the clean-up of such spills and discharges of waste water and waste matter, including training in the use of absorbent materials and wet vacuums, and in the use of sand bags to protect storm drain inlets; and to establish written training materials for all such employees throughout the state concerning such procedures; and
- e. to keep records of such employee training for a period of three years after such training.
- Defendant shall pay civil penalties, pursuant to Business and Professions Code section 17206.
- Defendant shall pay costs of investigation of \$ _____ to the City of _____.

INSPECTION WARRANTS

- Code Of Civil Procedure, sections 1822.50 – 1822.60
- an order, signed by a judge, commanding a state or local official to conduct an inspection required or authorized by state or local law
- issued upon “cause” -- there is “cause” if standards for conducting an inspection are satisfied or if there is reason to believe “a condition of non-conformity” exists
- supported by affidavit describing the place to be inspected and the purpose of the inspection
- affidavit must contain statement that inspection has been sought and refused or facts justifying failure to seek consent
- effective for no more than 14 days unless extended
- must be upon 24 hour notice, between 8 a.m. and 6 p.m., when owner there, and with no forcible entry, unless specifically authorized by judge

QUESTIONS?

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